

Provincial Court of Nova Scotia

Between:

**HIS MAJESTY THE KING**

and

**CONNOR PAUL and SCOTT PAUL**

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**AFFIDAVIT OF CHIEF DEL RILEY**

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**I, Chief Del Riley, of the Crane Clan of the Chippewa Nation, residing at 701 Chippewa Rd., RR 1, Muncey, Ontario, N0L 1Y0, MAKE OATH AND SAY AS FOLLOWS:**

1. I have personal knowledge of the facts and matters hereinafter referred to, save and except where same are stated to be on information and belief, and where so stated, I believe the same to be true.
2. I state, in this affidavit, the source of any information that is not based on my own personal knowledge, and I state my belief of the source.
3. I make this affidavit for the purpose of this application and for no improper purposes.

***Personal history***

4. I am Ajijuck dodem (Crane Clan) from the Ojibway or Chippewa Nation. Crane Clan is the Chief clan in my culture in my region of the country.

5. My ancestors fought with Pontiac and Tecumseh. My great, great-grandfathers shed blood, defended our sovereignty, our homelands, and ultimately were part of establishing the Canadian and United States intercontinental line through the struggles of war. The War of 1812 was won in my peoples' backyard, and my ancestors had been a part of that victory. I come from a bloodline of warriors, Chiefs, and the victors of major wars.
6. I was born on January 4th, 1944 at the Chippewa of the Thames reserve near London, Ontario. At the age of 6, I was forcibly removed from my family by the RCMP and taken to the Mohawk Indian Residential School in Brantford, Ontario.
7. I faced 5 years of horrific physical and sexual abuse in the residential school and further abuse in the Indian day school at the Chippewa of the Thames. After school, I worked as an agricultural labourer. In 1962 I moved to Detroit and worked as a machinist. I returned to Canada in 1970 to pursue a Bachelor of Arts degree at the University of Western Ontario.
8. In 1970 I began working for the Union of Ontario Indians (UOI) – now known as the Anishinabek Nation – as a Land Claims researcher. A few years later, I was promoted to the position of Land Claims Research Director, and led the efforts of the UOI's Land Claims department from 1972 to 1976.
9. In 1976 I was elected President of the Union of Ontario Indians and held that office until 1980. As President, I took part in numerous regional and national meetings and was closely involved in supporting the land rights issues of various First Nations in Ontario.
10. As UOI President, I became very familiar with Canadian law and the land claim process. In my view, the cards were stacked against First Nations in a big way because we didn't have a workable relationship with the Canadian government. Constitutional protection was our only peaceful option for securing our rights.
11. At the urging of Ontario Chiefs and particularly at the direction of traditional hereditary chiefs, I sought the presidency of the National Indian Brotherhood. My platform extensively focussed on constitutional protections for Indigenous people. With Pierre Trudeau pushing for a Canadian Constitution, the UOI was already considering the possible constitutional impact on First Nations. I could tell from speaking with delegates from Saskatchewan, Manitoba and the eastern Provinces that they were in support of my platform for constitutional protection. First Nations were at an important crossroads and we were facing more than just a political construct. I argued that First Nations were facing extremist religious indoctrinations disguised as law and Canadian democracy. I was elected on the platform of constitutionalizing the protection of Indigenous rights in 1980. I spent the next two years deeply involved in negotiating for the inclusion of Sections 25 and 35 in the Canadian constitution.
12. I was a key architect in building and launching the Assembly of First Nations, the successor organization to the National Indian Brotherhood.

13. During my time as National Chief, I was elected Chairman of the World Council of Indigenous Peoples (1980-1982) and played an important role in bringing Indigenous issues to international attention.
14. Following my involvement in national and global Indigenous politics, I returned to my home community of Chippewas of the Thames, where I was elected Chief from 1991-1995.
15. I retired from political life due to health problems in 2005, but I have continued to advise and consult traditional Indigenous people in matters pertaining to their rights. In 2018, an Indigenous cannabis trading post in Garden River First Nation where my son worked was raided. As a result, I became involved in advising traditional people on their constitutionally protected Aboriginal and Treaty rights to trade cannabis in more than a dozen different First Nations communities in Ontario. Since 2018, I have been assisted in my work by Tom Keefer, who has assisted me as a secretary, writer, and researcher.

***My efforts for the constitutionalizing of Aboriginal and treaty rights***

16. As President of the National Indian Brotherhood, my main goal was to promote the constitutional entrenchment of inherent treaty and Aboriginal rights. This was the main priority of the Chiefs who nominated me for President. I had observed Pierre Trudeau's statements and his promotion of the "patriation" of the Canadian Constitution. I moved the NIB in the direction of getting constitutional recognition for First Nations as we did not want to miss this historic opportunity.
17. As President of the National Indian Brotherhood, I met with Cabinet Ministers, the Indian Affairs Minister John Munroe, and Members of Parliament. Jean Chretien was the Minister of Justice and Attorney General of Canada and was also the Minister responsible for overseeing Constitutional Negotiations. Chretien's office communicated with me on a regular basis as part of the constitutional discussions.
18. Our discussions consisted of a series of debates on specific items like the meaning of "Aboriginal Rights." The committee members were concerned that "Aboriginal" had no specific definition or meaning. I argued that there were instances under the British North America Act where they allowed a word in the BNA that had no defined legal meaning. In the back of my mind, I knew it was beneficial for First Nations to have the words "Aboriginal Rights" entrenched in the Constitution. The committee members accepted the word "Aboriginal" and we moved on.
19. The negotiations went on for a year. I was well prepared for what our constitutional position was going to be from my days in leadership as president of the Union of Ontario Indians. I was prepared for constitutional negotiation arguments before I entered into the national office. It was my mission to achieve constitutional protection for First Nations treaties and rights.
20. Our office was also always in contact with the Inuit and Metis. Both the Metis and Inuit approved of our work and proposals for constitutional protection. The Metis and their

leader Harry Daniels were consistent in their support of my lobbying and the inclusion of the word "Metis" into the Canadian constitution.

21. My national office began the process of seeking out office space in London, England after consultation with the Chiefs. The Chiefs supported my efforts to go to England and seek protection of Aboriginal and Treaty rights with the UK Parliament. The strategy was to go to England and prove that our treaties were with England, and not Canada. We set up an office and went to London, England so that our issues would get the International exposure they needed.
22. The goal was to do diplomatic work with the various embassies from around the world to inform them of our diplomatic relationship with England through our Treaties. While in England, our goal was to lobby within the diplomatic community to gain recognition for Aboriginal people and rights in the patriation of the Canadian Constitution.
23. My daily activities in England were spent meeting diplomats at embassies and telling them of the realities faced by First Nations people in Canada. The ambassadors would always give me the same response. "We are being told differently, we hear that you are being treated well."
24. I met with the opposition party in the UK Government to show that First Nations have a relationship with England through our Treaties. The opposition party in the UK Government agreed with me, and we took our discussions forward as we gained international traction. My primary purpose in England was to ensure there was International attention so that First Nations people had the kinds of protections we wanted built into the Canadian Constitution. In a back room meeting, Jean Chretien pulled me aside at an All Party committee meeting in Canada and said to me: "Del, we will give you constitutional protection for Aboriginal and Treaty rights – if you close your office in England." Chretien and I shook hands, and I agreed to close the office down. I felt that Jean Chretien was sincere in his promise that the Liberals would support our First Nations position going into the final draft of the all party committee.
25. My overall strategy to apply international pressure in order to gain constitutional recognition worked in the long run. I proved that First Nations Treaties are with England, and not Canada. The Liberals had no choice but to honour England's Treaties and entrench them into the Canadian Constitution. Our international efforts on the world stage advanced our progress and allowed us to take new strides forward.
26. Our Treaty office worked like an embassy and information centre. We informed English citizens and members of the UK Parliament of their Treaties in Canada with First Nations people. It was a diplomatic move to pressure Canada for Canadian Constitutional protection. Canada was in conflict and had been playing a third party management role with England's Treaties between First Nations and England. Constitutional protection in Canada would entrench First Nations Treaties and land bases into the Canadian Constitution. Canada would become a new and independent country without a land base if they failed to recognize First Nations Treaties.

27. I had officially closed my office in England while also shutting off diplomatic talks with foreign embassies. My reason for doing so was a sincere back hallway promise from Jean Chretien offering First Nations Canadian Constitutional protection. That promise was all that I needed to focus on diplomatic talks in Canada to ensure the government of Canada kept its promise.
28. After I returned from England my main focus was working exclusively out of the National office with my team on construction of the constitutional wording for Section 35 and Section 25. The constitutional team I assembled had some of the best and brightest minds from across the country and operated like a think tank. We knew the legal definitions of every word for each of the constitutional sections we proposed. Our team spent time researching legal terms, legal wording, and Constitutional models around the world. We brainstormed the most desirable wording possible. *All together we had nine pages of details for the First Nations government structure. The Federal government eventually whittled down our proposed material to about four pages.* However, our focus remained on Sections 35 and 25 being accepted into the Canadian Constitution.
29. At about 10:30pm, on a snowy day in the middle of November in Ottawa of 1981, I got a call at my home in Ottawa from staff of the All Party Committee asking me to attend the meeting for the final draft of the Canadian Constitution at 11 pm. I had prepared myself in depth, memorized the legal terms and definitions for each of my sections. This was something I was prepared for.
30. I immediately went to a committee room on Canada's Parliament Hill where the meeting was scheduled. I had no staff, no legal team, no constitutional team with me. The All Party Committee had already made a decision before I joined the meeting, as they had amended the sections we had proposed months prior. The All Party Committee had taken out the "First Nations Government" portion of the Constitution. In fact they slashed most of our proposed constitutional framework. It was typical that decisions about our fate would be made without us even being in the room. Our team had spent a lot of time developing the wording of each Constitutional section we proposed. I felt undermined and betrayed by the committee. With my prior preparations, I had nothing to debate, it was a yes or no offer essentially.
31. I had to make an important and historic choice at this moment – the biggest decision an Indigenous leader could make. These Constitutional sections were very important. They meant that "Treaty and Aboriginal Rights" would now be recognized as an integral part of the Canadian Constitution. I couldn't miss out on that, these were the main sections of our proposal. The All Party Committee slashed a few other sections, but decided to allow "Aboriginal" as I had previously negotiated with the committee based on the fact that the wording of some BNA sections also lacked a legal definition.

### ***Defining Aboriginal Rights***

32. Leaving 'Aboriginal Rights' undefined at this time gave First Nations many advantages. Firstly, it gave First Nations exclusive rights to define their own rights and sovereignty. I

felt that this was justified since our people defended the borders of Canada since the British invaded our First Nations territories in the 1760's, up until when the Americans failed to defeat First Nations people in the war of 1812 after the British abandoned the war. We as First Nations have every right to define our own rights as undefeated nations. The British may have defeated and wiped out the Indigenous peoples in dozens of other nations, but here in Canada, they were forced to sign treaties and honor our nationhood.

33. Having the term "Aboriginal Rights" entrenched into the Canadian Constitution meant the crucial recognition of our rights as sovereign nations established before European contact. We also considered that these rights may evolve with our own sovereignty, rights, and interpretations. Our interpretation of Aboriginal Rights may not have been what the All-Party Committee wanted to hear, but we articulated a nation to nation interpretation of rights and treaties. This was the "outside the box" thinking that I searched for, and the type of thinking that was delivered in our own constitutional think tank meetings.
34. To give our own meaning to the words "Aboriginal Rights," a group of well respected elders and political leaders came together to write "A Declaration of First Nations" which reads as follows: "We the Original Peoples of this land know the Creator put us here. The Creator gave us laws that govern all our relationships to live in harmony with nature and mankind. The Laws of the Creator defined our rights and responsibilities. The Creator gave us our spiritual beliefs, our languages, our culture, and a place on Mother Earth which provided us with all our needs. We have maintained our Freedom, our Languages, and our Traditions from time immemorial. We continue to exercise the rights and fulfil the responsibilities and obligations given to us by the Creator for the land upon which we were placed. The Creator has given us the right to govern ourselves and the right to self-determination. The rights and responsibilities given to us by the Creator cannot be altered or taken away by any other Nation."
35. We understood this First Nations declaration to be the basis for Aboriginal and Treaty Rights for all First Nations in North America. Most importantly, the declaration is based on a spiritual position, or as a European would say, it is a religious position. The elders insisted that we add the spiritual component while discussing our rights. What is so significant about the spiritual context is that it's shared by First Nations right across Turtle Island. Unlike the Christian religions where they have infinite doctrinal differences, for our people in North America, there's only one interpretation of this spiritual and traditional position, and it's there in the declaration.
36. I had to go with the four sections of the proposed nine sections from the All Party Committee. I accepted the four sections and made the choice to go with it. This was the moment when Jean Chretien pulled me aside and said: "Del, we will pull the Metis out of the Constitution if you agree?" I replied, "I made a promise to the Metis, No! The Metis stay in." The Metis inclusion into the Canadian Constitution came down to my yes or no answer at the final draft of the All Party Committee. Once the final draft was passed, the



Constitution was to be set in stone and Metis would have been left out permanently, had I agreed with Chretien.

37. About a week after my 11th hour negotiations, Indian Affairs Minister John Munroe called me to a meeting at the Chateau Laurier Hotel's dining room. I sat down with him at the dining table and John told me "I have to pull out Section 35 from the Constitution at the insistence of the Provinces, here is the new draft we want." As the Minister handed me the new draft of the proposed sections, I never thought to look at it once. I grabbed the piece of paper and rolled it up into a ball and threw it at John from across the table. I never said a word to him and walked out angrily.
38. As I walked out of the hotel, I felt that First Nations and all Indigenous people had been lied to, deceived and shut out from democracy. It was the most horrible feeling in the world. I did not endure and survive Residential School to now be openly misled by the highest levels of the Canadian Government. I felt the Liberals were a bunch of liars who never had any honor to begin with.
39. Jean Chretien had made a promise to me that the Canadian Government would include Section 35. I considered his words an honorable representation of the Crown's intent. But these actions were not honorable and typical of Canada's deceitful and genocidal actions towards Indigenous people.
40. After I left Indian Affairs Minister John Munroe at the Chateau Laurier I headed back to my NIB office where we decided that a national protest had to be organized. My NIB team and I organized the November 19th "National Solidarity Day" protest at Parliament Hill. Flyers were created and sent across the country. First Nations, Metis, and Inuit organizations were made aware of the Solidarity Day protest for Constitutional recognition, and thousands of protesters arrived on Parliament Hill from all over the country. First Nations, Metis, Inuit, and Canadians showed up in support of Constitutional recognition of First Nations. The support we received for National Solidarity day showed the Canadian Government our people were unified across the country.
41. I delivered a speech on the front steps of Canada's Parliament Hill that promoted our position of Constitutional recognition of our rights. This was the biggest audience I had ever addressed to in my political career. My staff estimated 10,000 protesters showed up on Parliament Hill. I enjoyed the support from everyone who showed up to Solidarity Day.
42. To our delight and surprise, the government capitulated soon after, and gave First Nations constitutional protection. Political mobilization had worked and the people had spoken. Section 35 was to be reinserted with an additional word "Existing." I accepted the word "Existing" since First Nations rights have existed prior to European contact, and First Nations have existed in North America since time immemorial.
43. I believe Peter Lougheed, the Alberta Premier, thought adding the term "existing" would limit First Nations and would mean that First Nations would only have rights after treaties

were signed. The Alberta Premier was using a case in New Zealand as his guide and hoping for the same kind of future decisions against First Nations.

44. My definition of "Existing" was rights existing as a nation, on a nation to nation basis as in the 1764 Treaty of Niagara. I knew that the word "existing" had been used to try and limit the rights of the Maori in New Zealand. Canada was attempting the same "doctrine of discovery" attitude towards the rights of First Nations. The flip side to that argument was that it wasn't what the treaties say, it is what the treaties don't say. The treaties failed to mention a lot of things, from resource sales, land sales, immigration, exporting/importing, economy and trade in general. The word "existing" in reality didn't give the Canadian Government an advantage, it made them deal with "existing" rights of First Nations prior to European contact, like the 1764 Treaty of Niagara.
45. First Nations have always maintained the right to an economy through trade. This is recorded in history through the fur trade between Europeans and First Nations. First Nations have traded with Europeans since contact.
46. I saw the announcement on the nightly news. Section 35 would be reinserted into the Canadian Constitution after the huge protest at Parliament Hill. I wasn't invited to any formal meeting with government officials for Section 35 talks or negotiations. Instead of the diplomatic meetings with my team and the government, the Liberal Party just used the media to announce they were placing Section 35 back into the Canadian Constitution and skipped the formalities. I was expecting at least a phone call from John Monroe or Chretien, but the phone never did ring.

#### ***Matters relating to Connor and Scott Paul***

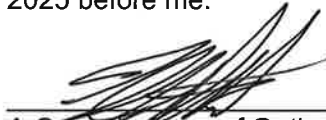
47. In February of 2022 I was contacted by Chris Googoo, a Mi'kmaq rights activist and truckhouse owner who invited me to come and speak at a public meeting to be held in Millbrook First Nation on April 6th, 2022 on the topic of "Decolonization, Moderate Livelihood, and cannabis as an Aboriginal Right." Over 80 people attended – including a number of Mi'kmaw elders such as Keptin Keith Julien, Putus Hector Pictou and Warchief Jim Maloney. My presentation was enthusiastically received and I reconnected with elders I had known from our time in the National Indian Brotherhood together, and in many cases their children or grandchildren who were continuing on the path their parents and grandparents had walked with me decades ago.
48. After this event I was repeatedly invited to speak across Mi'kma'ki and met with Mi'kmaq rights activists in a number of communities including Millbrook, Membertou, Glooscap, and Eel River Bar. My message to the Mi'kmaw was that their lands were unceded, that they had some of the strongest treaties with the Crown in Canada, and that they could use the constitutional protections of Sections 25 and 35 we had fought for in order to advance their rights and overcome the long legacy of racism and oppression they faced in Nova Scotia.



49. As a number of the members of the Micmac Rights Association were facing legal battles and had been unable to retain lawyers that were familiar with Aboriginal and treaty rights, I spent many hours educating the lawyers about the Indigenous intent behind negotiating constitutional protections for our rights. In some cases where lawyers declined to represent Mi'kmaw defendants or suggested that I was better prepared than them to represent them, I agreed to act as an agent on their behalf in court.
50. I have long been familiar with court proceedings and with representing myself and others in court. The first time I went to court it was for being charged for violating the *Indian Act*, at the age of 15. I self-represented myself and won that case. Since then I have successfully represented innumerable other Indigenous people in Canada's courts in the intervening 65+ years. In my experience, the representation of an Indigenous person by their elder in a court room setting is a commonplace occurrence, albeit one which is often handled informally and often leads to diversion or a dropping of charges as the rights issues are brought up.
51. After Chris Googoo invited me to Mi'kma'ki, I represented Micmac Rights Association members Daniel Francis and Trent Francis in Dartmouth court on *Fisheries Act* charges and won their acquittal. During this same time I successfully represented Cody Caplin in a Constitutional Challenge where the Crown at the direction of the Attorney General stayed the charges. In the spring of 2025 I again defended Cody Caplin on fishing charges, only to have the Crown drop the charges again.
52. I am currently representing two young Chippewa men in a court case in Ontario on a racial profiling issue, a half dozen MRA members in New Brunswick who are currently facing charges under the *Fisheries Act*, and I am representing the following MRA members in court matters in Nova Scotia: Connor Bowser-Knockwood, Cody Bowser-Knockwood, Matthew Cope, Kaya Francis, Thomas Durfee, Connor Paul, Scott Paul, Cody Ward and Dustin Whitman.
53. I met Connor and Scott Paul through my work in supporting the Micmac Rights Association as an elder and advisor. In the summer of 2024 when I was visiting Chris and Sherry Googoo at their home in Millbrook First Nation I joined a phone call with Connor Paul where we discussed the Aboriginal and treaty rights of the Mi'kmaq Nation and he asked for my assistance in his court case.
54. I agreed to represent Connor and Scott Paul in their court case, and began officially appearing on their behalf with my assistant Mr. Keefer as their agents in January of 2025.
55. As a national leader and Indigenous political activist with over 60 years of political experience, I find that the customs and conventions of most Indigenous communities are quite similar. Across Turtle Island we revere our elders. It is our custom to ask for help from the person most suited to assist. Many times our problem solving will involve elders who by virtue of their experiences are better able to offer advice and guidance and bring forward the past knowledge and experience to the younger generations.

56. In helping others our elders are often assisted by helpers or assistants. In my case I have the assistance of Mr. Keefer who is a knowledgeable and competent researcher and writer.
57. I am aware that it is a standard practice with the Mi'kmaq Nation for elders and community leaders to customarily speak on behalf of members in important matters of legal conflict and justice. This is a practice which I believe should be respected and accommodated by Canadian courts as part of Canada's commitment to truth and reconciliation, especially given the provisions of Article 8 of the Treaty of 1752.
58. It is my view that the Mi'kmaq people I am representing are not criminals, but that as Mi'kmaq nationals and heirs to the Peace and Friendship treaties, they have the Aboriginal and treaty right to sell legal products from their truckhouses across their unceded lands. At issue is the need to adequately articulate the nature of the constitutionally protected Aboriginal and treaty right in question.
59. By virtue of my knowledge and experience in entrenching Sections 25 and 35 in the Canadian constitution and my 60+ years of advocating for Indigenous rights I believe that I have the knowledge and competency to effectively represent Connor and Scott Paul in this matter.

SWORN TO/AFFIRMED at  
COTTEN, in the County of  
Muncy, Province of Ontario,  
 this 22 day of July,  
 2025 before me:

  
 A Commissioner of Oaths in and for  
 the Province of Ontario

  
**DELBERT RILEY**

Theodore John Albert, a Commissioner, etc.,  
 Province of Ontario, for Chippewas of the  
 Thames First Nation.  
 Expires September 24, 2026