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Native Council of Canada
Le Conseil National des Autochtones du Canada

PRESENTATION

To

SUB-COMMITTEE OF THE CONTINUING COMMITTEE OF MINISTERS

By

HARRY W. DANIELS
PRESIDENT
NATIVE COUNCIL OF CANADA

AUGUST 26, 1980

MR. CHAIRMAN, MINISTERS, FELLOW NATIVE PRESIDENTS, LET ME PREFACE MY REMARKS BY SAYING FRANKLY THAT I AM PUZZLED AT HOW THIS FORM OF OUR PARTICIPATION IN THE CONSTITUTIONAL REVIEW PROCESS HAS COME TO PASS AND WHY WE ARE BEING ASKED TO COMMENT ON A LIST OF PRIORITY ITEMS DISTILLED FROM OVER TWO YEARS OF FEDERAL AND PROVINCIAL MEETINGS AND NEGOTIATIONS FROM WHICH WE HAVE BEEN EXCLUDED. SUCH IS THE STATE OF CURRENT DISCUSSION THAT WE NOW UNDERSTAND MOVEMENT ON THESE ISSUES BY GOVERNMENTS HAS REACHED A STAGE WHERE A FIRST MINISTERS CONFERENCE IS SCHEDULED FOR EARLY NEXT MONTH.

AGAINST THIS TIMETABLE THE VERY RECENT DECISION TO HEAR OUR VIEWS APPEARS ANOMALOUS AND WE ARE COMPELLED TO ASK WHAT EXACTLY IS OUR STATUS IN THE PROCESS? HOW, IN OTHER WORDS, WILL WHAT WE HAVE TO SAY HERE INFLUENCE RATIFICATION? ARE WE TO TAKE IT AS AN ARTICLE OF FAITH THAT THE FIRST MINISTERS WILL ALTER THEIR POSITIONS ON THE ITEMS UNDER DISCUSSION TO ACCOMODATE US?

WE HAVE MADE IT CLEAR ON MANY PREVIOUS OCCASIONS THAT BEING TREATED AS JUST ANOTHER INTEREST GROUP WHOSE VIEWS ARE TO BE CONVENIENTLY CANVASSED IN THE ELEVENTH HOUR IS TOTALLY UNACCEPTABLE. AND WE HAVE BEEN PROMISED

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REPEATEDLY THAT SUCH WAS NOT THE INTENTION OF GOVERNMENT. IN CONSEQUENCE OF OUR SPECIAL RIGHTS AND OUR SPECIAL POSITION IN CONFEDERATION, WE HAD EXPECTED TO BE FULL PARTICIPANTS IN THE NEGOTIATIONS LEADING TO CHANGES IN THE CONSTITUTION. BUT AT THIS LATE STAGE IN THE DISCUSSION OF A DOZEN HIGHLY IMPORTANT ISSUES, WHAT IS THE REALITY OF OUR PARTICIPATION? IT WAS ONLY THIS MONTH THAT THE PROMISED FUNDING FOR OUR INVOLVEMENT WAS FORTHCOMING. FURTHERMORE IT WAS ONLY LAST MONTH THAT THE MASS OF FEDERAL DOCUMENTS TABLED BEFORE THE CCMC OVER THE PAST FEW YEARS HAS BECOME AVAILABLE TO US. WE HAVE YET TO RECEIVE MANY OF THE PROVINCIAL POSITION PAPERS, APPARENTLY BECAUSE THEY ARE FOR "PARTICIPANTS ONLY" AND CAN NOT BE CIRCULATED TO US WITHOUT CONSENT OF THE ORIGINATING GOVERNMENT.

CANADA HAS A UNIQUE OPPORTUNITY TO SHOW THE WORLD THAT GENUINE ACCOMODATION AND INVOLVEMENT OF INDIGENOUS PEOPLES IN THE FRAMING OF ITS CONSTITUTION IS A FUNDAMENTAL NECESSITY IF JUSTICE IS TO BE ITS AIM. SO I BEGIN THIS BRIEF WITH A SPECIAL PLEA. DO NOT FORCE US TO CONCLUDE THAT WHAT IS WITHIN THE REALM OF POSSIBILITY AND ACCOMPLISHMENT HAS IN REALITY DEGENERATED INTO A TOKENISM BECAUSE OF NARROWLY CONCEIVED PROVINCIALISM. DO NOT FORCE US TO CONCLUDE THAT BECAUSE OF THIS PROVINCIALISM THE PAST INJUSTICES SUFFERED BY US ARE TO BE PERPETUATED IN ANY NEW CONSTITUTION.

OUR PARTICIPATION HERE TODAY IS WITH THE HOPE THAT OUR VIEWS WILL BE TAKEN SERIOUSLY AND ACTED UPON. LACKING THE TIME AND RESOURCES WHICH YOU HAVE AT YOUR DISPOSAL OUR REMARKS ON THE TWELVE ITEMS WILL BE TENTATIVE, SUBJECT TO MUCH MORE RESEARCH THAN WE HAVE HAD TIME TO COMPLETE AND DISCUSSIONS WHICH WE HOPE TO INITIATE ACROSS THIS LAND OVER THE NEXT MONTHS WITH OUR PEOPLE.

I MUST EMPHASIZE THAT WE ARE HERE TO BEGIN NEGOTIATIONS, NOT CAP OFF ALREADY PREDETERMINED CONCLUSIONS ARRIVED AT BY GOVERNMENTS AT MEETINGS FROM WHICH WE WERE EXCLUDED. WHILE I DO NOT WISH TO BE DISCORDANT AND HARP ON THE PAST, I DO HOPE WE ARE ABLE TO AVOID THE KIND OF FRUITLESS MEETINGS WE HAVE BEEN SUBJECTED TO OVER THE YEARS, WHERE WE ARE ASKED FOR OUR VIEWS, WE GAVE THEM, ONLY TO RECEIVE THE RESPONSE "DON'T CALL US WE'LL CALL YOU". WE ARE HERE TO BECOME INVOLVED IN A PROBLEM SOLVING DIALOGUE AND NOT A JUNIOR CHAMBER OF COMMERCE VERSION OF A DEBATE OR OTHER FORMS OF THE ADVERSARY SYSTEM.

I NOW TURN TO THE TWELVE ITEMS ON YOUR AGENDA. OUR COMMENTS ARE BASED ON THE FEDERAL PROPOSALS AND ARE OF NECESSITY BRIEF, GIVEN THAT ONLY THREE HOURS HAVE BEEN ALLOCATED BY YOU FOR ALL THREE NATIONAL ASSOCIATIONS TO MAKE REPRESENTATIONS ON ITEMS WHICH YOU HAVE TAKEN MONTHS

TO DISCUSS WITH THE HELP OF EXPERT ASSISTANCE AND ENORMOUS RESOURCES.

A STATEMENT OF PRINCIPLES

THE LIST OF PRIORITY ITEMS BEGINS ON THE MATTER OF FORMULATING THE PRINCIPLES ON WHICH CANADA IS AND SHALL BE FOUNDED.

AS A TENTATIVE STATEMENT OF THESE PRINCIPLES, THE FEDERAL PROPOSAL HAS LITTLE TO RECOMMEND IT TO NATIVE PEOPLES. IT IS AMBIGUOUSLY WORDED, UNINSPIRED IN TONE AND MISLEADING IN CONTENT. NOWHERE IS IT STATED THAT THE CONSTITUTION IS PREMISED ON AN AGREEMENT BETWEEN PEOPLES INDICATING HOW THEY WISH TO LIVE AND BE GOVERNED. THAT IS, A SOCIAL CONTRACT IN WHICH THE FUNDAMENTAL REQUIREMENTS OF THE VARIOUS PEOPLES OF CANADA CAN BE MET FOR THEM TO FLOURISH IN ACCORDANCE WITH THE VALUES THEY CHERISH.

SURELY IT IS ESSENTIAL THAT THE BASIS OF CANADIAN FEDERALISM HAS SUFFICIENT APPEAL AND DURABILITY TO ENLIST ALL PEOPLES, TO AROUSE THEIR RESPECT FOR EACH OTHER AND THE COMMON ENDEAVOUR, AND TO STIMULATE AN OVERRIDING SENSE OF DISTINCTIVE IDENTITY. WHAT IS IT

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THAT WE AS CANADIANS WISH TO ACCOMPLISH TOGETHER IN THIS LAND?

THIS QUESTION DOES NOT FIND EXPRESSION IN THE FEDERAL PROPOSAL. WORDED AS IT IS LIKE A LEGAL CONTRACT BETWEEN GOVERNMENTS, IT GIVES ALL THE SENSE OF DURABILITY AND DISTINCTIVE PURPOSE THAT A FIVE-YEAR TAX-SHARING AGREEMENT MIGHT.

NOR DOES THIS DOCUMENT BREAK WITH THE PATTERN OF REFERRING TO US IN A PATERNALISTIC, PATRONIZING WAY. WHO NATIVE PEOPLE ARE IS NOT SPECIFIED, AND WHAT REFERENCE THERE IS, MAKES US APPEAR TO BE PASSIVE, IF NOT IRRELEVANT ONLOOKERS TO THE IMPLIED HARMONIOUS FOUNDING OF THIS COUNTRY BY THE FRENCH AND ENGLISH - WHO HISTORY RECORDS, WERE CONSTANTLY AT ONE ANOTHER'S THROATS.

WITHOUT WISHING TO ENTER THE DEBATE ON WHETHER CANADA IS TO BECOME A MELTING POT LIKE THE U.S.A., OR REMAIN A MOSAIC IN WHICH DISTINCTIVE CULTURES MAY FLOURISH, I WOULD SUGGEST A REWORDING OF THE OPENING SENTENCE IN THE FEDERAL STATEMENT OF PRINCIPLES IN ORDER TO REFLECT THE REALITY OF CANADIAN CULTURAL PLURALISM. I WILL LEAVE ASIDE FOR A LATER MEETING THE REPUBLICAN IMPLICATIONS OF

THE OPENING PARAGRAPH WHICH GIVES PRECEDENCE TO "THE PEOPLE" RATHER THAN THE MONARCH AND MERELY POINT OUT THAT CANADA IS COMPOSED OF MANY PEOPLES.

ASSUMING THE TERM NATIVE WOULD BE DEFINED LATER, THE FRAMERS OF THE FEDERAL DRAFT WOULD HAVE MORE ACCURATELY REFLECTED THE TRUTH IF THEY HAD SAID:

BORN OF A MEETING OF NATIVE PEOPLES WITH THE ENGLISH AND FRENCH ON NORTH AMERICAN SOIL, THE HOMELAND OF NATIVE PEOPLES FROM TIME IMMEMORIAL.....

DISAPPOINTMENT ASIDE WE DO SUPPORT THE NEED FOR A PREAMBLE IN WHICH AS AN ABSOLUTE MINIMUM THE PLACE OF NATIVE PEOPLE MUST BE GIVEN PROMINANCE. WE WOULD OF COURSE WELCOME THE OPPORTUNITY TO HELP DRAFT A STATEMENT OF PRINCIPLE TO THIS END.

CHARTER OF RIGHTS

WE SUPPORT THE PROTECTION OF HUMAN RIGHTS OF ALL CANADIANS IN THE CONSTITUTION BUT AT THE SAME TIME INSIST THAT OUR SPECIAL ABORIGINAL RIGHTS SHOULD NOT BE

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SUBSUMED UNDER ANY GENERAL HUMAN RIGHTS PROVISIONS.
INSTEAD WE WANT OUR ABORIGINAL RIGHTS ENTRENCHED
SEPARATELY IN THE CONSTITUTION.

THE PATRIATION OF THE CONSTITUTION

THE PATRIATION OF THE CONSTITUTION IS AN
OBJECTIVE WHICH WE CAN SUPPORT BUT ONLY IF THE AMENDMENT
FORMULA FULLY INVOLVES US. OTHERWISE SPECIFIED RIGHTS
GAINED TODAY COULD BE ABOLISHED TOMORROW UNILATERALLY
BY GOVERNMENTS. WE ARE PREPARED TO WORK OUT WITH YOU
AN AMENDMENT CLAUSE WHICH WOULD GUARANTEE THAT OUR RIGHTS
ARE FULLY PROTECTED AND ONLY AMENDED WITH OUR CONSENT.

A NEW UPPER HOUSE

WE BELIEVE THAT A NEW UPPER HOUSE WHOSE COMPOSITION
WOULD REFLECT THE HETEROGENEITY AND REGIONAL DIVERSITY OF
THE COUNTRY CAN STRENGTHEN CONFEDERATION. HOWEVER, NO
REFERENCE IS MADE TO GUARANTEED REPRESENTATION FOR NATIVE
PEOPLES IN THIS NEW HOUSE. AS HISTORIC NATIONAL MINORITIES
WITH SPECIAL RIGHTS IN CONFEDERATION, NATIVE PEOPLES
SHOULD BE GUARANTEED REPRESENTATION IN ALL LEGISLATIVE
BODIES, INCLUDING THE NEW UPPER HOUSE.

SUPREME COURT

IN MANY CASES, METIS AND NON-STATUS INDIANS HAVE BEEN ADVERSELY AFFECTED BY THE UNIVERSAL APPLICATION OF THE LAW THROUGHOUT THE LAND. THE CONTEMPORARY LEGAL SYSTEM DOES NOT TAKE INTO ACCOUNT THE SPECIAL LEGAL PROBLEMS NOR THE SPECIAL ABORIGINAL RIGHTS OF METIS AND NON-STATUS INDIANS. WE PROPOSE THAT SERIOUS CONSIDERATION BE GIVEN TO A JUDICIAL SYSTEM AT THE HEAD OF WHICH A SPECIAL PANEL COULD RULE ON CASES INVOLVING THE RIGHTS, CUSTOMS AND BELIEFS OF OUR PEOPLE IN THE SAME WAY THAT A SPECIAL PANEL FROM QUEBEC IS EMPOWERED TO RULE ON CASES BASED ON CIVIL LAW.

FISHERIES AND OFFSHORE RESOURCES

THE RIGHT OF NATIVE PEOPLE TO FISH INLAND AND IN COASTAL WATERS AS WELL AS THEIR RIPARIAN AND OFFSHORE RESOURCE RIGHTS SHOULD BE GUARANTEED IN THE CONSTITUTION. WE WOULD PREFER THE FEDERAL GOVERNMENT GUARANTEE OUR RIGHTS AND SHARE WITH US THE POWER TO INTERVENE IN ANY DISPUTES OVER THESE WITH PROVINCIAL GOVERNMENTS.

POWERS OVER THE ECONOMY

OUR PEOPLE HAVE COMMON ECONOMIC PROBLEMS ACROSS

THE COUNTRY. WE REQUIRE NOT ONLY A CO-ORDINATED BUT SPECIAL APPROACH TO THE PROBLEMS WHICH HAVE LED TO OUR IMPOVERISHMENT.

WE DO NOT UNDERSTAND WHY THE FEDERAL GOVERNMENT DID NOT REFER TO OUR SPECIAL NEEDS IN ITS POSITION PAPER ON THE ECONOMY. IT SEEMS THAT THE FEDERAL GOVERNMENT WISHES TO RETAIN KEY ECONOMIC POWERS IN ORDER TO REDISTRIBUTE WEALTH AND REDUCE SOCIAL INEQUALITIES AS WELL AS REGIONAL DISPARITIES YET IT DRAWS NO REFERENCE TO THE DISPARITIES BETWEEN NATIVE AND NON-NATIVE PEOPLES. DOES THIS OMISSION MEAN THAT OUR ECONOMIC PROBLEMS ARE SIMPLY VIEWED AS PART OF THE GENERAL PROBLEM OF SOCIAL INEQUALITIES AND REGIONAL DISPARITIES? IF THIS IS SO WE MUST POINT OUT THAT PREVIOUS ATTEMPTS TO DEAL WITH US THROUGH THE PROVINCES AS A PART OF A LARGER PROBLEM HAVE NOT WORKED BECAUSE WE BECAME LOST IN THE SHUFFLE. ANY AGREEMENT ON POWERS OVER THE ECONOMY MUST TAKE INTO ACCOUNT THE SPECIAL NEED TO REDUCE THE DISPARITIES BETWEEN NATIVE AND NON-NATIVE PEOPLES.

THE FEDERAL GOVERNMENT WISHES TO GUARANTEE THE FREE FLOW OF GOODS, SERVICES, LABOUR AND CAPITAL ACROSS PROVINCIAL BOUNDARIES. WHILE NATIVE PEOPLES CAN SUPPORT THE SAFEGUARDING OF THE CANADIAN ECONOMIC UNION, SERIOUS

CONSIDERATION SHOULD BE GIVEN TO EXEMPT NATIVE ECONOMIC DEVELOPMENT FROM THE PRINCIPLE OF NON-DISCRIMINATION, ESPECIALLY IN REMOTE AREAS WHERE THEY HAVE SO OFTEN IN THE PAST BEEN DISPLACED BY SOUTHERN BUSINESS AND LABOUR INTERESTS. WITH REGARDS TO THIS MATTER WE WISH TO KNOW WHETHER OR NOT WE ARE INCLUDED IN THE AFFIRMATIVE ACTION AND REGIONAL DEVELOPMENT PROGRAMS FOR WHICH THE GOVERNMENT IS PLANNING EXCEPTIONS.

DEDICATION TO SHARING AND/OR TO EQUALIZATION:
REDUCTION OF REGIONAL DISPARITIES

THE CONCEPT OF SHARING IS INTRINSIC TO NATIVE CULTURES AND LIFESTYLES AND IS ONE TO WHICH NATIVE PEOPLE CAN FULLY DEDICATE THEMSELVES DURING THE PROCESS OF CONSTITUTIONAL REVIEW. NATIVE PEOPLE HAVE ALWAYS BELIEVED IN SHARING THE WEALTH OF THE LAND AND THE BULK OF CANADA'S NATURAL RESOURCES ARE EXTRACTED FROM HINTERLAND AREAS WHERE NATIVE PEOPLE FORM A SIGNIFICANT PROPORTION OF THE POPULATION. HOWEVER, NATIVE PEOPLE HAVE ENJOYED FEW OF THE ADVANTAGES ACCRUING FROM THE EXPLOITATION OF THEIR LANDS AND SUFFERED ALMOST ALL THE DRAWBACKS.

THE PROPOSALS FOR ENTRENCHMENT OF EQUALIZATION IN THE CONSTITUTION DO NOT PROVIDE FOR A MEANINGFUL

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EQUALIZATION OF WEALTH. THE REASON FOR THIS IS THAT THE FEDERAL AND PROVINCIAL GOVERNMENTS CONTINUE TO TREAT REGIONAL DISPARITIES AS DISPARITIES BETWEEN "HAVE" AND "HAVE NOT" PROVINCES INSTEAD OF "HAVE" AND "HAVE NOT" REGIONS. THE ECONOMIC DIFFERENCES BETWEEN THE NORTHERN AND SOUTHERN PARTS OF PROVINCES ARE AS GREAT IF NOT GREATER THAN THOSE BETWEEN PROVINCES, YET THE EQUALIZATION SYSTEM IS STILL SEEN AS A PROCESS BY WHICH PAYMENTS ARE TRANSFERRED Laterally FROM ONE PROVINCE TO THE NEXT BY THE FEDERAL GOVERNMENT. THIS INTER-PROVINCIAL RATHER THAN INTER-REGIONAL OR INTRA-PROVINCIAL FOCUS HAS MEANT THAT "HAVE" PROVINCES TRANSFER WEALTH TO THE SOUTHERN-BASED GOVERNMENTS OF "HAVE NOT" PROVINCES. THESE WHICH ARE VIEWED BY NATIVE AND PERHAPS OTHER NORTHERNERS AS BEING AN INTEGRAL PART OF THE INTRA-PROVINCIAL DISPARITIES PROBLEM, NOT THE SOLUTION. LIKEWISE THE "HAVE NOT" REGIONS WITHIN THE "HAVE" PROVINCES ARE EXCLUDED ALTOGETHER FROM EQUALIZATION PAYMENTS. AS WE ALL KNOW "CHARITY BEGINS AT HOME". IN BOTH BRITISH COLUMBIA AND ALBERTA FOR EXAMPLE, A SIGNIFICANT PROPORTION OF PROVINCIAL WEALTH COMES FROM THE EXPLOITATION OF THE RESOURCES IN THE "HAVE NOT" REGIONS OF THE PROVINCE, REGIONS TRADITIONALLY USED AND OCCUPIED BY NATIVE PEOPLE.

THE PROPOSALS TO PROMOTE ECONOMIC DEVELOPMENT TO REDUCE DISPARITIES BETWEEN REGIONS SUGGEST A CONTINUATION OF FEDERAL/PROVINCIAL AGREEMENTS SUCH AS DREE WHICH TOO OFTEN HAVE BEEN LESS SENSITIVE TO THE NEEDS AND RIGHTS OF NATIVE PEOPLE IN "HAVE NOT" REGIONS.

AT THE SAME TIME THAT FEDERAL AND PROVINCIAL GOVERNMENTS AGREE TO PROMOTE EQUAL OPPORTUNITIES, ECONOMIC DEVELOPMENT, AND ESSENTIAL PUBLIC SERVICES OF REASONABLE QUALITY OF ALL CANADIANS, THEY MUST TAKE INTO ACCOUNT THE NEED TO REDUCE THE DISPARITIES BETWEEN NORTHERN AND SOUTHERN REGIONS. THE CONSTITUTION SHOULD PROVIDE FOR THE DIRECT TRANSFER OF EQUALIZATION AND REGIONAL DEVELOPMENT PAYMENTS INTO THESE "HAVE NOT" REGIONS. CLEARLY NATIVE REPRESENTATION MUST BE PART OF ANY PROPOSED REGIONAL DISPARITIES REVIEW PROCESS.

RESOURCE OWNERSHIP

AS THE ORIGINAL INHABITANTS OF THIS LAND WE BELIEVE THAT THE CONSTITUTION SHOULD MAKE CLEAR REFERENCE TO OUR RIGHTS TO LAND AND RESOURCES. ANY AGREEMENT

BETWEEN GOVERNMENTS ON "OWNERSHIP" OF RESOURCES MUST RECOGNIZE THE SPECIFIC NATURE OF, AND MAKE PROVISION FOR, OUR RIGHTS TO AN EQUITY INTEREST IN ANY RESOURCE DEVELOPMENTS INCLUDING SHARING THE RESPONSIBILITY FOR THE MANAGEMENT OF RESOURCES.

COMMUNICATIONS

IF WE ARE TO MAINTAIN A DISTINCT IDENTITY WE MUST HAVE THE RIGHT OF ACCESS TO THE MODERN MASS MEDIA THROUGH WHICH WE CAN COMMUNICATE WITH EACH OTHER AND WITH OTHER GROUPS IN CANADA. WE MUST ALSO HAVE ACCESS TO ALL NATIONAL AND PROVINCIAL CULTURAL INSTITUTIONS, FOR THESE TOO ARE VITAL MEANS OF COMMUNICATION. AS THE SITUATION NOW EXISTS IT IS DIFFICULT FOR METIS AND NON-STATUS INDIANS TO REPRESENT THEMSELVES THROUGH THESE CHANNELS, ESPECIALLY WHEN INSTITUTIONS LIKE THE NATIONAL MUSEUM USE A RESTRICTED INDIAN ACT DEFINITION OF WHO IS A NATIVE PERSON AND CONSISTENTLY IGNORE IN ITS RESEARCH AND EDUCATIONAL FUNCTIONS THE CULTURAL CONTRIBUTIONS OF THE METIS AND NON-STATUS INDIANS IN THE HISTORY AND DEVELOPMENT OF CANADA.

THE CONSTITUTION SHOULD PROVIDE NATIVE PEOPLE WITH THE RIGHT OF ACCESS TO THE RADIO AND TELEVISION, THAT IS, THOSE MEDIA UNDER GOVERNMENT REGULATION. AT THE SAME TIME IT SHOULD BE RECOGNIZED THAT NATIVE COMMUNICATIONS SYSTEMS ARE INTER-PROVINCIAL, IN THAT THEY ARE FULFILLING THE NEEDS AND INTERESTS OF NATIVE GROUPS SPANNING PROVINCIAL BORDERS, AND THEREFORE SHOULD FALL WITHIN FEDERAL JURISDICTION.

FAMILY LAW

FAMILY LAW COMPRISES A NUMBER OF SUBJECTS, SOME OF WHICH ARE PARTS OF OTHER MAJOR FIELDS OF LAW. JUVENILE DELINQUENCY IS OFTEN THOUGHT OF AS PART OF FAMILY LAW, BUT IT IS ALSO AN ASPECT OF CRIMINAL LAW. SEPARATION AGREEMENTS ARE CONSIDERED PART OF FAMILY LAW BUT THEY ARE ALSO AN ASPECT OF CONTRACT LAW. THIS POINT SHOULD BE BORNE IN MIND WHEN DISCUSSING A RE-DISTRIBUTION OF CONSTITUTIONAL POWERS.

THERE ARE CERTAIN AREAS OF FAMILY LAW THAT MIGHT BE CONSIDERED "PROBLEM AREAS" INsofar AS METIS AND NON-STATUS INDIANS ARE CONCERNED BUT IT IS NOT EVIDENT THAT THE PROBLEMS RELATE TO WHO HAS THE POWER

TO MAKE THE LAW. IT MAY BE AS MUCH A QUESTION OF THE ATTITUDE OR LACK OF CONSIDERATION THAT WENT INTO THE FORMULATION OF, AND ADMINISTRATION OF, THE STATUTE.

THE OBVIOUS PROBLEM AREAS FOR US ARE:

- LOSS OF CULTURE THROUGH ADOPTION OF CHILDREN BY, OR PLACING OF CHILDREN IN, HOMES WHERE NO CONSIDERATION IS GIVEN TO ABORIGINAL ANCESTRY OF CHILD, INCLUDING CASES OF SEPARATION WHERE A WHITE PARENT RETAINS CUSTODY OF CHILDREN OF MIXED MARRIAGE.
- RELATED ISSUE OF RECOGNITION OF CULTURAL DIFFERENCES IN METHODS OF RAISING CHILDREN IN CHILD WELFARE CASES, INCLUDING CHILD ABUSE, ETC.
- QUESTION OF INHERITANCES OR PENSIONS IN CASES OF MIXED MARRIAGES OR RELATIONSHIPS THAT MAY BE ACCEPTABLE IN METIS COMMUNITIES BUT THAT DO NOT MEET PROVINCIAL TESTS OR FEDERAL TESTS OF A 'VALID' MARRIAGE.
- ENFORCEMENT OF MAINTENANCE ORDERS AGAINST ITINERANT HUSBANDS AND FATHERS, A PROBLEM WHICH CUTS ACROSS CULTURAL BOUNDARIES.

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MORE STUDY IS REQUIRED ON THESE PROBLEM AREAS BEFORE WE CAN COMMENT DECISIVELY ON THIS ITEM.

FINALLY, I WISH TO SAY, WE SHALL HAVE MUCH MORE TO ADD TO ALL THE ITEMS AT A LATER TIME, HOPEFULLY BY THE DATE SUGGESTED TO ME IN A RECENT LETTER FROM THE PRIME MINISTER.

THE PRIME MINISTER RECENTLY FOUND CAUSE TO PREMISE HIS DEMAND FOR PATRIATION ON THE NEED TO BREAK THE LAST VESTIGES OF CANADA'S COLONIAL TIES TO BRITAIN THE NEED TO ENTRENCH OUR RIGHTS IN THE CONSTITUTION ALSO FLOWS FROM A DESIRE TO BREAK THE INTERNAL-COLONIAL TIES TO WHICH WE HAVE BEEN SUBJECTED THIS PAST HUNDRED OR SO YEARS.

Del Riley,
President
National Indian Brotherhood

PRESENTATION FOR MEETING WITH THE SUBCOMMITTEE OF THE CONTINUING COMMITTEE
OF MINISTERS ON THE CONSTITUTION.

There is a consensus among Indian organizations and leaders in Canada on the need for constitutional recognition of our rights. This has been confirmed again at the General Assembly of the National Indian Brotherhood held two weeks ago in Calgary, Alberta.

There seem to be two common errors that non-Indians are making about our position. The first is that there should be some reasonable division of the issues which can be handled by legislation and those items which should be entrenched in a revised constitution. The federal Minister of Indian Affairs insists that the revision of the Indian Act and the constitutional discussions should proceed as separate and distinct exercises. We say no. The fundamentals of our relationship with Canada have yet to be defined. I am sure you understand that we are dealing with some fundamental questions. We are not just dealing with a group of urban misfits and rural poor, but with Indian nations whose experience of nationhood long preceeded the coming of the French, the English and the other peoples who now live on our land.

We know you have a busy agenda and hope to be able to report progress to the First Ministers meeting in September. We have a difference sense of time because we are intent on dealing with fundamental questions of our political and legal status within Canada. It seems that the present constitutional discussions have created a situation where these questions can be thoughtfully considered. We are concerned with the