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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

Indian Act, with its paternalism, its rigidity and its discrimination. But we are not prepared to now deal with the Indian Act for that would mean accepting the assumptions that lie behind it - that the Parliament of Canada has complete jurisdiction over our nations and should continue to have such jurisdiction - that we have been conquered or overwhelmed. We have survived. We have begun a slow and deliberate discussion of our situation. As we are addressing fundamental questions, we trust that you, as well, are addressing fundamental questions about our country and will be willing to talk with us. So we hope you will understand that we are not prepared to discuss a reasonable separation of legislative and constitutional questions.

The second error that is commonly made about our position, again, seems very reasonable. There are some matters which directly affect Indians and there are other matters which do not. The matters which directly affect Indians will be included in the agenda item "Canada's Native Peoples and the Constitution". The Prime Minister has indicated certain subjects, which, in his view, would be included in that agenda item. On those matters the Prime Minister has said we will participate directly with the First Ministers. On other matters we would be limited to what, perhaps, we are supposed to do today, that is, make submissions as an outside group, excluded from direct participation in the talks.

I would like to table two documents that have been prepared by our staff and reflect our thinking. One examines the twelve items that have been discussed by the Continuing Committee of Ministers on the Constitution over the summer. The other examines a fuller range of constitutional issues. These documents confirm the position we took at

the meeting with the steering committee of the Continuing Committee of Ministers on the Constitution on December 3rd, 1979 and the position we have always taken - that Indians have a substantial interest in all the constitutional issues that are under discussion.

It is a fundamental position on our part that we are a distinct order of government within Canada. It follows directly that we have an interest in all of the constitutional issues that are currently being discussed. If Prince Edward Island or Quebec cannot be excluded from the discussion of certain of your agenda items, then we cannot be excluded either. The documents I am tabling support our position on a different basis. They show the specific interest of Indian people in all the items under discussion. As well we could take the five matters mentioned by the Prime Minister on April 29th as falling within the Agenda item "Canada's Native Peoples and the Constitution":

...aboriginal rights, treaty rights, internal native self-government, native representation in political institutions and the responsibilities of the federal and provincial governments for the provision of services to native peoples.

We could easily demonstrate how this list includes consideration of virtually all the subjects that are being considered in the constitutional talks.

Whether you agree with our fundamental positions or not, you can still agree with one of our conclusions - that the constitutional issues now being discussed cannot be divided into those that "directly affect native people" and those which do not.

We have willingly attended this meeting, though we do not yet share a common understanding of the process which is underway. We have

given you our reaction to the twelve point agenda you have been considering over the summer. We must make some comment on the process involved. We have been promised "full, equal and ongoing" participation with the First Ministers on constitutional issues that directly affect us. Yet twelve items that directly affect us are to be discussed at the First Ministers meeting in September here in Ottawa, without our participation. There is a direct contradiction involved. At no point have there been discussions about the process involved. In our view we should be invited to participate in the September meeting of First Ministers and in all future First Ministers meetings. In addition, in our view, we should be given a seat on the Continuing Committee of Ministers on the Constitution, which would mean ending the need for a special subcommittee of the CCMC on native questions.

We are committed to the process of constitutional renewal. As my predecessor, Mr. Noel Starblanket said in the meeting with the steering committee of the CCMC on December 3rd, 1979:

We know that the process will be long, difficult and often tedious, but we intend to participate in a patient, realistic and determined manner.

This is still true.