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FEDERAL-PROVINCIAL MEETING OF MINISTERS ON
ABORIGINAL CONSTITUTIONAL MATTERS

Letter to the Rt. Hon. Pierre E. Trudeau, P.C.
M.P., Prime Minister of Canada re Background
on I.C.N.I. Constitutional Positions to be
discussed at First Ministers Conference on
Aboriginal Issues, March 1983

Inuit Committee on
National Issues

OTTAWA
January 31 -
February 1, 1983

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January 25, 1983.

The Rt. Hon. Pierre E. Trudeau, P.C., M.P.,
Prime Minister of Canada,
House of Commons,
Ottawa, Ontario.
K1A 0A6

Dear Mr. Prime Minister:

RE: BACKGROUND ON I.C.N.I. CONSTITUTIONAL POSITIONS TO
BE DISCUSSED AT FIRST MINISTERS CONFERENCE ON
ABORIGINAL ISSUES, MARCH, 1983.

On behalf of the Inuit Committee on National Issues (I.C.N.I.) we would like to take this opportunity to express our views on the Constitutional process presently underway and to provide you with some background on the positions we will be putting forward at the ministerial meeting planned for the end of this month.

As you are no doubt aware I.C.N.I. has participated fully in the preparatory process leading up to the S. 37 First Ministers Conference. While we feel the meetings at the level of officials have been constructive and have resulted in a better understanding on our political, social and economic rights, we have been disappointed by the inability of government delegations to articulate their viewpoints on positions on almost all the issues being discussed. We would point out that we understand the hesitancy of officials to reveal government strategy or positions, but we are sure you can understand our disappointment. It is for this reason that I.C.N.I. proposed that the process move to the next level and we are pleased that other delegations have agreed that the January 31st, February 1st meeting will be one of Ministers.

At this juncture we would like to point out that Inuit view this process as a political negotiation...a negotiation in the sense that we are seeking to take positive steps towards resolving the question of what role the aboriginal peoples should play within the Canadian Confederation.

As you are well aware the process for the federation of Canada into the dominion that we know today, began over 100 years ago. Many of the principles established then, now form the basis for Canada's patriated Constitution. Those principles were based on European laws and traditions and accordingly the political, social and economic systems that have evolved in Canada have been essentially European inspired.

However, Inuit did not become aware of the presence of the European peoples and their ways until relatively recently. Until as late as the 1950's many of our people were still living in isolated camps as semi-nomads with political, economic, and social systems of our own, systems which were very much centred on a rugged existence dependent on the climate, our lands and waters and the wildlife and other resources contained in our homeland.

We were therefore never involved or consulted when Canada as we now know it was formed. Even if our existence had been fully known to the Fathers of Confederation at that time, we were not familiar with the European ways and would not have been able to understand the proceedings which resulted in the establishment of the Dominion of Canada. Our people, our ways and our land have slowly become known to the settler Europeans as you and your ways have become more familiar to us. Happily our relationships with the governments that have been built in Canada have been for the most part cordial if not friendly.

It must be remembered though that Inuit still regard the northern part of this country as our homeland. We never fought in any wars against the European settlers and never signed any treaties with them relinquishing sovereignty or title over our lands. When the Qallunaat (white man) began appearing on our land we shared our resources with them, as we had always done amongst ourselves. Years later we learned that our homeland was considered to be part of Canada. It is not that we are ashamed to be known as "kanaatamiut" or Canadians, we only seek the means to achieve, with dignity, a place in the Canadian Confederation which recognizes our distinct political, economic and cultural rights as is befitting of our long time occupancy of the northern part of this country.

Political and historical tradition in Canada has recognized two founding peoples - the French and the English. You can well imagine that we find this somewhat offensive, considering the fact that we have inhabited this land for many thousands of

years. Inuit, together with other aboriginal peoples form a distinct part of the Canadian "mosaic". We feel then that this opportunity we now have before us - A First Ministers Conference to deal with the concerns of the aboriginal peoples - should result in the recognition of the fundamental rights of our people.

We have viewed our work on the Constitution (which began in the mid-1970's) within the framework of three general principles. We are seeking amendments which will guarantee Constitutional protection for the following principles:

- (1) the collective recognition of the aboriginal peoples as distinct peoples in Canada due to our occupation of our lands since time immemorial, including the protection of our cultures, histories and lifestyles; and flowing from this principle:
- (2) the recognition of our political rights to self-governing institutions (structures) of various kinds within the Canadian Confederation; and
- (3) the recognition of our economic rights to our lands and waters, their resources and their benefits, as a base for self-sufficiency and the development of native communities and families, including the protection of our traditional livelihoods.

We have based the legal drafting of Constitutional provisions on these principles. I.C.N.I. views its proposals for amendments to the Constitution as being necessarily two-staged. The first stage will seek amendments to Part II of the Constitution Act, 1982, "Rights of the Aboriginal Peoples of Canada", which provisions should be immediately enforceable. In this phase, we propose that the present Section 35 be expanded to include a non-limitative definition of aboriginal rights, which will include rights in and to land and sea-ice, cultural and linguistic rights, and the recognition of our customs and traditions. We view these rights as a cornerstone to building a more elaborate set of rights, which can only be arrived through negotiation, during the second stage.

We realize that for two reasons it is necessary to negotiate some rights: first, we know it will be impossible to deal with the full range of issues of utmost concern to the aboriginal peoples at one First Ministers Conference; and second, some aboriginal rights necessarily apply differently to the various aboriginal nations, tribes, bands and/or communities, and are best negotiated by these various groups individually. We therefore

propose a negotiation process with the governments and aboriginal parties concerned in each area, to deal with a wider range of matters concerning aboriginal peoples, such as economic development and self-government. The Constitution must embody a commitment to this process, as well as provide that all agreements reached be granted constitutional protection.

Additional clauses in our proposal will seek to clarify the present wording of Section 35; an enforcement provision and interpretation sections modelled after Part I of the Constitution Act, 1982 are also included, to supply the necessary legal force to the proposed amendments.

I.C.N.I. considers this proposal as a necessary beginning to redefine the nature of the relationship between Canada's aboriginal peoples and its public institutions.

Our draft also contains modifications to the amending formula: we propose that Section 42, regarding the extension of the provinces into the territories and the creation of new provinces, be repealed and the former provisions restored. Along with the Government of the Northwest Territories, we believe that constitutional development of the Territories will be significantly hampered by this requirement. We believe that there can be no justification for this measure which no other province entering Confederation has been forced to meet.

We are seeking a requirement for consent to amendments to Part II (Section 35 and proposed expansions) and Section 25 of the Constitution Act, 1982. The necessity for consent of the Inuit to constitutional change was amply demonstrated in November, 1981 when the clause which I.C.N.I. had worked strenuously to obtain was dropped from the constitutional resolution. We believe that consent to those provisions of the Constitution that affect our people so radically is fundamental to our future role in Canadian society.

I.C.N.I. would wish to see a permanent process instituted on ongoing issues of concern which the March conference will be unable to properly deal with. This ongoing process involves matters which can only be settled at the second stage of negotiations, where the general constitutional principles will be further defined and expanded. It may well be that the March conference will also decide to institute a continuing process at the constitutional level, to deal with certain issues requiring further study and discussion. I.C.N.I. would welcome such an initiative, as well.

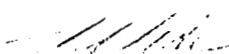
Finally, we would point out that I.C.N.I.'s position as outlined in our letter does not and should not be interpreted as fixed and definitive, but rather as evolving with the current process of constitutional discussions. I.C.N.I. notes that several governments have already submitted proposals which are


encouraging: for example, the submission by Manitoba to amend Section 36 to include a commitment by governments to provide equalization payments, cost-sharing programs, and generally, to provide aboriginal peoples with resources to adequately meet our economic social and cultural needs. We are hopeful that in the very near future all the participants in the March conference will make known their views in order that a meaningful and successful conference will take place. In the course of the next two months, I.C.N.I.'s position then will be gradually shaped by the current of the discussions with yours and other governments.

We would hope that this letter has been helpful in defining for you, the parameters of our work on the Constitution. We are anxious that you well understand our concerns and aspirations and the necessity for changing the "status-quo" when it comes to the aboriginal peoples, before meeting with us at the First Ministers Conference. Accordingly we would like to suggest that we meet with you sometime during the month of February.

Our staff will be in contact with your office shortly in this regard. We look forward to the opportunity of meeting with you.

Warmest regards,


Charlie Watt,
Co-Chairman,
Inuit Committee on
National Issues.


Tagak Curley,
Co-Chairman,
Inuit Committee on
National Issues.

c.c. all Provincial Premiers