

PROPOSAL OF THE GOVERNMENT OF CANADA
FOR THE ENTRENCHMENT OF AN ONGOING PROCESS
AND A STATEMENT OF PRINCIPLES TO GUIDE IT

"PART IV.1

CONSTITUTIONAL CONFERENCES

Whereas the ancestors of the aboriginal peoples of Canada occupied the forests, plains, arctic ice, mountains and seacoasts of the vast territories now known as Canada for many centuries before the first settlers arrived on the Atlantic coast some four hundred years ago;

And whereas the aboriginal peoples, over the decades in which the settlers moved across the continent, shared with those settlers their knowledge of the land and of the skills needed to survive and flourish upon it;

And whereas the aboriginal peoples by their own courage and determination have successfully lived until this day in their own cultures and communities, cherishing their own customs and ways, under the Creator of all things, continuing to hold sacred their identity with the land, with the creatures that live upon it and in the rivers that traverse it, with the plant life that it supports and with the seas that surround it;

And whereas the aboriginal peoples, as Canadians, are entitled to the rights and freedoms guaranteed to all Canadians by the Canadian Charter of Rights and Freedoms;

And whereas the aboriginal peoples continue, each in a unique manner, to make a contribution to Canadian society;

And whereas it is fitting, in the process of constitutional renewal, to identify the distinct place that the aboriginal peoples occupy in Canadian society, having regard to the cultural differences between those peoples, and to define their rights as aboriginal peoples for entrenchment in the Constitution as a charter of rights of the aboriginal peoples;

And whereas it is fitting for the conferences provided for in this Part to consider the following for inclusion in that charter of rights of the aboriginal peoples:

- the identification of the rights now recognized and affirmed in section 35 of the Constitution Act, 1982, and in particular the rights of the aboriginal peoples to the use and occupancy of land and their rights to fish, hunt, trap and gather, based on traditional and continuing use and occupancy and as recognized by treaties and land claim settlements,

- the preservation and enhancement of the use by the aboriginal peoples of their own cultures, customs, traditions, religions and languages, including the education of their children within their own languages, as well as within one of the official languages of Canada, in order that their children may be equipped to live in the cultural milieu of their choice,
- the institution of various forms of aboriginal government within the Constitution of Canada and under the laws of Canada to meet the respective needs of their communities and aggregations of communities, and
- the definition of whatever additional rights may be identified and agreed upon at such conferences;

And whereas it is fitting that a charter of rights of the aboriginal peoples provide for the enforcement of the rights contained within it:

(First alternative - three conferences)

37.1(1) In addition to the conference convened in March, 1983, three constitutional conferences composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada, the first within two years after April 17, 1982, the second within three years after that date and the third within four years after that date.

(2) Each conference convened under subsection (1) shall have included in its agenda an item respecting constitutional matters that directly affect the aboriginal peoples of Canada, including the identification and definition of the rights of those peoples to be included in the Constitution of Canada, and the Prime Minister of Canada shall invite representatives of those peoples to participate in the discussions on that item.

(3) The Prime Minister of Canada shall invite elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions on any item on the agenda of a conference convened under subsection (1) that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories."7

(Second alternative - two conferences)

37.1(1) In addition to the conference convened in March, 1983, two constitutional conferences composed of the Prime Minister of Canada and the first ministers of the provinces, shall be convened by the Prime Minister of Canada, the first within three years after April 17, 1982, and the second within five years after that date.

(2) Each conference convened under subsection (1) shall have included in its agenda an item respecting constitutional matters that directly affect the aboriginal peoples of Canada, including the identification and definition of the rights of those peoples to be included in the Constitution of Canada, and the Prime Minister of Canada shall invite representatives of those peoples to participate in the discussions on that item.

(3) The Prime Minister of Canada shall invite elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions on any item on the agenda of a conference convened under subsection (1) that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories."