

COMMISSION ROYALE SUR
LES PEUPLES AUTOCHTONES

ROYAL COMMISSION ON
ABORIGINAL PEOPLES

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"for the record..."

STENOTRAN

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**Royal Commission on
May 25, 1993
Aboriginal Peoples**

Lethbridge, Alberta

1
2 --- Upon resuming on Tuesday, May 25, 1993
3 at 9:05 a.m.

4 **MODERATOR REGGIE CROWSHOE:** Good
5 morning, everybody. I would like to welcome everybody
6 here to this morning's session.

7 I would like to ask Harrison Black Plume
8 to say the prayer this morning.

9 --- **Opening Prayer**

10 **MODERATOR REGGIE CROWSHOE:** I would
11 like to start with opening remarks from the Co-Chair and
12 Commissioner. Then we will go to the three presenters.

13 First we have Bradford Littlelight; next
14 will be Dorothy First Rider; and finally Les Healy.

15 At this time I will turn the Chair over
16 to Georges Erasmus.

17 **CO-CHAIR GEORGES ERASMUS:** We just want
18 to remind you that the hearings are to primarily hear
19 people's ideas of how to resolve things, the remedies,
20 the solutions. Sometimes it is necessary to explain what
21 the problems are, but just a reminder for the day that
22 what we would really like to hear from you is your ideas
23 as to how things should be done in the future that are

3 Let's just go straight into the
4 presentations.

6 **Nation:** Mr. Chairman, members of the Royal Commission,
7 Elders, ladies and gentlemen, on behalf of the Tsuu T'ina
8 Nation I extend our thanks for the opportunity to present
9 our position on two matters: taxation and the proposed
10 First Nations Chartered Land Act.

15 In both land base and population, the
16 Tsuu T'ina Nation, Sarcee, is the smallest in the Treaty
17 7 area. We are located next to the city of Calgary on
18 our eastern boundary and 18 miles west our neighbours
19 reside in the Bragg Creek area. The total Nation
20 membership is almost 1,000, with an average age of 24 years.

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8 In total, the Tsuu T'ina Nation Chief
9 and Council oversees a total cash flow projected to be
10 \$40 million in the fiscal year 1993-94. Only 12 per cent
11 of that total is federal government grants and treaty
12 payments.

19 The Economic Development Program has
20 under construction the following:

- 21 - a 15,000 square foot commercial
22 centre;
23 - an 80,000 square foot multipurpose

2 - a 60-acre business park;
3 - a \$4.8 million elementary school,
4 which is on schedule, to open in September 1993;
5 - a 27-hole golf course and club house.

On behalf of the Nation, the company board of directors operates the following companies: Tsuu T'ina Cattle Company; Sarcee Developments Ltd.; Tsuu T'ina Golf & Country Club; Sarcee Gravel Products; Tsuu T'ina Nation Gas Stop & Convenience Store; Tsuu T'ina Mechanical Shop; Wolf's Flat Ordnance Disposal Corporation; Tsuu T'ina Nation/U7U Grain Farming Joint Venture; Tsuu T'ina Petroleum (property management); Tsuu T'ina Financial, in the way of business park development.

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3 The Treasury Board created and appointed
4 by the Chief and Council oversees the financial management
5 of all Nation entities and operations. The Tsuu T'ina
6 Nation Finance & Administration Act governs these
7 activities to ensure the Nation's fiscal affairs are
8 efficiently handled. Our computer equipment and
9 mainframe system are state-of-the-art and form the core
10 of an accounting system which is just as effective as any
11 in Canada.

16 First I wish to deal with taxation.
17 Almost 20 years ago the Tsuu T'ina Nation, Sarcee Nation,
18 drafted, passed and received ministerial approval on our
19 property tax by-law, the first of its kind in Canada.
20 In the years since then our needs have grown and changed
21 to the point where a more comprehensive tax structure is
22 required. This work is under way now and should be in
23 place by 1994.

8 On behalf of the Tsuu T'ina Nation, I
9 co-sponsored the attached Resolution at the AFN Assembly
10 in March of this year, 1993, a few months ago. Members
11 of the Royal Commission, take note of that.

14 This Resolution sets out a direction
15 which we and other First Nations in Canada believe is
16 necessary to resolve taxation matters with Canada."

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3 I turn now to the First Nations Chartered
4 Land Act.

10 We have concluded that this is the most
11 dangerous piece of proposed legislation to come forward
12 since the 1967 White Paper. The Tsuu T'ina Nation is
13 fundamentally, totally and absolutely opposed to this
14 proposed First Nations Chartered Land Act. This proposal
15 must be thrown in the garbage bin of history as a terrible
16 proposal whose time will never -- I repeat, never -- come
17 in Canada.

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1 is a dangerous thing.

2 The Tsuu T'ina Nation is not prepared
3 to see our land base and our future generations jeopardized
4 by people whose vision is limited to making a quick dollar.

5 We have spent many years and a lot of money finding methods
6 of doing business under the existing Indian Act Land
7 Regulations. We have been successful, and our track
8 record stands as proof that economic development ventures
9 can be successfully carried on without jeopardizing the
10 land.

11 We are the land. Our Elders have taught
12 us since we were born that each of us has a responsibility
13 to use, enhance, preserve and pass on land for future
14 generations. They will also learn the same lesson and
15 bear the same responsibility. Our Elders have told us,
16 "You can use the land to make a better life for our people
17 as long as you never jeopardize it or lose it. We must
18 always have the land."

19 This direction and teaching from the
20 Elders guides us at all times. We cannot accept the idea
21 of Tsuu T'ina lands being available for sale on fee simple
22 terms.

23 The government -- the federal

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1 government, your Conservatives -- and supporters of this
2 proposed legislation will try to convince you and us that
3 it is optional, that any First Nation can opt in or out
4 at their choice. Don't believe them. In how many past
5 agreements have they used the words "opt out?" In their
6 favour, sure, but for us, forget it! If even one First
7 Nation opts into such a system, the Government of Canada
8 and the banking industry will insist we opt in if we wish
9 to do business.

10 The existing Indian Act lands system,
11 although difficult to work with and time-consuming, allows
12 First Nations to be successful
13 -- to be successful -- and not jeopardize our land.

14 The Tsuu T'ina Nation stands before you
15 as proof that we progress and that benefits can be gained.

16 We say to you, Members of the Royal Commission on
17 Aboriginal Peoples, that you have a responsibility to
18 assist us in making a better life for our people and a
19 brighter future for our children and the unborn and many
20 more generations. The proposed First Nations Chartered
21 Land Act jeopardizes all of that, and we ask you for your
22 support and assistance in killing this assimilationist
23 idea, to totally do away with it.

5 For your information, in the package you
6 can see my Resolution. Mr. Chairman, we went through the
7 proper procedure before a full Assembly of the country
8 of Canada's 500 Chiefs. You can see it there. The
9 Chartered Land Act didn't go according to that procedure.
10 It is being promoted today, and the promotion system
11 taking place in that path is wrongfully done. It's
12 bribery.

15 **CO-CHAIR GEORGES ERASMUS:** Thank you.
16 Is anybody else going to present anything to do with this,
17 before we ask some questions?

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1 tell us what you would prefer to occur.

2 **BRADFORD LITTLELIGHT:** On the taxation,
3 Mr. Chairman, the Resolution that was addressed by myself,
4 which I moved a couple of months ago, that should not be
5 changed by a few Chiefs. I understand that across the
6 country of Canada there is a few Chiefs trying to change,
7 to amend or whatever.

8 I am not in a position, as a mover, to
9 change that. My good friend from the east, the seconder,
10 Chief Steve Williams, also supports that we stick and abide
11 by this Resolution recognized by the AFN, that you
12 yourselves get the federal government to recognize this.

13 We now have in place technicians working
14 and following up on these Resolutions. There is no real
15 mandate on this. This can take a year or two or three
16 or four, until we are satisfied ourselves, as First
17 Nations.

18 It clearly spells out the Resolutions.

19 It is five pages long, and it addresses the GST which
20 we don't recognize in Sarcee Tsuu T'ina. We are not
21 prepared to be collectors or administrators of the GST.

22 We believe all Native people should be immune from any
23 form of taxation. That is our position -- any form of

4 On the Chartered Land Act, that has not
5 gone through the proper procedure. There is no courtesy
6 shown to the other Chiefs of Canada. This is a bought
7 thing by the federal government. This is only led by eight
8 Chiefs, paid with a large amount of money for their own
9 personal use. That money could have been spent in a better
10 way. There are poor people out there. There are poor
11 people in our back yards.

20 **CO-CHAIR GEORGES ERASMUS:** What should
21 happen in relation to the communities that want that
22 particular legislation? Is there any way that those
23 communities can get what they want?

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1 **BRADFORD LITTLELIGHT:** Mr. Chairman,
2 with respect to you, you were a leader before and you know
3 that, if a Nation opens the door, that is precedent-setting
4 for all Nations. They follow. So you, Mr. Chairman, who
5 were a former leader of the AFN, know that.

6 The government today cannot be trusted.
7 This Conservative government cannot be trusted. I know;
8 I have been in politics many years as a minor Chief. I
9 was a member of the Siksika Nation before I was a member
10 of the Tsuu T'ina Nation. I also have relatives in the
11 Browning Montana tribe that have lands checkerboard. My
12 full-blood grandmother is buried there today. So I have
13 connections all over the place. I have a big clan in
14 Siksika, the Blackfoot Tribe. Then I went over to Tsuu
15 T'ina, the Sarcee Tribe. That is where I remain and hope
16 to remain.

17 I am not going to see this through. It's
18 up to you now. I now monitor your activities on this
19 taxation and this Chartered Land Act. This Chartered Land
20 Act didn't go through proper procedure. Ninety-five per
21 cent of the Chiefs of Canada had no say on this, so I say:
22 Why recognize it?

23 **CO-CHAIR GEORGES ERASMUS:** Is there any

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1 other organized action by First Nations that are opposed
2 to this? Are they going to be presenting their views to
3 Parliament?

4 **BRADFORD LITTLELIGHT:** Mr. Chairman,
5 right today, in the last few months, there has been a
6 coalition formed in the city of Calgary. I understand
7 its headquarters is in the city of Calgary. Its membership
8 is expanding all the time. The main leader of that
9 coalition is the former traditional Blackfoot Chief of
10 Siksika. Roy Littlechief is the leader of that coalition.
11 It is made up B.C. Chiefs, some northern Chiefs, some
12 representatives of the tribes in Treaty 7. He has a large
13 part of his people of Siksika behind him.

14 That is in progress, to try to destroy
15 this document. They are very disturbed about it. The
16 urban Indian people in the city of Calgary are mainly from
17 Siksika. Their reasons are probably lack of housing, no
18 voice on their own reserve, so they are forced to the city.
19 In the city they are recognized. On their own reserve
20 I don't know if they are recognized.

21 I have a lot of relatives from Siksika,
22 and they are my interest there. That is why I talk on
23 the part of Blackfoot, because my people are there.

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1 Two-thirds of my immediate family is there, and one-third
2 in Sarcee.

3 There is a coalition that is opposing
4 this strongly. I am sure on some day in their future they
5 are going to approach the government in some fashion.
6 They have held some rallies in the city of Calgary. They
7 have held Band meetings with the Chief and Council. They
8 have held meetings here and there.

9 It is expanding. It is getting to the
10 point where you are going to hear from them nationally.
11 Maybe it started small, but I vision it to overrule this.

12 **CO-CHAIR GEORGES ERASMUS:** Thank you
13 very much for the views you have brought forth on this.

14 **REGINA CROWCHILD:** I would like to make
15 it clear that I am speaking as a member of the Tsuu T'ina
16 Tribe. I am a member of Tsuu T'ina.

17 With respect to the First Nations
18 Chartered Land Act, I would like to give a few comments
19 with respect to my understanding of what the situation
20 is.

21 At Sarcee we are very concerned because,
22 when we look at our treaty, we are looking at the
23 relationship that treaty set out for us between us and

7 So, one question: How did Canada attain
8 title to our lands and our resources and how did they get
9 the jurisdiction to govern our way of life when Great
10 Britain had promised that the crown would ensure that we
11 were able to continue to live our lives in a normal manner
12 or in the way we chose to live?

21 Now Canada has unilaterally taken our
22 authority and our lands under their jurisdiction.

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1 Land Act, you are looking at a system again where Canada
2 is trying to delegate some authority to us when our right
3 of self-determination had never been surrendered at the
4 time of the signing of the treaty.

5 Canada, under her Constitution section
6 35, recognizes and affirms treaty and Aboriginal rights.

7 When we talk about our Aboriginal rights, we are talking
8 about our inherent rights that we inherited from our
9 forefathers. Yet, Canada takes the position that section
10 35 is an empty box, and the only way they would fill that
11 box is through federal legislation delegating authority
12 to us.

13 I think it is time Canada started living
14 up to her Constitution, to recognize treaty and Aboriginal
15 rights. When you look at this piece of legislation, I
16 do not think it is fair that the federal government should
17 hand-pick certain individuals from across the country to
18 follow a system that is designed to promote her cause.

19 Yes, it is optional. It is right that
20 we have a right to manage our own lands. But, although
21 Canada has imposed her laws upon us all these years, we
22 have never recognized or agreed that they had this right
23 to assert their jurisdiction over us. Through this

3 I feel that any issues of this magnitude
4 should be brought to the treaty peoples. As was set out
5 in the treaty-making process, you have to have open and
6 informed consent. Yet, we have eight individuals across
7 this country who are pursuing this matter on behalf of
8 all the treaty peoples.

9 Canada has a specific relationship with
10 the treaty peoples, and that is where she needs to go to
11 discuss any matters that address this relationship that
12 was set out under Treaty 7.

13 With respect to taxation, the concept
14 of rent was brought to us by the Europeans. In England
15 the peasant farmer would pay a fee to the sovereign or
16 to the king for the use of the land. This concept was
17 brought to our peoples, that in exchange for the use of
18 our lands to the depth of the plough the crown, or her
19 Dominion of Canada, will provide a rent to us. It may
20 also be called a taxation, but how could one Nation who
21 does not have title to our lands and our resources try
22 to tax the owners or occupants of that land?

23 I think we need to put these perspectives

5 So there is a lot of unfinished business
6 that has to be completed. Our Chiefs have been pushing
7 for a bilateral process between Canada and our leadership
8 on a government-to-government basis; yet, Canada does not
9 intend to pursue that because they feel that they do not
10 need to and that the only form of authority they will give
11 us is what they delegate to us.

18 I would like to know how Canada accessed
19 title to our lands and our resources without our consent
20 as treaty peoples. These are our lands. How could they
21 tax us on our lands and how can they delegate authority
22 for us to manage our lands when we have always had that
23 and never surrendered it?

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1 **CO-CHAIR GEORGES ERASMUS:** Thank you
2 very much for that intervention. Thank you both for coming
3 forward.

4 We will go on to the next presenters now.

5 **GREGG SMITH, Treaty 7 Tribal Council:**
6 Good morning. Welcome to Blackfoot territory to the
7 Commission, Georges Erasmus, Co-Chair, and Viola Robinson,
8 Commissioner.

9 Since the establishment of the Royal
10 Commission in 1991, as announced by Prime Minister Brian
11 Mulroney and subsequently in the Throne Speech opening
12 the Third Session of the Thirty-fourth Parliament of
13 Canada, on May 18, 1991 the Government of Canada appointed
14 the Right Honourable Brian Dickson as special
15 representative representing the Royal Commission on
16 Aboriginal Peoples.

17 In the year 1877, the Chiefs of Treaty
18 7 Nations were signatories to Treaty No. 7, together with
19 representatives of the Government of Canada. Treaty No.
20 7 is the document which represents the basis for the
21 relationship between Treaty 7 Nations and Canada.

22 The treaty established that we would
23 deal with the federal government as the representative

One hundred and fourteen years later,
today, questions about the nature of this relationship
have yet to be resolved. Why? Because Canada fails to
recognize the spirit and intent of the treaties and only
adheres to the strict interpretations of the treaty.

18 The Treaty 7 Nations opposed the Meech
19 Lake Accord. Subsequently, the Meech Lake Accord did not
20 receive the consent of all the provinces of Canada and,
21 accordingly, failed to become part of the Canadian
22 Constitution. The Treaty 7 Nations also opposed the
23 Charlottetown Accord. Needless to say, the Charlottetown

3 Although the Treaty Review process was
4 part of a process which received support from the federal
5 government to allow First Nations to interpret the treaties
6 according to the spirit and intent which would affect the
7 bilateral relationship with the federal government, in
8 order to begin the process of strengthening the bilateral
9 relationship and/or re-establishing the bilateral
10 relationship, there needs to be mutual understanding and
11 acceptance of the spirit and intent of the treaties.

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10 In the fall of 1990, the Treaty 7 Tribal
11 Council established a Special Chiefs Committee. The
12 mandate of this committee is to undertake a review of Treaty
13 7. This review process has identified its goals and
14 objectives and will be addressing considerable issues
15 under its Terms of Reference, and has done so to date.

20 Before we go into the recommendations,
21 I would like at this time to present to you a video
22 production which we commissioned through the Tribal
23 Council as showing part of our review process. We will

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1 ask Rick to play the video now, and we will go into the
2 recommendations following the video presentation.

3 --- **(Video Presentation)**

4 I would like to introduce some of the
5 people involved in the video production at this time.
6 We have some of our Elders who participated throughout
7 the work of the Task Force through the Elders' interviews
8 as well as through the Elders Workshops. We have some
9 of our Elders with us today: Lazarus and Libby Wesley
10 from Bearspaw; Louise Crop Eared Wolf from the Blood Tribe;
11 Rosie Red Crow from the Blood Tribe; Annie Bare Shin Bone
12 from the Blood Tribe; Mary Stella Cross the Mountain from
13 the Blood Tribe; Eddie Yellow Horn from the Peigan Nation.

14 As well, we acknowledge the people who
15 have worked with us on the video presentation as well as
16 our producer and owner and operator of Sweetgrass
17 Productions, Mr. Rick Tailfeathers.

18 You saw in the last portion of the video
19 the recommendations the Treaty 7 Tribal Council is making
20 to the Royal Commission at this time, dealing with some
21 of the issues that face us in the Treaty Review Process.

22 The first recommendation is that the
23 Government of Canada recognize the Treaty First Nations

I think this has been a longstanding issue from Day One in constitutional issues, the fact that all Aboriginal people were placed into one group with the Canadian Constitution under section 35.

18 Treaty Nations entered into a legal
19 contract by way of treaties with the crown. This cannot
20 be ignored, nor can it be watered down in the melting pot
21 theory. Treaty First Nations are in a unique category,
22 unlike other Aboriginal groups. Our Aboriginal and
23 inherent rights have already been established.

7 Canada has, from 1877 to this point in
8 time, passed policies and legislation which have been to
9 the detriment of our treaties
10 -- policies and legislation, such as the Membership Act
11 of 1985, the Self-Government Act and, most recently, the
12 introduction of the Chartered Lands Act and Working Paper
13 on Indian Government Taxation. Attempts to relinquish
14 Canada's fiduciary responsibilities are the underlying
15 basis of these policies and legislation.

19 In order to establish the bilateral
20 relationship and/or to strengthen it, it is imperative
21 that the federal government accept the fact that this
22 relationship will be dictated by the spirit and intent
23 of the treaty and the evolutionary nature and mobility

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1 of the treaties must be accommodated. We mustn't change,
2 but we must adapt.

3 Recommendation No. 4: That the
4 Government of Canada recognize and acknowledge their
5 treaty obligations.

6 Canada, to date, has declared most of
7 their treaty obligations not as treaty obligations but
8 as services available to Treaty First Nations, as part
9 of the benevolence of the government. "Services" such
10 as health, education, economic development, et cetera,
11 were originally all treaty promises and, therefore, were
12 legally binding upon the crown as being treaty obligations.

13 Recommendation No. 5: That the
14 Government of Canada begin a process of fulfilling the
15 treaty obligations according to the spirit and intent in
16 which the Treaty was signed.

17 The spirit and intent of the Treaty
18 versus the narrow interpretation of the written Articles
19 of the Treaty. According to the spirit and intent of the
20 Treaty, promises are evolutionary, not static.

21 Recommendation No. 6: That the
22 Government of Canada continue to endorse the Treaty
23 interpretation and continue to uphold its responsibility

3 The treaty interpretation was limited
4 to three years with limited funding. Research is dictated
5 by the availability of funds. There are issues which will
6 have to be addressed upon completion of the review. We
7 require the support and financial support to continue with
8 the issues of treaty.

21 Recommendation No. 7: That the
22 Government of Canada continue to maintain its fiduciary
23 responsibility to all Treaty First Nations.

8 Recommendation No. 8: That the
9 Government of Canada establish a structure to acknowledge
10 and identify the fiduciary responsibility of the
11 government to all Treaty First Nations.

19 Recommendation No. 9: That the
20 Government of Canada establish a format to guarantee the
21 viable economic future of Treaty First Nations, to protect
22 their future generations.

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1 is not the tool to guarantee a viable economic future of
2 Treaty First Nations. Nor should Treaty First Nations
3 be penalized if this Act is not passed. The treaties
4 guaranteed our economic future, not the economic future
5 of Third World countries where billions of dollars derived
6 from our natural resources are channelled year after year.
7 According to the spirit and intent of the treaties,
8 economic development will evolve with time. I think it
9 is proven fact throughout Indian country, particularly
10 in Treaty 7, that that issue of economic development holds
11 a deeper thread than most other activities involved in
12 treaties.

13 Recommendation No. 10: That a
14 procedure be established for the identification and
15 settlement with the Government of Canada of all land claims
16 of Treaty 7 First Nations.

17 That includes Lethbridge. The success
18 rate of Treaty 7 First Nations averages about 2 per cent
19 at this point in time. The other claims are still caught
20 up in the process and/or have been rejected through the
21 process. Land claims are with the federal government,
22 not with the provinces. A procedure to identify and settle
23 land claims in a just manner is required. The existing

23 Recommendation No. 13: A mechanism to

Recommendation No. 14: That a
procedure be established for Treaty 7 First Nations and
Canada to determine an acceptable format which will
guarantee that Canada begins a process to determine its
legal obligation, for Canada to ratify the Jay Treaty and
for Canada to begin adhering to the terms as outlined in
the NAFTA Treaties now being discussed.

18 The Treaty 7 Tribal Council is genuine
19 in its eagerness and willingness to assist and to
20 participate in the sittings of the Royal Commission on
21 Aboriginal Peoples. The Tribal Council Review Process
22 has resolved to fulfill its mandate concurrent with the
23 sittings of the Royal Commission on Aboriginal Peoples.

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1 The thrust of the Treaty Review Process
2 is to complement and assist the Royal Commission as it
3 undertakes the responsibility of defining a process to
4 create and enhance an innovative, constructive and
5 mutually advantageous relationship between the Government
6 of Canada and Treaty First Nations.

7 At this time in our history we need to
8 find better ways and means of discussing the many issues
9 facing our peoples throughout Canada. We believe in a
10 strong and united Canada -- and that includes Quebec --
11 but also one that recognizes Treaty First Nations peoples
12 as partners in Confederation, even as founding members
13 of Confederation. We believe, and we are still
14 optimistic, that such a goal can be achieved.

15 We thank you very much.

16 **MODERATOR REGGIE CROWSHOE:** Thank you,
17 Gregg.

18 **CO-CHAIR GEORGES ERASMUS:** Thank you
19 for your very excellent presentation. I have a number
20 of questions if you people don't mind.

21 We have heard quite often that the spirit
22 and intent of treaties should be reviewed, implemented
23 and be one of the major fabrics of a new relationship.

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1 How do you see that occurring? Should that occur treaty
2 by treaty? Should that occur somehow nationally in the
3 country between Treaty First Nations as a whole and Canada
4 or should it be a bit of both? How do you see that
5 proceeding?

6 **GREGG SMITH:** It is the position of
7 Treaty 7 First Nations, and always has been the position
8 of Alberta First Nations, in relation to First Nations
9 treaties, that it be done treaty by treaty as a basis.
10 A co-ordinated effort must be maintained as well, whether
11 it is regionally. For instance, in Alberta we have
12 Treaties 6, 7 and 8 which could be co-ordinated
13 provincially.

14 Overall, I would think it can be
15 co-ordinated nationally but, at the same time, the
16 individual treaties, treaty by treaty, must have a lot
17 of input, must direct the process. We cannot pretend,
18 even as an organization in Treaty 7, to speak on behalf
19 of Treaty 6 or Treaty 8, nor should any other organization
20 pretend to be the spokesperson for any particular treaty
21 area.

22 That has been the longstanding position
23 of Treaty First Nations out in the west.

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1 **CO-CHAIR GEORGES ERASMUS:** I think I
2 understand the basic principle.

3 If that was going to be the approach,
4 if the predominant action should be on a treaty-by-treaty
5 basis, what can we recommend to the federal government
6 that they do that does something for all Treaty nations
7 across the country, whether it is pre-Confederation
8 treaties or the numbered treaties? What can they do for
9 the whole country? Let's say you had a Prime Minister
10 and a Parliament that wanted to do something to show the
11 country that they were serious about this. Rather than
12 starting a treaty-by-treaty process that might take 100
13 years, what could they do across the board that would
14 immediately start the process for all Treaty Nations, that
15 would start the ball rolling?

16 **GREGG SMITH:** I think the Government of
17 Canada, first, has to recognize the separate schedules
18 of Aboriginal peoples. Once they publicly recognize that
19 and don't use the melting pot theory, that process can
20 begin.

21 They had a process in place in the 1800s
22 where areas, especially numbered areas -- and I can't speak
23 on behalf of pre-Confederation treaties. With the

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1 numbered treaties they had a process in place where they
2 dealt treaty by treaty area, and why can't that process
3 begin? First they have to do away with the thinking of
4 the melting pot theory and recognize the separate schedules
5 of Aboriginal people.

6 **CHIEF ROY WHITNEY:** I think another
7 recommendation that could be dealt with in this one is
8 that the Government of Canada accept its relationship and
9 responsibility to the Treaty First Nations and establish
10 some type of commissioner, as was used in the film, to
11 work with the Treaty First Nations in each treaty area
12 and develop the relationship and create an understanding
13 in this country as to what our relationship is with one
14 another and then, in turn, respect that relationship.

15 As a First Nation, I can access \$800,000
16 a year to develop self-government, as one First Nation,
17 but Treaty First Nations in this country -- and this is
18 all of them -- can only access \$600,000 a year.

19 The government has an agenda here, and
20 we have an agenda here. The Government of Canada has to
21 accept and recognize its relationship with the Treaty
22 peoples of this country. On the spirit and the intent
23 of that, we have to come together to have an understanding

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1 of what our old people have said in that film, as to what
2 the spirit and intent is, and not have two separate
3 interpretations.

4 That has to be worked on. We cannot be
5 going to constitutional tables if both parties do not have
6 an understanding as to that spirit and intent. That is
7 what we are saying here today.

8 **CO-CHAIR GEORGES ERASMUS:** The process
9 to develop a new relationship, I presume in the end it
10 would have to be treaty by treaty also, would it?

11 **GREGG SMITH:** Yes.

12 **CO-CHAIR GEORGES ERASMUS:** You mention
13 here in a number of instances that there needs to be more
14 work done, for instance, in the creation of some kind of
15 office that deals with this. Chief Whitney just mentioned
16 a commissioner possibly.

17 Is it possible that in these areas where
18 you talk about either a process or the possibility of an
19 office that additional thinking could occur from the Treaty
20 7 area, that we might get some more thoughts from you?
21 By the time we make our recommendations, we would like
22 to know what that structure looks like. We want to give
23 it some flesh and blood and bones, so we would very much

6 **GREGG SMITH:** As I mentioned in the
7 presentation, Georges, there are models out there, and
8 we will be reviewing the models that are there -- the
9 Saskatchewan model, the dispute resolution that the Indian
10 Association of Alberta is looking at, resolutions in the
11 United States in terms of dealing with issues. We will
12 be addressing those and looking at those models, but not
13 limiting ourselves.

CO-CHAIR GEORGES ERASMUS: In relation
to constitutional change in Canada, I believe this area
was against the Charlottetown Accord. You mentioned that.
You recommend that in the future, if there is going to
be any constitutional change, Treaty First Nations have
a clear voice. Perhaps you could think some more about

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1 what that means also.

2 Then you say, with that being provided,
3 then it is possible that constitutional change might occur.

4 Could you tell us what was wrong with what occurred.

5 I presume you have some problems in relation to process,
6 but beyond process what was wrong in substance in the
7 package that was created, and what should be done in the
8 future when a constitutional package is being put together?

9 Besides process, what structurally in substance can be
10 put forth that lives with the treaties, lives with the
11 inherent right and so forth?

12 **GREGG SMITH:** I think, to explain in
13 more detail in reference to the process that is there in
14 constitutional reform, the fact that the federal
15 government does not recognize the Treaty relationship with
16 Treaty First Nations, allowing other governments to come
17 into play where they are discussing and moving away from
18 that bilateral relationship which we recognize and
19 allowing the provinces to come in and decide and talk about
20 the future of our people in a treaty relationship. Unless
21 we decide that they come into play, that process is wrong.

22 I point out again the fact that we are
23 all put into one melting pot, and the separate schedules

11 **DOROTHY FIRST RIDER:** It is imperative
12 that the Government of Canada recognize Treaty people as
13 such, as First Nations. In order for any constitutional
14 reform to be a success, they are going to have to have
15 representatives from Treaty First Nations to represent
16 themselves.

23 CO-CHAIR GEORGES ERASMUS: I understand

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1 that very clearly. Let's go back to the Charlottetown
2 Accord just so we can understand very clearly, and the
3 country will understand, what went wrong.

4 I understand how the process went wrong.

5 I understand that very clearly. Now let's get to the
6 substance of what was being proposed. How was that
7 incorrect?

8 **GREGG SMITH:** I think the substance of
9 the inherent right to self-government was recognized by
10 Treaty First Nations, but that wasn't the issue for Treaty
11 First Nations. The substance, in relation to inherent
12 right to self-government, was recognized, but not the issue
13 for Treaty First Nations.

14 By that, I mean that the Treaty bilateral
15 relationship was being totally ignored in this
16 relationship on the inherent right to self-government.

17 **CO-CHAIR GEORGES ERASMUS:** Let me see
18 if I have it right.

19 One part of the relationship was being
20 addressed, that part which Treaty First Nations have always
21 said they had, and that is that they have always had the
22 inherent right to self-government. But because it was
23 being addressed without the Treaty relationship of nation

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1 to nation being addressed at the same time, it was not
2 adequate.

3 Is that partly what you are saying?

4 **GREGG SMITH:** Yes, that is partly what
5 I am saying.

6 **DOROTHY FIRST RIDER:** It was also the
7 fact that self-government, if it came into play, was going
8 to replace the treaties. Also it was going to limit
9 self-government and the sovereignty of Treaty First
10 Nations, especially in Treaty 7.

11 The Blackfoot linguistic group within
12 Treaty 7 signed an international treaty with the United
13 States of America, which is referred to as the Lamabull
14 Treaty.

15 **CO-CHAIR GEORGES ERASMUS:** The what?

16 **DOROTHY FIRST RIDER:** The Lamabull
17 Treaty.

18 If we had basically accepted what was
19 offered in the Charlottetown Accord, it was going to limit
20 our sovereignty. I believe in section 37.2, subsection
21 (2), of the Charlottetown Accord, it specifically stated
22 that we were going to have the ability to negotiate
23 self-government within Canada, and that would have

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1 automatically domesticated our treaties. We still hold
2 to the fact that the treaties are international in scope,
3 and we are not willing to domesticate them.

4 **CO-CHAIR GEORGES ERASMUS:** Had the
5 treaty relationship been addressed at the same time as
6 the inherent right, would that possibly have done it?

7 **DOROTHY FIRST RIDER:** The spirit and
8 intent of the treaties have to be acknowledged first.
9 If First Nations are willing to go into self-government,
10 it is something they are going to pursue themselves and
11 the form of self-government that is right for them, not
12 the kind of self-government that was being introduced by
13 the Government of Canada.

14 **CO-CHAIR GEORGES ERASMUS:** I think I
15 have a far better understanding of it now than I did before.

16 Does anybody want to add anything to
17 that? Could you give us copies of this Lamabull Treaty
18 that you referred to?

19 **DOROTHY FIRST RIDER:** We will mail a
20 copy to the Commission.

21 **CO-CHAIR GEORGES ERASMUS:** Thank you.

22 **COMMISSIONER VIOLA ROBINSON:** First of
23 all, I want to thank you for your very succinct presentation

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1 that you have made to us this morning and the video. I
2 think it gives a very clear message of your treaty issue.

3 I just want to go back a bit and pursue
4 a little further Georges' questioning dealing with the
5 Constitution..

6 Can you tell me that the constitutional
7 process, as it exists now, requiring First Ministers of
8 all provinces to be a part of amending the Constitution,
9 and to amend the Constitution it deals with Aboriginal
10 people

11 -- do you feel that process is the right way to deal with
12 Aboriginal people?

13 **GREGG SMITH:** I think once the federal
14 government sits down with Treaty First Nations -- and they
15 have that authority through section 91(24) at this present
16 time -- and begins constitutional discussions around
17 Treaty First Nations' issues, then the process could be
18 discussed in terms of what Treaty First Nations will do
19 in the existing process with all First Ministers.

20 As I said, all the treaties are
21 different. All the numbered treaties are different in
22 nature, and those people representing Treaty First Nations
23 -- it is their privilege, and should be their privilege

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1 and right, to invite whomever they may choose to invite
2 in relation to discussion on their treaty issues.

3 I think the bilateral relationship, in
4 dealing with the federal government first, should be
5 discussed and dealt with in constitutional issues, not
6 just with Indian and Northern Affairs Canada. Our
7 treaties are with Canada. Discussion should be begun
8 around that relationship and then the process can be looked
9 at from there.

10 **COMMISSIONER VIOLA ROBINSON:** So you
11 want to begin your dialogue with the federal government
12 but not necessarily with the Department of Indian Affairs.

13 **GREGG SMITH:** Exactly. There are too
14 many times that the Department of Indian Affairs assumes
15 total jurisdiction over our treaties, especially when they
16 hand out the \$5 that they talk about. Other than that,
17 when it comes to real treaty discussions, they are pretty
18 mum.

19 **COMMISSIONER VIOLA ROBINSON:** Who
20 should be your counterpart, then, with the federal
21 government?

22 **GREGG SMITH:** I think there should be
23 a special Cabinet committee on the federal government side

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1 to deal with Treaty First Nations.

2 **COMMISSIONER VIOLA ROBINSON:** If the
3 government was going to start dealing with Aboriginal
4 people in this country as nations -- and you are a Treaty
5 First Nation and within that you have four or five different
6 nations, Sarcee and all the other nations. If you went
7 across Canada and you looked at nations, you have the
8 Gitksan-Wet'suwet'en out in B.C., you have the Haida who
9 don't have treaties but they are nations, you have the
10 different Cree nations and on the east coast you have the
11 Micmac and you have the Maliseet and different nations.

12 Do you think those are the ones that
13 government should be dealing with to talk about a
14 constitutional process or an inherent right to
15 self-government? Should they be dealing with those, or
16 should they be doing what they are doing now, dealing with
17 certain national organizations that are really doing all
18 the constitutional negotiations at the First Ministers'
19 Conferences?

20 **GREGG SMITH:** I think it adds to the
21 problem when you are dealing with groups of organizations
22 across the country. I think that adds to the problem of
23 the feeling of ownership by First Nations people. If they

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1 don't feel part of it and have their input into it, it's
2 just another tactic that the federal government likes to
3 see happen in the divide-and-conquer issue that has been
4 happening for years with Treaty First Nations, where you
5 can only give so much to one group -- "Go see that group,"
6 like we were told.

7 I will use this as an example, the Royal
8 Commission. We are in the interpretation process in
9 Treaty 7. Indian Affairs said, "We can't fund you to the
10 level that you expected; however, go and see the Royal
11 Commission. They got a lot of money from the federal
12 government. They may be able to help you out." -- which
13 is not the case, the kind of games that are being played
14 in relation to that.

15 We have several examples. On research
16 funding, we are told, "You can't have any research funding.
17 Go and see the Indian Association of Alberta TAR Program;
18 they have all your money." I know how much the TAR Program
19 budget is, and it isn't sufficient to deal with all the
20 issues across the province in specific areas.

21 This is the point I am making. If the
22 feeling of ownership by First Nations isn't there in
23 dealing with their own issues such as constitutional

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1 reform, their own input into issues surrounding treaty,
2 the trust isn't going to be there even from our own people
3 for other organizations or groups of people to be
4 discussing our issues.

5 **COMMISSIONER VIOLA ROBINSON:** You said
6 in your presentation that you had a treaty interpretation
7 forum. You were working on it for three years, and then
8 they said there was no more money, so you had to stop.

9 How long do you think it would take to
10 be able to work out the things that you would like to see
11 worked out with respect to that treaty interpretation?

12 **GREGG SMITH:** We were the ones that set
13 the time frame on our process that we are doing. We set
14 the time frame that we would be finished in the spring
15 of 1994. That was our time frame.

16 Indian Affairs' time frame was in
17 relation to the money that supported the process. From
18 Day One it hasn't been to the level of support that we
19 jointly agreed upon, and at this point in time we are still
20 adamant about finishing in the spring of 1994 our process,
21 to whatever tune of money or resources it takes to get
22 it done by March.

23 **COMMISSIONER VIOLA ROBINSON:** If you

6 **GREGG SMITH:** In dealing with our
7 process, we are hoping to come to some sort of agreement
8 on how we deal with the federal government, an
9 understanding of what our understanding is in relation
10 to Treaty 7 and a process to develop further a relationship
11 on how that treaty is discussed in the future.

17 **COMMISSIONER VIOLA ROBINSON:** I just
18 have one more question. I got a little confused.

22 Could you explain what you meant by that. In a lot of
23 places we have gone, people are saying, "We want to control.

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1 We want the right to control our own affairs and our
2 authority. Give us that power. Give us that authority."

3 Did you say that you didn't want the
4 devolution of authority?

5 **GREGG SMITH:** No, that is not what we
6 are saying. We are saying that the devolution to First
7 Nations of Indian Affairs self-government delegated
8 authority Indian nations don't want. That is what we are
9 saying.

10 **COMMISSIONER VIOLA ROBINSON:** Thank
11 you. I just wanted to make sure I understood.

12 **DOROTHY FIRST RIDER:** If I could just
13 add on to that, whenever the government basically delegates
14 authority to First Nations, they make every attempt to
15 relinquish their fiduciary responsibilities. That
16 fiduciary responsibility of the federal government is
17 everlasting, as long as the sun shines, et cetera, et
18 cetera. So they have to maintain that and not relinquish
19 it.

20 **COMMISSIONER VIOLA ROBINSON:** So the
21 only way, in your view, is that the Department of Indian
22 Affairs is exercising its fiduciary responsibility through
23 the Indian Act, and that is not acceptable.

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1 Thank you.

2 **CO-CHAIR GEORGES ERASMUS:** I have a
3 couple more.

4 Having said what you did about how you
5 don't want the federal government to transfer its fiduciary
6 responsibility, at the same time you are also saying you
7 want them to recognize that you continue to have your own
8 inherent right to govern yourselves.

9 Could we talk a bit more about your
10 Treaty 7 Review Process. Did you start by going back and
11 trying to get a proper historical understanding of what
12 actually took place? Is that what you were trying to do
13 first, to get the most definitive understanding of your
14 people's view of what took place?

15 **DOROTHY FIRST RIDER:** Basically, the
16 underlying theme for the whole treaty review process is
17 the understanding of the Elders of the spirit and intent
18 in which Treaty No. 7 was signed. To date, the Elders'
19 oral history has been consistent within the three
20 linguistic groups of Treaty 7, the seven First Nations
21 within Treaty No. 7. These oral histories which have been
22 received from these Elders have been compared with Elders'
23 interviews that had taken place in the early sixties,

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1 seventies and eighties, and the Elders are still basically
2 saying the same thing.

3 At the end of the treaty review process,
4 we are going to determine if there is a common understanding
5 as to the spirit and intent in which Treaty No. 7 was signed.

6 Based upon that, that is going to be presented to the
7 federal government along with recommendations on how to
8 establish, reinforce or determine a new understanding of
9 the bilateral relationship with the federal government.

10 **CO-CHAIR GEORGES ERASMUS:** So the view
11 that the land was being shared and not given up continues
12 to reflect itself.

13 **DOROTHY FIRST RIDER:** It is not a view.
14 It is a belief.

15 **CO-CHAIR GEORGES ERASMUS:** And the
16 concept that what was being shared was just the surface,
17 whatever land was needed for agricultural purposes, the
18 depth of the plough, is consistent.

19 **DOROTHY FIRST RIDER:** Yes, it has been
20 consistent all along.

21 **CO-CHAIR GEORGES ERASMUS:** Does that
22 mean, then, that the Treaty 7 nations are considering some
23 kind of process where the land question of your overall

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1 territory -- you showed us a map that goes partially into
2 the United States. Are you looking in the end, then, for
3 some kind of process where your historical land rights
4 are somehow taken into accommodation?

5 **GREGG SMITH:** That is being done band
6 by band at this point, tribe by tribe, in relation to their
7 own research activities.

8 In fact, Tribal Council has been working
9 on joint presentations with Treaty 7 First Nations in
10 looking at those issues of the whole traditional
11 territorial aspect in relation to land.

12 Again, that is being done independently
13 by First Nations at this point in time.

14 **CO-CHAIR GEORGES ERASMUS:** Will you
15 attempt to come up with a concept on how you will arrive
16 at an accommodation with Canada? If you pick up The Globe
17 and Mail today, you will see that there is a large article
18 on the right-hand side of the front page on Nunavut, on
19 the Inuit land rights in the High Arctic and the Eastern
20 Arctic. What they are doing is coming to an accommodation
21 with Canada. They are providing Canada with so much land,
22 and they are retaining so much land, and all the rest of
23 it.

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1 Will you be seeking that kind of
2 settlement, something similar, something different?

3 **GREGG SMITH:** There is still some stuff
4 that has to be looked at. There is still some historical
5 stuff that has to be dealt with.

6 The whole issue of the Natural Resource
7 Transfer Act in relation to the land and resources has
8 to be dealt with. From our perspective, that is still
9 an agenda item that has to be dealt with, in how our
10 resources are being shared with the rest of Canada other
11 than First Nations. That issue has to be dealt with before
12 we can accommodate or even develop an approach with the
13 federal government that is going to work in relation to
14 lands.

15 Those issues have to be discussed first.
16 Those unfinished business items have to be discussed.

17 **CHIEF ROY WHITNEY:** Through this
18 process of interpretation, it is designed so that we will
19 be able to create dialogue with the federal government
20 in creating understanding as to what the spirit and intent
21 really means, as spoken by our old people.

22 How it will look will not be determined
23 by this group of people, the Treaty Interpretation Task

7 Mrs. First Rider indicated that we must
8 be careful that we don't domesticate the treaties within
9 the confinement of Canada. We view them as international
10 documents. In that sense, it is much broader than just
11 within Treaty No. 7.

16 We do want to establish a dialogue with
17 the Government of Canada when this process is finished
18 in early spring of 1994, and have as well the Government
19 of Canada begin a dialogue -- and I mean the Government
20 of Canada, not the bureaucratic people of Canada -- with
21 the Treaty First Nations of this area as to the real meaning
22 of the spirit and intent of Treaty No. 7, not a dictionary
23 meaning.

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1 **CO-CHAIR GEORGES ERASMUS:** By the
2 spring of 1994, will you be able to have some idea of what
3 it would mean for Canada if it were to try to live up to
4 the spirit and intent? Will there be some way for them
5 to assess what that actually means?

6 **GREGG SMITH:** By election time, we will
7 have something.

8 **CO-CHAIR GEORGES ERASMUS:** This fall?

9 **DOROTHY FIRST RIDER:** We are planning
10 on having a published manuscript in the early part of the
11 spring. I believe the federal government is interested
12 in pursuing an academic debate to basically determine the
13 validity of the research that is included in that
14 manuscript.

15 **CO-CHAIR GEORGES ERASMUS:** What I mean
16 is: If we, as a Commission, are going to be recommending
17 to the country that the many hundreds of treaties that
18 exist in Canada, whether they are pre-Confederation or
19 otherwise, that the original spirit and intent needs to
20 be lived up to, that these were solemn promises that should
21 be lived up to, an assessment must be made as to what that
22 means in the real world. What will that mean? What will
23 be different? Will there be costs?

8 **GREGG SMITH:** We will have something to
9 offer.

17 When we sit down with the Government of
18 Canada, they must be prepared and willing to look at what
19 they have received in return. We are not the only people
20 that have treaty rights. The non-Aboriginal people also
21 have treaty rights. They signed that treaty, and their
22 people have treaty rights in the sense that we agreed to
23 share in the land with them.

5 CO-CHAIR GEORGES ERASMUS: No. It
6 would be very, very useful also to show that.

10 There is present language in the
11 Canadian Constitution which refers to the treaties. What
12 is the view on that? Is the view that that didn't
13 domesticate the treaties and that the particular language,
14 in the way it was put together, in fact didn't harm their
15 contents? When it says "affirm and recognize," it didn't
16 really harm that.

20 **GREGG SMITH:** Within the Constitution
21 of Canada, within the proposed amendments, particularly
22 in the Charlottetown Accord, they are talking about the
23 "within Canada" regime. It is still our belief that

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1 nations sign treaties; treaties didn't make nations.

2 From that perspective, how can we define
3 ourselves within the Constitution of Canada in relation
4 to the whole treaty relationship, the treaty-making
5 process? We can't do it within Canada, within the regime
6 of Canada. We have to ensure that our treaty-making
7 process between nations is understood.

8 I believe the Quebec situation is quite
9 similar. Their position is based on a founding nation
10 of this country. We have to look at it from that
11 perspective. This was our land. We are founding members.
12 We cannot be looked at within the regime of the
13 Constitution or within Canada, so to speak. We have more
14 to lose than Quebec, per se, in relation to the "within
15 the Constitution" context.

16 **CO-CHAIR GEORGES ERASMUS:** Thank you.

17 **MODERATOR REGGIE CROWSHOE:** I would
18 like to thank the presenters. We will go to the next
19 presenter, Les Healy.

20 **LES HEALY:** Thank you. Good morning.

21 On behalf of the Blood Tribe, Kainaiwa,
22 we would like to welcome the members of the Royal Commission
23 on Aboriginal Peoples to our traditional territory and

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1 hope you will enjoy your stay here. We also hope that
2 you will leave here with a greater understanding of the
3 issues that are of concern to us and an appreciation of
4 the solutions that we recommend.

5 In our presentation we will attempt to
6 focus on four areas that have been identified in your
7 reports as areas forming the basis of this round of
8 hearings, namely a new relationship, self-determination,
9 self-sufficiency and healing.

10 First we would like to introduce who we
11 are and place our issues in context.

12 Background: Prior to European
13 settlement, Kainaiwa, along with our confederates -- the
14 Peigan, Blackfoot, Sarcee and Stoney -- enjoyed exclusive
15 possession of this region for thousands of years. Early
16 explorers described Blackfoot territory as the vast
17 territory between the Saskatchewan River in the north and
18 the upper basin of the Missouri in the now State of Montana,
19 bounded on the west by the Rockies and the Cypress Hills
20 to the east. This description roughly approximates what
21 we hold to be our traditional territory.

22 Our origins in this territory and the
23 source of our authority as a nation is best articulated

European settlement altered the life of
the Bloods in fundamental ways, obscured Blood history
and denied the validity of our political and land rights.

15 But the Bloods are a proud and tenacious
16 people and have survived various attempts to assimilate
17 them into Euro-Canadian society and thereby alienate them
18 from their lands and their inherent right to exist as a
19 distinct and politically autonomous people. We are still
20 engaged in the ongoing struggle to preserve for future
21 generations the fundamental values, principles, rights
22 and freedoms that are necessary for Kainaiwa to remain
23 a distinct and unique people.

8 Many social problems existing within our
9 communities are symptoms of deeper troubles. They are
10 a response to the trauma of colonization, racism and
11 oppression, the ongoing denial of our fundamental rights
12 and freedoms as a people, as a nation.

21 The Blood Tribe has always existed as
22 a nation. From time immemorial, we have controlled our
23 lands encompassing thousands of square miles. We have

Our tribal principles, which govern all our actions, are well-articulated in our Elders' Declaration, Kainaysinni. This document, in its preamble, is a recording of what the Elders understand to be the purpose of our existence as Kainaiwa. Kainaysinni defines who we are, defines our territory, our governing system, our source of authority and our relationship to the land and our fellow men. Kainaysinni sets out the tribal system and the guiding principles for the protection and preservation of that system. It lays out a very practical guide on what must be done today and in the future to ensure our survival. We must maintain

4 Our relationship with Canada is based
5 on a treaty relationship and, like our history, we cannot
6 alter that. The Blood Tribe has a historical relationship
7 with Canada, a treaty relationship which is legally
8 binding.

22 Our participation in Treaty 7 in 1877
23 was based on our understanding of inaistisinni.

6 Political and Land Rights: The Blood
7 Tribe has an inherent right to govern itself according
8 to its own customs, laws and through its own institutions.
9 It has jurisdictional authority over its lands, resources
10 and its members. This status was recognized and affirmed
11 by the Royal Proclamation of 1763; Treaty 7 in 1877; the
12 Lamabull Treaty in 1855; and in sections 35 and 25 of the
13 Constitution Act, 1982. No legislative enactment or legal
14 fiction can alter that fact.

StenoTran

4 Recent judicial decisions of the Supreme
5 Court of Canada held that Indian treaties (Sioui, 1990)
6 are to be afforded a liberal interpretation and
7 uncertainties resolved in favour of the Indians, that they
8 be construed in the sense which would have been understood
9 by the Indians and not according to the technical meaning
10 of their words. We are confident that in many key sectors
11 of Canadian society the will is there to deal justly and
12 in good faith with the First Nations.

19 The Blood Tribe views section 91(24) of
20 the Constitution Act, 1867 as constitutional recognition
21 of our bilateral relationship with the crown. This simply
22 gives the federal government the right to deal with the
23 First Nations, to the exclusion of the province. We

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1 maintain the position that we will not negotiate the
2 definition of our rights, or of our participation in
3 Canadian federalism with the provinces. Any conflict
4 between the provincial and the First Nations' positions
5 must be resolved by the federal government. We do not
6 agree with the provinces' participation in constitutional
7 amendments concerning our rights.

8 The Blood Tribe viewed the First
9 Ministers' Conferences on Aboriginal Rights as being an
10 unacceptable forum for the entrenchment of our sacred
11 rights in the Canadian Constitution. This process
12 resulted in failure due to the lack of political will on
13 the part of the First Ministers of Canada. Meech Lake,
14 too, failed because it refused to understand that Canada
15 cannot forge ahead without taking proper recognition of
16 its true relationship with the First Nations.

17 Most recently we were not able to accept
18 the Charlottetown Accord. Our primary concerns with this
19 proposal were that it would alter the existing treaty
20 relationship in a substantive way and, second, that the
21 process for obtaining First Nation participation did not
22 extend to us as a Treaty First Nation. We were not
23 represented by any national organization.

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1 Any discussion with the federal
2 government concerning our future relationship cannot focus
3 on the identification and definition of our rights and
4 of constitutional amendments to stipulate those rights
5 until we have come to a common understanding of our true
6 relationship based on the treaty and on our Aboriginal
7 rights. Such a serious matter requires true commitment
8 from the Government of Canada. It requires a special and
9 innovative process with the capacity and willingness to
10 address our fundamental rights and freedoms; to understand
11 the nature of the Canada-Blood relationship; and,
12 subsequently, to determine how that relationship will be
13 carried out today.

14 Currently we are participants in a
15 Treaty Review Process in co-operation with the other First
16 Nation signatories to Treaty 7. This review is, in part,
17 funded by the Department of Indian Affairs. Our primary
18 concern with this review is that it must have the capacity
19 to deal with the substantive issue of the treaty
20 relationship and not merely be an exercise aimed at
21 defining specific treaty rights with the intent of limiting
22 them.

23 While we are in this process of a treaty

5 We take this to be an act of bad faith
6 on the part of the federal government as a representative
7 of the British crown. Proposed legislation which gives
8 us cause for concern is the First Nations Chartered Lands
9 Act which was intended to go before the House of Commons
10 in May 1993, seeking all-party support to expedite it
11 through before the end of this parliamentary session.
12 Companion legislation to the Chartered Lands Act is
13 apparently currently being drafted for a First Nations
14 Lands Management Act, as well as similar initiatives in
15 self-government, forestry and resources, finance and
16 taxation.

22 The Supreme Court of Canada has held in
23 Sparrow, 1990 that the federal government does not have

Self-Determination: Rights of
self-determination and the obligatory nature of treaties
are principles of international law which, in and of
themselves, apply to the Bloods. However, in many
instances, interpretations of the international law,
particularly as it applied to First Nations, are
eurocentric and self-serving. Interpretations tend to
justify previous actions in an attempt to alter the true
nature of the treaty relationship and limit the level of
obligations incumbent upon the particular national
government.

StenoTran

9 We cannot support any proposals that
10 come from that perspective. What we need is a fresh and
11 innovative approach that will be willing to examine
12 fundamental issues and arrive at a mutual understanding
13 of what the relationship is and how it can be operative
14 today.

StenoTran

2 If mere self-determination is the form
3 of long-term resolution that is envisioned for us, then
4 we foresee little chance for improvement in the future.

7 Self-Sufficiency: True

8 self-sufficiency for First Nations can only take place

9 in an environment that recognizes our true legal, political

10 and land rights and respects our choices.

20 We do not see such initiatives as the
21 proposed Chartered Lands Act and the First Nations Land
22 Management Act and other proposed companion legislation
23 in taxation, finance, forestry and resources, and

4 While such initiatives purport to be
5 aimed at lifting restrictions of the Indian Act which
6 impede the development of the economy, they instead
7 undermine the nature and status of the treaty relationship,
8 threaten communal land rights and devolve the fiduciary
9 responsibility.

22 Canada must recognize and respect the
23 fact that each First Nation has the right to represent

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1 itself and protect its interests and its rights. Canada
2 cannot demand that we be represented by regional and
3 national bodies to meet its own needs for expediency.

4 While the First Nations Chartered Lands
5 states that it is optional, there are no guarantees for
6 First Nation members that their communal rights to lands
7 will be recognized, preserved and protected. Third-party
8 interests are represented and provided for. The reference
9 to a recognition of inherent rights is, at best, a confusion
10 of terms. The rights to develop a land charter would be
11 delegated or subject to Parliament and pursuant to the
12 First Nations Chartered Lands, a federal statute. There
13 is no exercise of First Nation inherent authority in this
14 proposed new land management regime.

15 The FNCL, the proposed First Nations
16 Land Management Act, and the other proposals on taxation,
17 finance, forestry and resources and self-government must
18 be seen for what they are -- part of the federal
19 government's continual efforts to devolve its fiduciary
20 responsibility to First Nation governments and the
21 liability in these matters.

22 There is a tremendous amount of funds
23 that have gone into the work to develop the FNCL and, no

15 Before we speak of healing or rebuilding
16 the communities throughout Indian country honestly, we
17 have to be prepared to deal sincerely and openly with the
18 fundamental issues of the relationship between Canada and
19 the First Nations. As a Treaty First Nation, we feel that
20 the most important area to be resolved is the treaty
21 relationship. At this time we do not feel confident that
22 the federal treaty review process in place has the capacity
23 to deal with the main issue of the nature and status of

5 Recommendations: The following is a
6 number of recommendations we would like to put forward
7 in relation to some of the concerns we have identified.

14 The federal government must recognize
15 and respect the right of each and every First Nation to
16 speak for itself and represent its members and their rights
17 and interests.

StenoTran

6 There must be procedures developed to
7 oversee respect for Aboriginal rights and treaties and
8 a mechanism to address complaints of failure to adhere
9 by federal departments, bureaucrats, and the various
10 levels of Canadian government. There should be
11 independent experts to discuss compliance and recommend
12 improvements.

17 There must be sincere effort made to
18 examine ways to ensure that adequate financial and other
19 resources are made available for comprehensive community
20 development. Such development must be designed to suit
21 our context, occur at our own pace and on our own community
22 initiative.

StenoTran

3 In closing, Mr. Chairman, at yesterday's
4 meeting of the Treaty 7 Elders prior to coming to this
5 forum, I have been reminded by them to make a point to
6 the Commission with respect to recommendations being heard
7 today. As they have read in various papers throughout
8 the hearings in Rounds 1 and 2, they noted the fact that
9 these recommendations, I suppose, are going to be dealt
10 with at the end of your rounds of discussions with various
11 Native organizations throughout the country. I assume
12 they will be waiting for these.

17 Thank you very much, Mr. Chairman.

23 --- Upon resuming at 11:45 a.m.

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1 **MODERATOR REGGIE CROWSHOE:** We will be
2 starting with a bit of discussion with Les. Then we will
3 be going to Marie Marule, and then Chief Leonard Bastien.

4 **CO-CHAIR GEORGES ERASMUS:** I would like
5 to thank Les for the presentation he made. It was very
6 good.

7 I would just like a bit of clarification
8 in relation to some of the points that were made here in
9 the recommendations.

10 You recommended that a mechanism be
11 found by mutual agreement of the parties to deal with the
12 treaty relationship. As I said to the representatives
13 of the Treaty 7 area, which encompasses the Blood, would
14 it be possible to have more ideas in that area? For us
15 to simply recommend this after the amount of money we are
16 going to spend and the amount of travel we are going to
17 do, tens of millions of dollars in travelling across the
18 country, just to recommend to them that somebody else come
19 up with a mechanism that is agreeable is going to seem
20 fairly inadequate. I suspect that First Nations
21 themselves will be telling us that it is very inadequate.

22 I am not expecting you to provide it now,
23 but if you could just spend some time thinking about it

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1 and give us some thoughts, even if it means that we provide
2 perhaps more than one model so that there are numerous
3 models that could speed up what people actually accept
4 in the end.

5 Also, could you tell us a bit more about
6 this mechanism to monitor, some kind of agency or
7 institution that is independent and is competent and devoid
8 of political or corporate interests. Is that something
9 different from a Treaty Commission Office? What is that?

10 **LES HEALY:** Mr. Erasmus, as you are
11 suggesting that we come back at a later date with some
12 development of this agreement, we are at the moment working
13 very closely with the members of Treaty 7 bands to deal
14 with this specific issue. At the moment I would probably
15 want to put this particular question on hold until we deal
16 with those others tribes involved with us.

17 **MODERATOR REGGIE CROWSHOE:** I would
18 like to thank Les for his presentation.

19 **CO-CHAIR GEORGES ERASMUS:** Thank you,
20 Les.

21 **MODERATOR REGGIE CROWSHOE:** The next
22 presentation is from Marie Marule.

23 **MARIE MARULE, Red Crow Community**

4 I understood from your staff persons
5 that this was to be a verbal presentation. We will be
6 submitting a detailed brief to your Commission, detailing
7 the areas which I will highlight in this presentation.

13 The issues concerning this specific
14 program area touch upon Aboriginal and treaty rights,
15 self-government issues and issues related to the bilateral
16 relations between the federal government and First Nations
17 and between the federal government and provincial
18 governments.

23 In the area of administration of this

9 The Blood Tribe Chief and Council
10 delegated the Blood Tribe Education Board to be responsible
11 for this program. In turn, the Blood Tribe Education Board
12 mandated Red Crow Community College to do the day-to-day
13 management of this program.

17 The issues of concern with this program
18 are accentuated by the unilateral decision of the Minister
19 of Indian Affairs to cap the funding for this program in
20 the fall of 1991, but the issues related to the deficiencies
21 of this program precede that decision.

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9 We are being informed by the Minister
10 that, because their program dollars have increased by 10
11 per cent over the last couple of years, this program is
12 adequately funded. It ignores the fact that, with the
13 present situation of unemployment and recession in this
14 country, the demands upon this program have increased
15 significantly. To emphasize this, I mention that in the
16 past two years this program has seen an increase in
17 applications for college level certificate and diploma
18 programs by an average of 60 per cent. It was 55 per cent
19 in 1991-92 and it was 63 per cent in 1992-93, and that
20 is the college certificate and diploma area.

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2 The average increase in terms of the
3 number of students we actually funded in 1991-92 was 37
4 per cent; in 1992-93, 25 per cent.

14 Aggravating the situation is the lack
15 of clarity of the program's future. Rumours abound that
16 the department intends to phase out funding to this program
17 totally by 1995-96. These are compounded by the main
18 estimates presented by the Department of Indian Affairs
19 to Parliament this year, indicating that they were going
20 to reduce the budget for this program by 45 per cent over
21 the next four years -- 45 per cent.

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1 and to make appropriate credit arrangements and, most of
2 all, it totally undermines the treaty obligations of the
3 government and our treaty rights. It puts our program
4 staff in a position of conflict of interest, where they
5 are being forced to deny a treaty right to eligible
6 post-secondary students.

7 The nature of the transfer of management
8 to the Blood Tribe involved a Band Council Resolution where
9 the Blood Tribe Chief and Council agreed to take over
10 management of this program if it did not affect treaty
11 rights and it was adequately financed. So that is in
12 breach of that contract and understanding of the management
13 of that program.

14 It also raises the issue of breach of
15 trust responsibilities for treaty Indians.

16 It points to the recommendations that
17 proper mechanisms have to be in place for the decisions
18 about self-government and the management of our own
19 programs, especially in education.

20 The additional problem with this was the
21 inadequate preparation of First Nations government for
22 the management of such programs. Upon assumption of
23 management of this program, Red Crow Community College

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1 did not receive any of the files that were under the
2 management of the department, of any students. We were
3 not provided with any statistics of preceding years to
4 indicate the growth of this program over the past 10 years.

5 In fact, there was no evidence of any research base or
6 systematic planning for the program. There was no
7 strategic planning, no short-term or long-term planning
8 provided. And there were no provisions within the program
9 funding for such planning and statistical data base
10 preparation.

11 Without these, there is no way of
12 indicating what the trends are over a period of time to
13 help in terms of planning the use of resources and planning
14 for personnel development and growth.

15 There is evidence in terms of the
16 devolution of this program that there was no equatability
17 in the resourcing of the First Nations to that which INAC
18 had received for the same program delivery. This is an
19 area in which we believe the Royal Commission could be
20 very useful in terms of researching the non-equatability
21 of this kind of program and service for First Nations
22 compared to that which the government itself had provided
23 to them and in comparison to that provided to other

3 There is, in fact, evidence that
4 non-Indian students have received far greater benefits
5 through the forgivable loan portions in previous years
6 of student loans than any First Nations student ever
7 received under this so-called treaty right.

15 Despite the increase in demand upon this
16 program, national statistics by StatsCanada and Secretary
17 of State through its research on the higher education
18 status in Canada indicate that less than 2 per cent of
19 First Nations people receive post-secondary education,
20 compared to 10 per cent among the Canadian population in
21 general.

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1 governments, resulting in downsizing of post-secondary
2 institutions, mean lack of access to post-secondary
3 education for many of the socially disadvantaged in this
4 country, particularly First Nations persons. The
5 increases in tuition costs, estimated at 15 per cent this
6 fiscal year alone, mean a reduction in the number of
7 students that can be supported.

8 This kind of information, this kind of
9 research, for planning purposes is not provided for and
10 has not been recognized in decisions concerning the
11 allocation of scarce resources by the Department of Indian
12 and Northern Affairs. Instead, they increased the budget
13 for social assistance programs. They increased the number
14 of participants who are now welfare recipients. The cost
15 of that is even higher than supporting them under the
16 post-secondary students support program. In other words,
17 the response of government has been a negative one rather
18 than a positive one to the development of First Nations
19 communities and providing the kind of hope and dignity
20 to our people that this program represents.

21 It should be recognized that it has not
22 represented a savings to this government. The capping
23 of this program meant that those persons who were eligible

7 So what was the point of the capping?

8 It was to undermine the treaty right and it was, in fact,

9 to transfer financial burden of this program to the

10 provincial governments.

23 The program was supposed to allow for

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1 program support. When the Department of Indian Affairs
2 managed it, you could be certain that the program support
3 dollars were at least 20 per cent, if not higher, of the
4 total program costs. We are operating and providing
5 student support for this program for less than 4 per cent
6 of the total program budget.

7 We have three counsellors who are to give
8 support services to 615 students. They are given a program
9 budget of \$23,000 a year. That is supposed to allow them
10 to travel to and from Lethbridge to counsel students at
11 Lethbridge Community College, at the University of
12 Lethbridge, at Mount Royal College and the University of
13 Alberta, and we have students as far away as California
14 doing their Ph.Ds and Master's at McGill and Ottawa
15 University. For that amount of dollars they are supposed
16 to cover their telephone costs, the cost of a financial
17 clerk, all their photocopying, and any other supply costs
18 they have for the program.

19 **CO-CHAIR GEORGES ERASMUS:** Did you say
20 20 per cent was spent by DIAND and then how much -- 3 per
21 cent?

22 **MARIE MARULE:** Less than 4 per cent.
23 Within this there is no provision for

5 That represents the lack of any kind of
6 negotiations concerning the transfer of these kinds of
7 program and their delivery to First Nations -- no realistic
8 appraisal of what the costs are to First Nations.

12 If you look at the statistics provided by StatsCanada,
13 a significant proportion of the Canadian First Nations
14 populations have less than Grade 9 education. If you look
15 at the drop-out rates of our high school students, you
16 will recognize that adult education becomes an extremely
17 important part of education in any reserve community.

20 These are all provided through the
21 limited amounts of moneys available through the Canadian
22 Job Strategies Programs, through Pathways or Community
23 Futures. These are on a year-to-year basis and are far

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1 inadequate to the demands upon them.

2 In addition, there is no provision in
3 any of these programs for special needs at the adult and
4 post-secondary education level, for persons with hearing
5 deficiencies, paralysis of various sorts, et cetera. This
6 year our program funds had to be expended to provide a
7 voice activator for a computer for a student.

8 In addition, there are insufficient
9 funds to provide for any tutoring that is required, special
10 transportation needs of students. There is no provision
11 in this program for subsidizing child care costs, despite
12 the fact that 60 per cent of the students being provided
13 for under this program presently are single-parent women
14 with at least 2.5 dependents.

15 Also in this whole area of
16 post-secondary and adult education is the fact that there
17 is discrimination in the resourcing of tribally-controlled
18 First Nations colleges such as Red Crow Community College.

19 You find by unilateral decision one college in all of
20 Canada receives adequate funding, and colleges like Red
21 Crow Community College do not have anything representing
22 the kind of equitable funding that is provided elsewhere,
23 certainly not in any way comparable to that provided by

3 With the emphasis on appropriate adult
4 education for First Nations people and the issue looming
5 ahead of accessibility to university and college programs,
6 our First Nations colleges become more critical to the
7 economic and social development of our communities.

8 We have to endorse all the
9 recommendations that were presented by our Tribe
10 representative and the Treaty 7 First Nations
11 representative at this hearing. We would like to have
12 the issue of the right to education as an Aboriginal and
13 treaty right reviewed by the Royal Commission. We would
14 like to have it, if necessary, have some kind of forum,
15 be it the Claims Commission forum, address this
16 responsibility as a trust responsibility and a legal
17 obligation of the federal government of Canada.

18 The actual details of the program should
19 be negotiable in terms that are equitable to First Nations
20 people. In this respect, we had established through the
21 First Nations Treaty 7 Chief and Council an education
22 steering committee for Treaty 7, which has worked with
23 the Ed Boards of our various bands and with our

6 We were denied any support for this
7 process and, again, in a discriminatory fashion as similar
8 arrangements had already been made with Manitoba, Quebec
9 and Nova Scotia. These are what they are calling framework
10 agreements.

21 At this point INAC is attempting to force
22 First Nations government to take over management of that
23 program for Bill C-31 status Indians. We see that as

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1 perpetuating dissension within the communities as they
2 downsize the programs and limit access to the program.

3 We believe it is extremely important
4 that the Royal Commission address the issue as to whether
5 treaty rights only exist within the boundaries of the
6 reserve or should extend beyond the reserve to wherever
7 a treaty or Aboriginal person is.

8 More important, for the sake of those
9 First Nations persons who are forced for one reason or
10 another, particularly for education, to leave the
11 reservations, their residence should be treated and deemed
12 as being on the reserve. For other First Nations who
13 prefer to reside off-reserve, let them have the right of
14 where their domicile and residence should be deemed.

15 Lastly, there are general concerns that
16 should be addressed. As you may be aware, in 1989 the
17 Standing Committee on the Department of Indian and Northern
18 Affairs did a review of the post-secondary students support
19 program and brought forward specific recommendations to
20 the government. From our examination of the record of
21 the government since then, these recommendations have been
22 totally ignored. I believe it is, therefore, appropriate
23 for this Royal Commission to look at the implications of

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1 this disregard for a parliamentary committee's policy
2 directives for the democracy in this country and its
3 implications for the accountability of federal civil
4 servants to Parliament and First Nations who are the
5 beneficiaries of the trust they are supposed to be
6 administering.

7 Thank you.

8 **CO-CHAIR GEORGES ERASMUS:** Thank you.

9 In relation to research and treaty, we definitely are
10 doing the research on treaty rights, which will be beyond
11 the reserve level.

12 Could you tell me a bit more about the
13 funding in the United States which you were saying is
14 provided to First Nations post-secondary institutions
15 there, that it is more adequate than what is happening
16 here in Canada.

17 **MARIE MARULE:** As a recognition of the
18 trust responsibility for education, the U.S. government
19 legislated and established appropriations to
20 tribally-controlled Indian colleges in the United States,
21 of which there are presently a minimum of 26. They provide
22 resourcing to these colleges through several different
23 appropriations which deal with capital costs, which deal

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1 with full-time-student costs, and which deal with funding
2 of the students directly, as well as some special
3 appropriations for particular kinds of institutional
4 requirements. For instance, they have a special fund to
5 assist tribal colleges to establish more adequate
6 libraries.

7 A lot of details can be provided to you
8 by the American Indian Higher Education Consortium, the
9 address of which I can provide in my brief.

10 **CO-CHAIR GEORGES ERASMUS:** Thank you.

11 **MARIE MARULE:** I might mention one
12 further thing. There was a concern raised that there was
13 discrimination by the bureaucrats and perhaps the Minister
14 in favour of programs managed by First Nations under former
15 Indian Affairs officials and in areas where they have
16 particular support for their government. In other words,
17 there seems to be an indication of some patronage within
18 the management of the allocation of funds for
19 post-secondary education.

20 I think it would be appropriate for the
21 Royal Commission to address that concern.

22 **CO-CHAIR GEORGES ERASMUS:** Thank you.

23 **MODERATOR REGGIE CROWSHOE:** Thank you.

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1 I would like to go the next presenter. We are pressed
2 for time. We have Leonard Bastien from the Peigan Nation.
3 He is accompanied by Rod North Peigan and Edwin Yellow
4 Horn.

5 **CHIEF LEONARD BASTIEN, Peigan Indian**

6 **Band:** Thank you, Mr. Chairman.

7 First of all, I will begin with a short
8 prayer in my own tongue, just following the advice of the
9 Elders and respecting their wishes to carry on with
10 traditions.

11 (Native language - not translated)

12 First of all, I want to express my
13 appreciation for the opportunity to address the Royal
14 Commission on some of the issues that face the Peigan
15 people. This morning we are primarily here to present
16 our water rights case, our water rights issue, that has
17 been ongoing for some time.

18 With that, the submission that is before
19 you focuses on the issue of water rights because of our
20 unique history involving the Oldman River. It sets out
21 in detail for your information, to go through and act on
22 our behalf, and we have provided recommendations for you
23 to take to the Government of Canada.

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1 I will read through the Introduction
2 because the Introduction captures, in essence, a summary
3 of the submission as it is.

4 This submission is presented to the
5 Royal Commission by the Peigan Nation. We address the
6 Royal Commission on the issue of water rights because of
7 our unique history involving the Oldman River. We present
8 our experience in the hopes that the Royal Commission will
9 make recommendations to prevent governments from treating
10 other First Nations as our people have been treated and
11 to achieve a just resolution of water issues for our
12 children alive today and those not yet born.

13 Our history involving water arises out
14 of these facts. The Oldman River has always been an
15 important part of Peigan history, legend, spiritual
16 practices and sustenance. It is not surprising that the
17 land which has been set aside as reserve land for the Peigan
18 is located on the Oldman River. However, shortly after
19 the reserve was established by the crown, the Oldman River
20 was targeted by the provincial and federal governments
21 as a source of wealth for the non-Aboriginal residents
22 of southern Alberta. Our reserve land was likewise
23 targeted as being strategically located to place headworks

3 The governments have proceeded to
4 expropriate our reserved land and appropriate the waters
5 needed by the Peigan without our consent and despite our
6 objections. They have recently constructed a dam over
7 our objections which will irreparably destroy our fishery
8 and change the sacred valley bottom where our medicines
9 and cottonwood trees now grow. We, the Peigan, are left
10 the poorest people in our territory, facing expensive
11 litigation as the only remaining avenue to achieve our
12 proper share of the water now being assigned to third
13 parties who live farther and farther away. We may be left
14 to pursue damage control measures only, as experts identify
15 the degradation of our land, resources and way of life
16 by the operation of the dam. We must teach our children
17 to fight the expropriation of our land and water and to
18 protect our way of life.

19 I realize this is a public inquiry.
20 Because our case is in the courts, I know very well my
21 presentation and what I say will be held and used against
22 me.

23 With that, we will proceed. I know the

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1 media and my good friend, Gary Ellison, follows me around
2 constantly wanting to find out the intricate details of
3 our water rights case but, if I did that, we would be up
4 the creek without the paddle, as they say. I will try
5 to share some of what we can share here.

6 First of all, I want to introduce to the
7 Commission a little bit of our history by discussing our
8 Aboriginal rights and Treaty 7: the government's failure
9 to implement certain treaty promises to establish our
10 economy based on ranching and farming; the expropriation
11 of our water and the litigation initiated by the Peigan;
12 construction of the Oldman River dam; and, as I mentioned,
13 we will conclude with recommendations.

14 I will walk through this presentation
15 because I realize that we don't have enough time for me
16 to read it word for word.

17 The Aboriginal rights and our territory
18 the Peigan lay claim to as a member of the Blackfoot
19 Confederacy contain the areas I am going to mention. The
20 northern boundary of our territory is the Red Deer River,
21 east to the Cypress Hills, and west to the Rocky Mountains,
22 and south to the Yellowstone River.

23 As Peigan people, we always had our laws,

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1 customs and our institutions, our way of life, our
2 practices of religion. Those were gifts to us from the
3 Creator. Those are what we have as the mainstay of our
4 culture and tradition.

5 The Oldman River always held, and always
6 has and always will, a very significant part of our very
7 existence. The Elders say that the Oldman River was given
8 to us by the Creator, from where it flows out of the Rocky
9 Mountains and where it flows through our reserve.

10 There is a legend that goes with it, and
11 it is called "Old Man's Gambling Place." The old people
12 refer to it as Utsitakakspi. This is at the headwaters
13 of the Oldman River where this legend derived from.

14 It is up there where our Creator or the
15 representative of our Creator, whom we call Napi -- it
16 is because of Napi that gives us our diverse personality
17 as Blackfoot people, our attitudes, the way we are and
18 why we are the way we are.

19 He was up there and he met the
20 representative of the Creator of the people on the west
21 side of the mountains. At that particular place they
22 decided to have a little game of who was more powerful.
23 As the game went on -- and this is the Creator that

10 The treaty itself was adhered to by the
11 Peigan in 1877. The understanding of our ancestors who
12 entered into the treaty has been passed down from
13 generation to generation through the oral history. It
14 is really important that I emphasize that the words to
15 Treaty 7, which have been written down by representatives
16 of the crown, were never translated. Not all terms as
17 expressed by the crown in the written text of Treaty 7
18 conform to Peigan understanding of the treaty. It is clear
19 to see that our people at that time did not understand
20 the written language. There may have been interpreters,
21 and history says there were interpreters, but there was
22 quite a gap between the interpreters and the understanding
23 of our people at that time.

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1 We don't expect you to resolve this
2 century-old problem; however, we have to make mention of
3 the treaty as it is. It is the basis of our court case.
4 During the treaty there was no discussion about sharing
5 of natural resources, other than land for farming purposes.
6 There was absolutely no discussion about alienation of
7 any of our lands or the idea of extinguishment which at
8 that time and still today remains a foreign concept to
9 our people. There was no discussion of the Indian Act
10 which would govern our people and our land. There was
11 definitely no discussions of provincial powers that would
12 control our land and resources.

13 On those issues, the Peigans' position
14 is that the treaty is silent and that the crown must still
15 come to terms with us on that particular part of the treaty.

16 Some benefits and protections from the
17 treaties were that we would continue with our way of life,
18 with a treaty right that is binding on the crown, the
19 Government of Canada.

20 Some of the concerns of our people are
21 that land would be shared with the foreigners and that
22 it might interfere with our hunting, fishing and other
23 activities, spiritual practices. It was very clearly

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1 stressed by the representatives of the crown that our way
2 of life within our territory would be protected and
3 preserved.

4 At that time, because of the depletion
5 of the buffalo herd, the crown promised they would
6 guarantee provision of food. Further to that, there was
7 the token payments given to us. The head men, and so on,
8 got suits, a flag, treaty payments, medicine, education.
9 Our people interpret those as a symbolic affirmation of
10 respect for the authority of the Peigan and it established
11 the term of the treaty, that it would continue as long
12 as the sun shines, the rivers flow, the grass grows, and
13 so on, as was mentioned this morning. The treaty itself
14 gave the Peigan people the opportunity to pursue
15 agriculture and ranching.

16 From that perspective, the treaty itself
17 -- and it is written within the treaty that there was
18 opportunity for the Peigan people to get into agriculture
19 and ranching. But right within the terms of the treaty
20 itself is that the reserve of the Peigan Band of Indians
21 shall be on the Oldman River near the foot of the Porcupine
22 Hills at a place called Crow's Creek. That comes directly
23 out of the treaty itself. The acreage and size of the

2 The submission that you have will give
3 specific details as to our arguments and our claims, and
4 I won't go into the specific detail on them.

13 The boundaries, the areas that I
14 mentioned earlier, of our traditional territory include
15 areas of the Oldman River from the headwaters, including
16 lands and resources encompassed by the Oldman River's
17 tributaries, the Porcupine Hills, the Crow Lodge Creek
18 which is now called Waterton River. This is the area which
19 was chosen for the Peigan people by Chief Sitting Behind
20 Eagle Tail and which was confirmed by the treaty signed
21 at Blackfoot Crossing.

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1 this selected area.

2 There is a lot of disagreement between
3 the crown and the Peigan concerning the meaning of the
4 treaty and the size of the reserve based on the written
5 text of the treaty. It is clear that we expect the
6 Government of Canada to protect what we claim and what
7 is in the treaty.

8 There is a number of areas that we
9 specifically outlined for areas that we have presented
10 to the Commission. Peigan Indian Reserve No. 147 was
11 encroached without Peigan consent. Also from the treaty
12 itself, waters from the Oldman River would be reserved
13 to support our economy on the land. The crown would assist
14 us to establish a new economy based on agriculture and
15 ranching, and our way of life -- fish, plants and wildlife
16 -- would be protected in the sacred Oldman River and river
17 valley within the boundaries of the Peigan Indian Reserve
18 No. 147.

19 All of those that I mentioned have not
20 happened. Those have not been lived up to by the crown,
21 the federal government. They continue to breach their
22 fiduciary trust. I will get into the history of it.

23 In 1921 the Lethbridge Northern

10 Further to that, in 1944 the licence that
11 was issued was patented and gave them the right to use
12 that particular area. This was done without the consent
13 of the Peigan Band. The licence authorized the use of
14 the right-of-way on the bed of the Oldman River. They
15 constructed a weir and headworks on the bed of the river
16 and diverted water, trespassed on our land and, again,
17 the federal government did nothing to stop the Lethbridge
18 Northern Irrigation District to assist the Peigan or to
19 clarify our rights.

22 This was done without the written approval of the
23 Minister. Again, the federal government, on behalf of

3 Also in 1976 the mineral title was
4 excluded from the original transfer, which belongs to the
5 Peigan. The federal government did nothing on Peigans'
6 behalf.

15 The federal government failed gravely
16 in assisting us in developing a farming and ranching
17 economic base for us. In our presentation we explicitly
18 and specifically give you details of that particular
19 process.

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1 We have an interest in a 95-square-mile
2 grazing reserve that was surveyed in 1882, and then in
3 1883 was erased. Today it's the Alberta Ranch. That was
4 done without our knowledge.

5 Stock watering reserves and huge grazing
6 leases to stockmen took up large numbers of acres of our
7 reserve, which was to be part of the treaty of 1877. It
8 just continues to go on and on.

9 Our fiduciary trustee, the federal
10 government, has done nothing on our behalf. There were
11 hay lands that were reserved to us that were taken from
12 us. There were even recommendations by some of the people
13 who worked for the federal government at that time, who
14 brought these forward. Those were ignored, and they were
15 given to the squatters at that particular time, the
16 newcomers that surround our area today. Back in those
17 days they thrived while our crops withered and died and
18 our cattle herds deteriorated. A lot of our people in
19 those times starved through the harsh winters.

20 That just continued to happen. There
21 were Peigan farmers in those days and even today who do
22 not have the support of financial institutions. Our
23 trustee, the federal government, provided no alternative

2 I will just sum it up and read from the
3 submission.

14 The present reserve that we have now,
15 it has been told to us by our Elders, was just a holding
16 pasture for one of the ranchers at that time. They moved
17 us into that particular area known as the Peigan Reserve
18 today. It was just a holding pasture of this rancher
19 called Monsell.

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1 Again, the Government of Canada did not protect our
2 interests and made no effort at all to impose terms and
3 conditions to mitigate the impact on our developing
4 economy.

5 Over the years we have lost a lot of stock
6 and human life. There has been prairie fires. Right now,
7 every time one of our livestock wanders into these areas
8 we are brought before the court with this federal statute
9 dealing with livestock being at large.

10 Further to that, there was the
11 TransCanada Highway that ran parallel to the railway.
12 That dissected our reserve, again without our consent.
13 There is loss of stock today. Even the other day we lost
14 one of our buffalo on that highway. We have lost human
15 life.

16 All those things -- we would never have
17 agreed to those expropriations, to those terms. The
18 federal government never acted on our behalf.

19 The base of our particular court case
20 today is the Oldman River dam that has been constructed
21 upstream from us. Throughout the process, the federal
22 government has done virtually nothing. Sure, they set
23 up an EARP panel that went around and asked questions,

5 What they came out with was a number of
6 recommendations. Their first recommendation was to
7 decommission the dam, which the federal government did
8 not agree to. The second recommendation was they had to
9 come and appease the Peigans.

14 They came out with some good
15 recommendations, but without the federal government acting
16 on them they just become useless. There has been federal
17 water policy that was established in 1985. The water
18 policy indicates that the federal government has the
19 fiduciary trust responsibility of the Native lands and
20 the waters that are contained within the Native lands.
21 They are still not acting on those particular policies.
22 It goes on and on.

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1 forward in 1986, has been from our own coffers. I tell
2 you, it's bleeding us dry. We have gotten no particular
3 assistance from the federal government with the
4 litigation, with the cost of it. We are up against a
5 provincial government that seems to have all the resources.
6 They make up the laws; they are the law, and they have
7 the resources to fight us. But we are not giving up.
8 Those are our rights, and we are going to stand up for
9 them.

10 The federal government has taken no part
11 whatsoever to assist us financially or by intervening in
12 the case to assist us in defining our water rights.

13 I just want to make a quote here from
14 the water rights case and the expropriation of our water.
15 The crown promised to the Peigan to reserve land on the
16 Oldman River. It was to protect water required to continue
17 to sustain our way of life and the economic purposes.

18 This was a promise made prior to any
19 other rights or interests in water which either government
20 subsequently made to third parties. It is a promise which
21 was to be respected. Our water needs should have been
22 well understood by the government and protected against
23 their inconsistent grants to third parties.

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1 In the history of the federal and
2 provincial governments we seem to be non-existent. Maybe
3 we are just a pain in their ribside. That is basically
4 the way we are being treated and being handled.

5 The truth of the matter is that the
6 federal government effectively hides from its obligations
7 and, at the same time, it speaks publicly of its
8 constitutional power and its policy to protect water for
9 First Nations. All it is is lip service and no action.

10 The presentation that is before you goes
11 into the history of the Oldman River dam construction,
12 what led up to it, the EARP panel. The Department of Indian
13 Affairs has to be singled out for its lack of commitment
14 to the process. When the FEARO panel was going around,
15 they ducked and dodged it. When they finally did
16 participate, it was on an order from government that they
17 participate. They refused to attend the hearings that
18 were held on our reserve. They gave a presentation in
19 Edmonton, and again it was just not making any commitment
20 to act on our behalf on our interest in the water issues.

21 The gist of it all is that the
22 recommendations that were brought forward from FEARO today
23 are still useless and futile, which leads me into our

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1 recommendations.

2 I will just quote here from the
3 submission. We make a number of recommendations.

4 When we use the word "government", we
5 deliberately do not propose which level of government
6 should participate.

7 It is our position that the federal
8 government must ultimately take responsibility, as the
9 crown's representative, in fulfilling obligations arising
10 from Treaty 7. It is up to the federal government, and
11 not our concern, to involve the province in cost-sharing
12 where appropriate.

13 There has been much discussion about
14 creating a new future between First Nations, federal and
15 provincial governments over renewable resources, based
16 on some concept of sharing. In dealing with the issue
17 of water, this is a very attractive approach since water
18 is renewable and can be shared by First Nations and
19 non-Aboriginal peoples. However, we do not endorse
20 recommendations based on a concept of sharing based on
21 equality. It is our position that the past must be
22 addressed. The present and the future must be based on
23 agreements which respect our ownership and jurisdiction

3 The Past: The federal government
4 should acquire and return to First Nations all lands which
5 have been expropriated from reserves in the Treaty 7
6 territory. These lands could be re-acquired through
7 purchase, expropriation and compensation to third parties
8 or through any other method which achieves the result.

15 The federal government should establish
16 a process to provide compensation for Canada's failure
17 in reserving sufficient water to meet the needs of First
18 Nations within Treaty 7 and for Canada's failure to assist
19 the First Nation in creating an economy based on ranching
20 and farming.

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7 A process acceptable to First Nations
8 of Treaty 7 and the crown should be established to address
9 the fundamental differences between the First Nations'
10 understanding of Treaty 7 and that of the crown.

19 The provincial government's position in
20 the court litigation is that they own the water and they
21 own the land because of the 1930 Natural Resources Transfer
22 Agreement. That particular legislation, as it is, we did
23 not give consent to. The federal government was in total

4 (+ ' present, the government should
5 enter into a process agreeable to the First Nations to
6 define First Nations' water rights and other treaty rights
7 dependent upon water for their implementation.

10 - an allocation of water for the Peigan
11 from the Oldman River which can be used according to our
12 terms. It is our water, and it is our right. It is an
13 existing reserved right.

14 - instream water flows required to
15 maintain, protect and enhance the natural environment on
16 the reserve. That is a confirmed, existing, reserved
17 right.

18 - funding for irrigation development on
19 the Peigan reserve to maximize the economic potential of
20 all reserved lands;

21 - funding to provide for a rural water
22 project that would deliver safe drinking water to the
23 membership of the Peigan reserve, administration, school

2 For the future, the government shall
3 recognize First Nation's jurisdiction to pass laws to
4 protect and implement their water rights and to fulfill
5 such agreements as may be concluded regarding water.

8 - the funding of a water office.

13 This would require training and technical equipment such
14 as computers, gauges, et cetera. The water office would
15 have the authority to stop all instream activities that
16 are adverse to the Peigan Nation. It would also have the
17 authority to address reduced diversions from the Oldman
18 River for irrigation and other purposes, should such
19 diversions negatively impact on Peigan allocations of
20 water. The water office would have at least the same power
21 as a federal agency.

22 This is the Peigan Nation's response to
23 the Environmental Management Committee recommended by the

4 - the development of funding agreements
5 to address on an ongoing basis the funding for irrigation
6 projects on the Peigan Reserve to maximize the economic
7 potential of reserve land; the funding for environmental
8 enhancement of Peigan reserve land, to compensate for
9 degradation to the natural environment arising from water
10 diversion from the Oldman River; the funding of the
11 administration of the water office; funding for a mediation
12 process agreeable to the Peigan, to address impasses which
13 may arise from decisions made by the Peigan Nation which
14 may conflict with others addressing the water needs of
15 non-Aboriginal people.

19 Another comment I wanted to make
20 -- and maybe you have heard it before. On record I have
21 to bring this forward because personally, in my lifetime,
22 I have experienced it with the FEARO process as it was
23 and here again with another procedure.

14 That is what happened in the past, and
15 we do not want to see those things happen again. If that
16 is the exercise here, then on record we do not endorse
17 this process. We have come here with some faith that this
18 particular process would give us an opportunity to exercise
19 our rights and to give respect and recognition to our treaty
20 rights, specifically to the Peigans our water rights.

22 MODERATOR REGGIE CROWSHOE: Thank you,
23 Leonard.

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1 **CO-CHAIR GEORGES ERASMUS:** Thank you,
2 Chief, for a very thorough presentation and thank you for
3 not reading every word but going through and giving us
4 the highlights and then getting to the recommendations.
5 The way you presented it gave us a very good background.

6 I know you can't say too much about the
7 court case, but can you give us some of the basics. Where
8 are you at in the court case?

9 **CHIEF LEONARD BASTIEN:** After seven
10 years we are still in discovery.

11 **CO-CHAIR GEORGES ERASMUS:** What are
12 your funding costs so far?

13 **CHIEF LEONARD BASTIEN:** It's in the
14 hundreds of thousands of dollars.

15 **CO-CHAIR GEORGES ERASMUS:** You have
16 tried to get federal funding and no money has come out?

17 **CHIEF LEONARD BASTIEN:** No. We are
18 stuck between the Rocky Mountains and --

19 **EDWIN YELLOW HORN:** The federal
20 government doesn't take a position on whether we have water
21 rights or not. To date they haven't given us anything
22 for our litigation costs. They continue to ride the fence,
23 as Leonard stated, on the whole issue.

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1 The only time they seem to be helpful
2 is when it is detrimental to the band in our case.

3 I don't know if you people can do
4 anything about that. When is the federal government going
5 to smarten up and start dealing with us fairly? They put
6 all this money into the LRT review; they put a million
7 dollars or so into this Chief's Commission. Then, when
8 you look at the past, with the White Paper and all the
9 things they have tried to do to terminate our reserves
10 and our rights to our resources -- when are things going
11 to change? How many Commissions have been put together,
12 like the Penner Report and so on?

13 Millions and millions of dollars have
14 been spent trying to study and understand the Indian issue
15 in this country; yet, the political will isn't there.

16 I noticed the right of Aboriginal
17 self-government in your commentary. It seems like people
18 are looking for an avenue to establish if our rights exist
19 in this country, but they are already there. They are
20 there in the Constitution; they are there in the Royal
21 Proclamation. The federal government has the power to
22 implement them under section 91(24), if the political will
23 is there.

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1 When are they going to do something that
2 is positive instead of wasting everybody's time? Look
3 at all the things people have talked about time and time
4 again -- the high suicides, and so on. Our reserves are
5 overcrowded.

6 In 1877, when they set the treaty aside,
7 the Commissioners set aside 128 acres per person. I think
8 it was a square mile for a family of five. We never agreed
9 on that.

10 Right now the Indian people in southern
11 Alberta are denied the use and access of some of the crown
12 grazing leases that are available out there. Our reserves
13 are being overcrowded with livestock and other things that
14 it was set aside for; they were never adequate. Nobody
15 is saying, "Gee, those Indian people over there need a
16 hand. Maybe we should open some of these grazing leases
17 for them." They're not doing this in the south, and I
18 don't think they are doing it anywhere.

19 They are looking toward changing the
20 nature of some of the crown lands that are available for
21 hunting and fishing. They want to change the nature of
22 them so they can alienate our hunting rights. All these
23 things are coming about.

6 When they took time to try to do away
7 with our rights through the LRT review, that termination
8 policy that they tried to bring in, they sure found the
9 resources fast enough to find some solutions to their
10 problems. But now what about the Indian people? We have
11 a future and we have a right to live. We have a right
12 to exist like any other nation in the world.

22 When you are faced with everyday
23 existence on a reserve and you see people living without

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1 jobs, when you look at children -- they can go up to Grade
2 12, but what about after that? They are cutting back,
3 just like Marie Marule stated. They are cutting back our
4 post-secondary funding. When they get out of Grade 12,
5 what future do they have?

6 **CO-CHAIR GEORGES ERASMUS:** If you have
7 it just off the top of your head, what was the size of
8 the reserve supposed to be according to the natural
9 boundaries?

10 **CHIEF LEONARD BASTIEN:** From my
11 knowledge, it is well over 1 million acres.

12 **CO-CHAIR GEORGES ERASMUS:** What was
13 actually surveyed in 1882?

14 **EDWIN YELLOW HORN:** Actually, it was a
15 territorial claim. It was the Porcupine Hills, the Oldman
16 River and Crow's Creek. It was a portion of a territory
17 that was reserved by the Peigans within their natural
18 territory.

19 The federal government brought their
20 estimates in under the Indian Act, under the formula of
21 128 acres, but the Peigans themselves never did, to my
22 formal knowledge, agree to that.

23 **CO-CHAIR GEORGES ERASMUS:** I got that

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1 part. I am just trying to get an idea of, when they did
2 do the survey and it was fenced in 1900, what size was
3 it at that point?

4 **CHIEF LEONARD BASTIEN:** The present
5 size today?

6 **CO-CHAIR GEORGES ERASMUS:** I am working
7 my way to there. Starting away back, before they started
8 cleaving off land.

9 --- (A Short Pause)

10 **CHIEF LEONARD BASTIEN:** We are having
11 a dispute on the exact acreage.

12 **CO-CHAIR GEORGES ERASMUS:** Why don't I
13 leave that with you. What I am interested in is your
14 understanding of the size of the land that the treaty in
15 its natural boundaries provides, which is reflected by
16 what is actually written in the treaty, and then what was
17 actually surveyed and fenced, and then what it is today.

18 **CHIEF LEONARD BASTIEN:** We could
19 probably provide you with that information. If you give
20 us an address where we could send it, we could forward
21 it to you.

22 **CO-CHAIR GEORGES ERASMUS:** No problem.

23 **EDWIN YELLOW HORN:** Could I ask what the

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1 reason for that is.

2 **CO-CHAIR GEORGES ERASMUS:** It is to give
3 us a clear idea of how your land has diminished over time.
4 This is the case in many, many places in the country,
5 where people started with a piece of land but it has just
6 continued to diminish.

7 It is quite different from what the Inuit
8 are signing, for instance, today or tomorrow. The Prime
9 Minister is signing an agreement and providing a land base,
10 I think, three times the size of New Brunswick. Whereas,
11 if you were unfortunate enough to have signed a treaty
12 some time ago and then they started putting roads through
13 it and railways through it and needed land for ranching
14 and all the rest of it, it has just continued to shrink.

15 I was just trying to get an idea of what
16 was actually promised originally in the treaty.

17 **EDWIN YELLOW HORN:** This LNID,
18 Lethbridge Northern Irrigation District, the headgates
19 are situated on our reserve. The LNID generates in the
20 millions of dollars to the economy of Lethbridge, in McLeod
21 and, I guess, southern Alberta in general.

22 We don't really receive anything from
23 that. Yet, it is our land that is the source of all this

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1 wealth that is being created. Just as we say in our case,
2 it is just another situation where we have been
3 disregarded.

4 That is all we are trying to tell the
5 provincial and federal governments, to settle these
6 issues. Settle them with us so we can go on with our lives.

7 If they continue stealing -- it is just stealing; that
8 is what they are doing. If you bring it to them and tell
9 them that is what they are doing, then they all don't like
10 it and they start writing racist things in the paper.
11 That is no way to deal with things.

12 **CO-CHAIR GEORGES ERASMUS:** Thank you
13 very much for coming forward and presenting this.

14 We are going to break for lunch now.
15 I suggest that we break for just a little over half an
16 hour. We will try to resume at two o'clock sharp.

17 --- Luncheon Recess at 1:20 p.m.

18 --- Upon resuming at 2:12 p.m.

19 **MODERATOR REGGIE CROWSHOE:** We are
20 starting our afternoon session now. Our next presenter
21 is Jim Penton, and then we will go to Tony Hall.

22 **JIM PENTON, Métis Senator:** Thank you
23 very much. It's a privilege to appear before the

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1 Commission.

2 I want to speak generally today as well
3 as speaking particularly on behalf of my own people, the
4 Métis. I want to reverse the order of matters on which
5 I wish to speak, because the issue has been raised by
6 speaker after speaker of prejudice in the Lethbridge area
7 and I very definitely want to say something about that.

8 In the first place, I was here when I
9 heard Chief Bastien speak on behalf of his people, the
10 Peigan Nation. I can only say that I applaud everything
11 he had to say. I think the rape of the Peigan Nation over
12 the last century has been one of the most disgraceful
13 aspects of Canadian history, at least of western Canadian
14 history, to have occurred in the 19th and 20th centuries.

15 What is so awful about it is that it continues into the
16 1990s, at a time when the larger society prides itself
17 on having divested itself, at least to a certain extent,
18 of the prejudiced attitudes of colonialism that have
19 existed in the past.

20 It has been said that there is a great
21 deal of prejudice in the Lethbridge area. Some people
22 have said that the only thing that differs between Alabama
23 and Alberta is that Alabama is down south and Alberta is

3 I would say that one of the reasons for
4 the extreme prejudice in this area is that it has been
5 government-generated, and the creation of the Oldman River
6 dam has been one of the factors which has been primarily
7 responsible for the enhancement, if you will, of racial
8 prejudice in this area.

17 Unfortunately, the judiciary has
18 participated in this as is widely recognized in this
19 community by the fact that the Judicial Council of Canada
20 had to censure the local judge who heard the Milton Born
21 With a Tooth case, and rightly so. I take pride in having
22 written a letter to the Judicial Council which brought
23 about that censuring.

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1 Part of this, of course, is due to
2 economic circumstances, but it is government-generated,
3 and the government needs to be told directly that it must
4 change its way if it is ever to have a healthy relationship
5 with Aboriginal people in this area.

6 In speaking on behalf of my own people,
7 the Métis, we have just had an Aboriginal census in this
8 area. There are far more Métis than even we believed.
9 As a matter of fact, outside of Lethbridge, in all of the
10 surrounding communities but one, the Métis outnumber
11 treaty Indians. Therefore, we are a much more significant
12 group within the area than even we had believed.

13 Many of our people, however, have been
14 afraid to identify themselves as Aboriginals because of
15 the ongoing prejudice that has gone on in this community
16 and other communities throughout southern Alberta. Being
17 Métis was a stigma, and many of our women married white
18 men in order to escape the stigma of Aboriginal ancestry
19 in the past. It is only now that many of our people are
20 standing up and identifying themselves because they are
21 proud of who they are and what they are.

22 We need to recognize, of course, that
23 our people, in large measure, are in a state of

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1 decolonialization. They are undergoing the effects of
2 more than 100 years of discrimination and prejudice.
3 Naturally, as is true in the Third World, our people suffer
4 the effects of alcoholism, other forms of drug abuse,
5 broken families, criminal behaviour and everything else.
6 This happens with all colonialized people, and it is that
7 factor which makes our people have very often an unhealthy
8 relationship with many of the white people in the larger
9 communities.

10 One cannot blame ordinary white persons
11 for not wanting to be subjected to drunkenness, to cheques
12 which are passed and come back with not sufficient funds
13 in the bank. That is understandable, but we must make
14 them understand that this is the result of a government's
15 policy which has created this nightmare for Indian and
16 Métis and Inuit people and which negatively affects whites
17 as well, because they have to live with the effects of
18 the discrimination that has gone on in Canadian society.

19 It is certainly time that we encourage
20 governments, for the self-interest of all Canadians as
21 well as for the well-being of Aboriginal people, to turn
22 around and call a halt to this kind of nonsense.

23 I can only echo again and again some of

4 How can we address these matters? How
5 can government come to grips with these things?

Section 35 of the Constitution Act, 1982 specifically states that Aboriginal and treaty rights are to be preserved under Canadian law. It is interesting to note that section 35 is not part of the Charter of Rights and Freedoms and, therefore, is not subject to section 1 of the Constitution, which is a kind of override clause of the Charter of Rights and Freedoms.

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Therefore, I would argue, and argue very strongly, that the governments of Canada ought to recognize the right of all Aboriginal peoples to education in their own languages.

15 In order for us to preserve our unique
16 nature, I believe very strongly that we ought to have
17 control of our own educational institutions to preserve
18 our culture.

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1 well-being. When I suggested that, on the basis of
2 numbers, the Blackfoot people living in Lethbridge ought
3 to have a right to an independent school, there was a
4 generally positive response from the local community.

5 There is a question over the
6 establishment of a French school in this community; there
7 are only some 50 students. Apparently, the provincial
8 government feels that French-speaking students have a
9 right. I don't want to criticize that in any way; I feel
10 positively toward French speakers. Many people have
11 pointed to the cost factor but, if you look at the number
12 of Blackfoot speakers in the city in comparison to the
13 number of French speakers, it seems that if any group,
14 on the basis of history, tradition, right and common sense,
15 should have a right to an independent, freestanding school,
16 it should be persons of Blackfoot background -- Peigans,
17 Bloods and all of the other Blackfoot nations.

18 This I believe is something which could
19 be recognized by our governments, particularly our federal
20 government, and support could be given for education for
21 all Aboriginal peoples at base level. I hope our
22 Aboriginal peoples will move, and move very quickly, in
23 the area of taking over education.

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1 There needs to be an enhancement of our
2 languages. There needs to be an enhancement of our
3 traditions and of our culture.

4 Many of us, persons such as myself, are
5 perfectly happy in the larger society. My lifestyle is
6 essentially very similar to that of other people in the
7 larger society. Yet, many Métis who are not protected
8 in any way by treaty rights, who have no claim on medical
9 or educational support in the way that treaty Indians do,
10 are living in this province in circumstances which are
11 worse than those of many people living in the Third World.

12 If you go up into northern Alberta, you see that, and
13 it's a damned disgrace in any civilized or so-called
14 civilized community.

15 I do want to state positively that the
16 provincial government for all of its sins -- and it has
17 many -- has in many ways done some pretty positive things
18 respecting our people. We in Alberta are the only Métis
19 people who have a land base. I would like to see land
20 bases established for our people at least in the other
21 western Canadian provinces, particularly Manitoba and
22 Saskatchewan.

23 We need our people enumerated. We need

6 I should mention in passing that one of
7 the things that is interesting, which has arisen out of
8 our census which I hope to be able to make available to
9 the Commission, is that in this area there is a large
10 constituency of non-Blackfoot Natives. To the north and
11 east of the city, the overwhelming majority of treaty are
12 Cree, and there is also a very large population of
13 non-status Indians in this area. Many of these people
14 are coming to us because they say that they are not
15 represented, that they have no one to speak for them.

19 The concerns of Aboriginal people in
20 urban centres is going to grow. If our people are not
21 given adequate institutions to preserve their culture,
22 to enhance their well-being, to enhance their pride, they
23 are going to become ghettoized and destroyed, and in many

4 Of course, when I speak of land rights
5 in Saskatchewan, I sometimes scratch my head. With the
6 growth of Indian and Métis populations in that province,
7 I think the time is soon going to come when we are going
8 to take it back and, after all the farmers leave, maybe
9 restore the buffalo.

12 I think there needs to be a tremendous
13 stress on education which enhances the pride and abilities
14 of our youth. A good deal is said -- and I am sure the
15 Commission has heard this many times -- about the plight
16 of Aboriginal women. I don't want to disparage those
17 remarks in any way. I have heard them over and over again.

22 Part of that arises out of the fact that
23 the pride of our people has been killed in many individuals.

10 This brings me to the whole question of
11 relations with non-Native organizations.

16 I think that is misguided, even though we Métis supported
17 that idea when we felt it was the best thing we could get.

21 It would be nice, too, if we had governmental reforms which
22 would give the white people a little more power in the

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1 Something has to be done about the
2 judiciary as well. One of the great scandals of Canadian
3 society is that a handful of men can appoint practically
4 all of the justices and judges in this country, many of
5 whom -- and with all due respect for those who are not
6 -- are political hacks. It's a crime that the Prime
7 Minister of this country can appoint all of the justices
8 of the Supreme Court except the Chief Justice who is on
9 the bench already but whom he appointed as Chief Justice.
10 What does that say about justice? It says the dice are
11 loaded.

12 All Canadians need some form of
13 mechanism to change this situation, and the Aboriginal
14 people must have something to say about the justice system,
15 or it never will be just with our people. It is all right
16 to have token judges or justices in some place, but we
17 must have power at higher levels. Therefore, instead of
18 being divided, as we often are, into the various Aboriginal
19 groups, we need at least to form some sort of common front.

20 I must say that while I, as someone who
21 speaks for the Métis community, feel nothing but the best
22 of goodwill to treaty people, I would beg some of our treaty
23 brothers and sisters, as well as some of our white brothers

9 We believe that justice for all
10 Aboriginals and whites within Canadian society will only
11 arise when people of goodwill recognize that we all live
12 in this country together and must be concerned about the
13 well-being of one another, not simply our own narrow
14 prejudices, likes, interests or whatever it may be.

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22 Over the years some people have been
23 added to the Métis community through general acceptance,

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1 through the intermarriage of one Aboriginal parent with
2 one European parent, but they have always been part and
3 parcel of the Métis community. They have been recognized.

4 In other words, if somebody comes up here
5 from Florida and says, "I am half Indian and half white;
6 therefore, recognize me as Métis," we say, "No, that is
7 not appropriate because you are not part of our community."

8 Blood quantum is not a factor, however.
9 Louis Riel was one-eighth Indian and seven-eighths white.
10 We consider him a Métis. We have instances where we have
11 people who are seven-eighths Indian and one-eighth white,
12 and most of us, like myself -- I don't know how much.
13 I couldn't quantify because many of my forefathers and
14 foremothers were Métis for so many generations that I don't
15 have any idea what the blood quantum was.

16 **CO-CHAIR GEORGES ERASMUS:** Thank you
17 for that. That is very clear.

18 Those are our questions. Thank you for
19 coming forward. If you have any other thoughts that you
20 want to put down, please do so and send them on to us.

21 **JIM PENTON:** Thank you very much. I
22 appreciate that, and I will send you a copy of our census.
23 I think it will be somewhat enlightening.

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1 **CO-CHAIR GEORGES ERASMUS:** It will be
2 very useful. Thank you.

3 **MODERATOR REGGIE CROWSHOE:** At this
4 time, we would like to go on with Tony Hall of the University
5 of Lethbridge, Professor of Native American Studies
6 Education.

7 **TONY HALL, Professor of Native American**
8 **Studies Education, University of Lethbridge:** I will see
9 what I can do in a half-hour.

10 I have brought a number of documents
11 which I hope give some kind of background or elaboration
12 to various points I want to raise. As a time-saving
13 procedure, I would like to be able to refer to these
14 documents without reading from them. I am hoping,
15 whatever the protocol is, that I could formally request
16 that these documents be considered to be an appendix to
17 the proceedings as published. I see Mr. Erasmus affirming
18 with a head shake.

19 **CO-CHAIR GEORGES ERASMUS:** Certainly.
20 That is no problem at all.

21 **TONY HALL:** The subject which I had
22 thought about in advance is the subpoena powers, the
23 judicial powers of RCAP, the Royal Commission on Aboriginal

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1 Peoples. I am going to leave that until the end, if there
2 is any time.

3 Just briefly, let me say that the Royal
4 Commission, by virtue of being a royal commission, has
5 judicial powers. The Royal Commission could be
6 requesting, indeed commanding, any witness to come
7 forward. For instance, if we wanted to explore the
8 relationship of the Ministry of the Environment to the
9 Oldman Dam, the Royal Commission could be demanding that
10 Ralph Klein, for instance, come forward and give whatever
11 answers he could share about what took place when he was
12 in that job.

13 The Royal Commission could be demanding
14 that Kim Campbell come forward to explain her actions when
15 she was Minister of Justice and was very active in using
16 the powers of the federal crown against Aboriginal people
17 in court, using the resources of the Ministry of Justice
18 to argue extinguishment, for instance.

19 The Royal Commission could, along with
20 hearing from volunteer witnesses such as myself and all
21 those whom you are hearing today, also be going at other
22 approaches, other lines of inquiry. The Royal Commission
23 could also be calling forth documents which are classified

2 As the members of the Commission will
3 recall, we had a discussion on this on May 1, 1992 at a
4 meeting of about 100 researchers involved with the work
5 of RCAP. About 10 or 15 of us put in writing our request
6 that the Commission consider using these powers. Among
7 those who signed the document were Brian Slattery, who
8 I believe is now legal counsel for RCAP, Patricia Montour,
9 Marvin Storrow who acted for Musqueam in the Sparrow and
10 Guerin cases, Marie Marule, Jean Morrisette, John Milloy,
11 Professor of Native Studies at Trent.

12 Having introduced that subject, let me
13 change tack, because there is so little time. The desire
14 of RCAP, apparently, at this stage is to get concrete
15 recommendations and suggestions in this round, so let me
16 go right to the jugular and come forward with a list of
17 recommendations I would like to make. I make these in
18 terms of directing them essentially at the federal
19 government through the Royal Commission. Of course, the
20 Royal Commission will decide to what extent these
21 recommendations should be brought forward. But I would
22 like to clarify that I am directing this at the Government
23 of Canada through RCAP, and I bring this forward from a

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1 position in academia -- these proposals that my own federal
2 government should be reshaped and reformed.

3 In my view, no legislative approach is
4 appropriate to replace the Indian Act. There is section
5 35 in the Constitution Act, 1982 which recognizes and
6 affirms existing Aboriginal and treaty rights, and there
7 is legislation of the British Parliament which now has
8 constitutional status. It used to be called the British
9 North America Act; it is now called the Constitution Act,
10 1867. Section 91(24) of the Constitution Act, 1867 is
11 explicit that the federal government, the Dominion
12 Parliament, has legislative responsibility for Indians
13 and lands reserved for the Indians.

14 The point I want to affirm is that with
15 section 35 and section 91(24) we have all we need in the
16 Constitution already to elaborate a regime of Aboriginal
17 self-government. The federal government has it within
18 its powers tomorrow, or this evening, to simply say as
19 a matter of policy that, henceforth, they will choose to
20 interpret section 35 as if it means something, as if it
21 contains a great deal. At the times of the First
22 Ministers' Conferences they called this the "full box
23 theory."

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1 Existing Aboriginal and treaty rights
2 could be interpreted by the federal government to include
3 the inherent right of Aboriginal self-government. It
4 could be interpreted so that it confirms and lays out a
5 realm of Aboriginal jurisdiction.

6 What the federal government is currently
7 saying is, "We can't change the Constitution; therefore,
8 settle for second best. Settle for a series of acts
9 through the federal legislature which will put in place
10 a land regime, a forestry regime, self-governance regime."

11 To my way of thinking, this leads away
12 from the recognition which the federal government surely
13 has in its power to make, that section 35 includes the
14 inherent right of Aboriginal self-government and is
15 sufficient to be the basis of a regime of Aboriginal
16 self-governance.

17 Having said that, section 91(24) makes
18 it clear that it is the federal government which has the
19 specific responsibility. I want to throw into the mix
20 here a word which you will hear again and again. This
21 word is "fiduciary obligation," which essentially means
22 that the federal government has really an obligation to
23 protect a sphere of interest, to defend a sphere of

I would like to introduce the concept of there being an Aboriginal interest in Canada. Various corporations and provincial governments will attempt to encroach upon this sphere. The Alberta government is doing that in a very concrete way with the Oldman Dam and its claims that it controls the river, the fish in the river, the banks of the river, the beds of the river, the waters flowing through the river.

18 The provinces' strong card in
19 Confederation is to claim monopoly control of natural
20 resources. So, when we are talking in Canada about mining
21 or dam-building or logging, all of these activities proceed
22 under the auspices of provincial jurisdiction.

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3 I would argue that, once the federal
4 government as a matter of policy decides that it is going
5 to change its wayward ways and respect Canadian law and
6 affirm Canadian law, then it falls upon the federal
7 government to start taking provincial governments to
8 court, provincial governments who encroach upon that
9 Aboriginal interest in Canada. This is where I think the
10 federal government has been -- and the word is charged
11 -- "criminally negligent" in failing to uphold that
12 fiduciary obligation.

19 To my way of thinking, we don't need new
20 legislation. What we need is a decision at the Cabinet
21 level and then simply we need the federal government to
22 begin to respect the finer spirit of the existing
23 Constitution and begin to act on that.

Historically, the provinces have taken a hostile position in terms of Aboriginal and treaty rights. This goes right back to the St. Catharines Milling case. We expect this from the provincial governments. The provincial governments have gone to court using all of these noxious theories of racial hierarchy, theories such as the idea that Indians were primitive and, therefore, they had no laws, therefore they couldn't exercise any kind of land tenure. That, I think, is really destructive of the finer aspects of Canadian citizenship when governments go to court arguing that on all our behalf.

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1 arguing this type of line on all our behalf, in my view,
2 this really undermines the quality and decency of Canadian
3 citizenship.

4 I, for one, would like to press this line
5 of questioning with Kim Campbell. How did she justify,
6 as responsible minister during her regime as Minister of
7 Justice, these positions that she was taking?
8 Unfortunately, we don't seem to have an electoral process
9 sufficiently interested in issues to be able to press
10 things to this extent. This is why we might depend on,
11 for instance, the Royal Commission to be able to look into
12 processes.

13 For instance, what happens within the
14 Ministry of Justice? What is the process which invariably
15 leads the Ministry of Justice to the conclusion that it
16 is in the national interest to go to court arguing
17 Aboriginal extinguishment? What is the relationship
18 between the bureaucrats and the politicians as that process
19 unfolds?

20 I was hoping the Royal Commission might
21 be able to use its powers of subpoena to go in and dig
22 out some of the documents that would shed light on this
23 and let us hear from some of the bureaucrats who give this

4 Let's make no mistake about it. It's
5 a political process that comes up with the idea that you
6 go into court arguing extinguishment. That's a political
7 decision made on a political basis. Once you get into
8 court and you have that assumption, then you start to
9 develop the technical arguments.

16 I refer, of course, to Alexander Morris' book, "The
17 Treaties of Canada with the Indians of Manitoba and the
18 Northwest Territories."

19 In this negotiation the passage I am
20 about to read occurs more or less as the major details
21 of the negotiation are put in place, and they are talking
22 about questions of implementing the treaty. Somebody who
23 is referred to as simply "Chief" -- and I assume it is

8 Then the Governor says, "The ear of the
9 Queen's Government will always be open to hear the
10 complaints of her people, and she will deal with her
11 servants that do not do their duty in a proper manner."

21 Clearly, he is looking for some kind of
22 sense that there will be real penalties that come into
23 play if these treaties aren't upheld and that individuals

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1 can be held criminally liable for not upholding the
2 treaties. His concern is simply brushed away, as these
3 concerns were throughout several of these negotiations,
4 more or less with the view that the Queen doesn't lie --
5 you are dealing with Queen Victoria; she loves her red
6 children. Then it goes on to say: We will always be able
7 to hear your complaints, and we will deal with those
8 servants who don't do their duty.

9 Who in Canada could point to a single
10 case where a violator of Aboriginal and treaty rights has
11 ever been put in prison? Who could point to a single case
12 where a violator of a treaty has ever had to face a charge
13 in court?

14 Existing Aboriginal and treaty rights
15 are part of the laws of Canada -- not only part of the
16 laws of Canada, but the supreme law, the constitutional
17 law.

18 I think this Chief was quite far-sighted
19 because he was concerned that there was no implementing
20 procedure being put in place to enforce the treaty and
21 also to renew the treaty relationship. If a treaty is
22 going to be for as long as the sun shines, as long as the
23 water flows, there are certainly basic underlying

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1 principles. But as times change, as the country changes,
2 the way one fulfills those principles is going to have
3 to adapt and change. He is looking for some kind of regime,
4 some kind of institutionalized mechanism which will see
5 that the treaty is respected and renewed and developed
6 along with the development of Canada.

7 This is one of the strongest
8 recommendations I would like to bring to the Royal
9 Commission, that the treaties require some kind of
10 implementing process, some kind of institutional
11 arrangement that will see that the finer spirit of the
12 treaties is realized, that the relationship is renewed,
13 and that the treaties are respected by all who live in
14 the country -- such an implementing body, such a treaty
15 commission, such a treaty regime.

16 I think we have to think really long and
17 hard in this country about this institution known as the
18 crown. You hear this referred to in different ways in
19 a sort of technical sense. But let's recall that these
20 treaties were negotiated between Indian nations on the
21 one side and with the monarch on the other side. The Indian
22 nations were not negotiating with John A. Macdonald. They
23 were not negotiating with bureaucrats. They were not

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1 negotiating with those parts of the Canadian government
2 which change. The politicians come and go as elections
3 take place. They were dealing with that part of the
4 non-Aboriginal government which was meant to represent
5 permanence, continuity, stability.

6 Of course, the Royal Proclamation of
7 1763 made it absolutely explicit and clear that the only
8 person with the constitutional authority to enter into
9 these treaty arrangements was King George III or his royal
10 heirs. Hence the idea that First Nations, in making
11 treaties, were not dealing with the functionaries of
12 government, were not dealing with the politicians, but
13 were dealing actually with the woman herself, Queen
14 Victoria, in many cases and that the integrity of these
15 treaties, the respect which they could command, the image
16 of these treaties was very much associated with the
17 royalty.

18 We have to really think long and hard
19 now. How do we reflect on this historical development
20 and how can we evolve in a fashion which respects these
21 basic principles, but deals with the reality that the
22 monarchy is an institution of fading relevance and
23 significance to many Canadians?

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1 I think we even have to get to the point
2 where we have to sort of look toward Queen Elizabeth II,
3 the woman herself, and say, "Look, we know this is a
4 constitutional monarchy, and we know there are severe
5 constraints on what you can do, but you, the woman inside
6 this institution called the monarchy -- it's time you spoke
7 up. Your ministers, the various governments which have
8 been spawned by this institution called the crown have
9 not been respecting the finer spirit of the monarch's
10 promises." I don't think it is unreasonable to look to
11 the woman herself and say, "In defending the good name
12 of your family, the House of Windsor, you can't wash your
13 hands of this any more. You have to speak up."

14 Meanwhile we in Canada have to start to
15 conceptualize how we could develop some approach to
16 treaties which really deals with the reality of how they
17 historically developed and the central role of the monarchy
18 in these treaties.

19 I would propose that this imagined
20 treaty regime, this treaty commission, would have to have
21 an arm in the Governor General's office and would have
22 to be structured in such a way that we did our best to
23 see that there was some kind of arm's-length relationship

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1 with the political arm of government which, after all,
2 is going to change as politicians come and go and as one
3 or another politician achieves popularity.

4 First Nations just can't be held ransom
5 to who is the latest, most popular face in the Canadian
6 political spectrum. They were promised a level of
7 continuity in terms of their treaty relationship, and we
8 have to build that into our institutions.

9 I believe that this treaty commission
10 should have an arm as well in the United Nations because
11 these treaties have an international dimension. These
12 treaties are not, as Joe Clark and others have argued,
13 mere domestic arrangements. They have an international
14 dimension, and there is no way that the United Nations
15 can be excluded from dealing with this reality.

16 I really think treaties are a very
17 strongly developed aspect of the Canadian constitutional
18 heritage. Of course, the British, in fighting the French
19 and in fighting the Americans and in trying to hold a land
20 claim vis-à-vis the United States made strong alliances
21 with First Nations and allied with First Nations in some
22 instances militarily.

23 The War of 1812 was largely fought by

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1 Native people north of the line, who were fighting against
2 Americans who sought to annihilate and extinguish the
3 crown's claim. First Nations were fighting for the future
4 of their own First Nations. They were developing their
5 own foreign policy positions, but the fact is that there
6 is this strong tradition of alliance between the crown
7 and First Nations in Canada. That has resulted in there
8 being a very strong tradition of treaties in this country's
9 constitutional heritage.

10 Think of the Nunavut Treaty which is just
11 now being finalized to some extent. Who lives in the
12 Eastern Arctic? The overwhelming majority of people who
13 live there are Inuit, and Canada's claim to jurisdiction
14 and sovereignty in the Eastern Arctic draws a great deal
15 from the fact that the Inuit in that area acknowledge Canada
16 and feel some sense of alliance or even identification
17 with Canada. So Canada's claim to sovereignty and
18 jurisdiction in that part of the country depends upon its
19 relationship with the Inuit.

20 If you read that back through Canadian
21 history, there were so many big parts of the country where
22 the crown's claim depended upon the assertion of some kind
23 of treaty relationship with the First Nations.

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1 In reflecting on this treaty
2 relationship, we also have to reflect on the relationship
3 of treaty status with the concept of Canadian citizenship.
4 It seems to me there is a very unclear relationship between
5 First Nations people and Canadian citizenship. Many
6 Elders, at the time the franchise was extended in 1960,
7 including Albert Lightning of Alberta, felt that it was
8 some kind of trick to extend the franchise, that once
9 registered Indians had the franchise, the federal
10 government would begin to downplay the treaty relationship
11 and begin to treat First Nations people as a particular
12 category of Canadian citizen.

13 I think that has to be dealt with. The
14 very essence of the Indian Act, the very central concept
15 of the Indian Act from its inception was to draw some kind
16 of clear distinction between Canadian citizens and
17 registered Indians, and that has never been worked out.
18 So, in working our way through the constitutional status
19 of these treaties and how they fit into the Canadian polity,
20 we also have to be cognizant of this question of how First
21 Nations citizenship relates to Canadian citizenship.

22 Is there, for instance, a dual citizen
23 status where First Nations people have a citizenship in

7 The time is so dear; so little time and
8 so much to say.

StenoTran

4 I get back to this notion that I think
5 we have to conceptualize that there is within Canada a
6 permanent, inalienable, inextinguishable sphere, which
7 we might refer to as the Aboriginal interest in Canada.

8 We could conceptualize this in terms of areas of land;
9 we could conceptualize this in terms of spheres of
10 jurisdiction; we could conceptualize this in terms of
11 linguistic and cultural vitality.

12 The federal government has the
13 responsibility to create a shield, a defence, so that other
14 orders of government and corporate interests can't
15 encroach upon this inalienable sphere. But we have to
16 get away from the idea that this sphere of Aboriginality
17 can be extinguished, encroached upon, little by little
18 cut away, cut off. This has been the approach, of course.

19 Even the Sparrow case, which is often
20 cited as an enlightened bit of jurisprudence, essentially
21 describes a regime of extinguishment. There are certain
22 procedures which a government has to go through in order
23 to annihilate the Aboriginal title, the Aboriginal

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1 interest in certain lands and resources.

2 What you get is a picture in 1492 of the
3 whole of the lands being the Aboriginal sphere of interest
4 and then being cut away, cut away, infringed upon,
5 lessened, narrowed, and that process continues yet. I
6 think the Chartered Lands Act that is being talked about
7 is yet another encroachment and infringement.

8 What I am proposing is that the
9 Commission do what it can to advertise to the Canadian
10 people that we have to get away from this obsession with
11 the kind of extinguishment, based on the premise ultimately
12 that First Nations people are transitional, that
13 eventually they will disappear, that eventually they will
14 blend in with the rest of society, and that Canada's future
15 is in terms of some kind of melting pot where these distinct
16 identities are gradually watered down and infringed upon.
17 We have to break out of that stream of history, a stream
18 of history which has an incredibly strong momentum and
19 impetus.

20 I am sure people who are part of this
21 stream and part of this impetus, unless they have a
22 historical sensibility, may not even realize the movement
23 in history that is being carried forward. We have to find

3 In terms of -- I guess I could call this
4 a recommendation, but almost more a point of information
5 or a progress report. I would like to draw attention to
6 various initiatives which are under way to see that the
7 NAFTA treaty, the treaty between Mexico, the United States
8 and Canada, is not set in motion in a way which will infringe
9 upon the deeper structure of treaties with First Nations,
10 will not infringe upon this Aboriginal sphere of interest,
11 will not limit the possibility of Aboriginal governments
12 to make decisions in their territories and in their spheres
13 of jurisdiction.

22 In Europe, most of the peoples of Europe
23 are represented by governments where their language is

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1 the official language of the government. The governments,
2 to some extent, reflect the cultures of the indigenous
3 peoples. Beyond that, there is a European Parliament
4 attached to the Maastricht Treaty.

5 What we have in Canada, Mexico and the
6 United States are nation states which largely reflect the
7 languages, cultures, institutions of Europe, largely
8 reflect the values of the majority population whose
9 ancestors come from other territories, so these
10 governments don't reflect the values and cultures of
11 indigenous peoples. Not only that, these nation states
12 laid claim to a land mass, to some extent, on the basis
13 of treaties made with First Nations, treaties which in
14 a sense acknowledge the inherent right of self-government
15 of those who entered into these treaties.

16 You could look at this present debate
17 and at what was in the Charlottetown Accord and say it
18 was redundant because of the mere fact that the sovereign
19 of the British Empire acknowledged a people as capable
20 of making a treaty. Where would they get the authority,
21 the autonomy, the power to make a treaty other than from
22 their own sovereignty and jurisdiction?

23 So you have this whole regime of treaty

8 This week, I believe, Lloyd Axworthy is
9 bringing an amendment on behalf of the Liberal Party to
10 the floor of the House of Commons. The federal government
11 is trying to ram this legislation through, using closure
12 and not allowing for proper hearings. Kim Campbell speaks
13 of the politics of inclusion. What we are seeing in the
14 way the NAFTA treaty is being forced is the politics of
15 exclusion par excellence.

StenoTran

8 The politics of exclusion which
9 Aboriginal people have known throughout, certainly since
10 1867 and the people in the east far before that, has been
11 developed and made more sophisticated so that many, many
12 Canadians feel excluded from the vital centres of
13 decision-making over their own futures. I guess Native
14 people are the most extreme example of that unfortunate
15 process in history of which more and more people are
16 becoming conscious.

18 **MODERATOR REGGIE CROWSHOE:** Thank you,
19 Tony.

20 **CO-CHAIR GEORGES ERASMUS:** One area
21 that I have a question on -- and you have sort of explained
22 it. You make the point that, because section 35 is there
23 and 91(24), there is no need for legislation.

5 If they were to do away with the Indian
6 Act, as you seem to be indicating, and not come up with
7 other legislation, what would be the basis of defining
8 what in fact is their authority? They have the head of
9 power, and section 35 is there, but there is a lot of
10 question about what section 35 actually means. What would
11 be used?

20 These phrases that were used, phrases
21 like "navigation", "post office", "Indians and land
22 reserved for Indians", are what Georges is referring to
23 as heads of power.

4 On one hand, this was blatantly racist
5 in that you are talking about a people as an area of
6 jurisdiction. You are talking about Indians. Of course,
7 there is nothing in the British North America Act which
8 mentions the Nitsitape(PH), Anishnabai, Haida, Dene.
9 They mention this group called Indians and say that it
10 is under the authority of the federal Parliament.

Out of this head of power came the Indian Act which established a regime where a Minister of Indian Affairs would have authority and jurisdiction in the day-to-day affairs of Indian people. In a sense, that is a very Victorian, in the worst sense of the word, antiquated aspect of the Constitution.

22 On the other hand, in the whole history
23 of British colonization of North America, it was clear

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1 that the local government would always try to push away
2 any Indian resistance to exploitation of natural
3 resources. So, in large measure, for instance, the
4 American Revolution was about the local colonies becoming
5 exasperated with the British imperial authority and trying
6 to push away the central authority. In turn, the central
7 authority and the British Empire understood that, in order
8 to have a decent relationship with Indian nations in the
9 interior, you couldn't leave this to the local governments,
10 to the colonies. This relationship had to be within the
11 sphere of authority of the central government.

12 In the present day this continues. The
13 provinces are always trying -- Quebec is trying to get
14 the hydro-electric development --

15 **CO-CHAIR GEORGES ERASMUS:** Could you
16 answer the question. What authority would the federal
17 government use if they didn't have legislation?

18 **TONY HALL:** In a sense, I am trying to
19 show this idea of the central government having
20 responsibility for this relationship. There are strong
21 antecedents in history, and I think whoever wrote 91(24)
22 sort of understood that it was vital that the central
23 authority have responsibility for this relationship.

8 There is within the Canadian tradition,
9 which is British tradition in large measure, this whole
10 aspect of the unwritten constitution. You don't have to
11 make everything explicit. In fact, by making things
12 explicit, you limit them and tie them down. The First
13 Ministers in the Charlottetown Accord certainly didn't
14 want to be explicit about the powers of First Ministers
15 and where exactly they are getting their authority.

16 This is why I would be very distrustful
17 of a legislative approach. I think there is a lot in the
18 unwritten aspect of Canada's Constitution. The document
19 itself doesn't describe the treaty relationship. We speak
20 of the spirit and intent of treaties, the fact that people
21 were negotiating these who didn't speak English at the
22 time. What did they think they were doing? What did they
23 think they were hearing?

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1 **CO-CHAIR GEORGES ERASMUS:** How do you
2 deal with the fact that in NAFTA and in the Free Trade
3 Agreement with the United States and other international
4 treaties the states that are involved generally have to
5 have domestic legislation to carry out what in fact they
6 signed in the treaties?

7 **TONY HALL:** To my way of thinking, the
8 Indian Act has nothing to do with the treaties. In fact,
9 the Indian Act represents a betrayal --

10 **CO-CHAIR GEORGES ERASMUS:** I understand
11 that. If the Indian Act were done away with, you say there
12 is no need for legislation to implement the treaties.
13 I am asking how that jibes with the fact that treaties
14 are also international in nature?

15 **TONY HALL:** I am not really sure what
16 you are getting at, Georges. Do you want to elaborate?
17 Is there something that would help me to understand?

18 **CO-CHAIR GEORGES ERASMUS:** I was just
19 wondering how you brought the two together. The only way
20 NAFTA is going to be able to be law in Canada is if the
21 federal government actually passes legislation. What
22 makes First Nations treaties, which are also international
23 in nature

2 **TONY HALL:** I am arguing that there is
3 a great deal the federal government could do through
4 policy, simply through deciding at the Cabinet level that
5 existing Aboriginal and treaty rights is a large sphere
6 of Canada and begin to develop policies, procedures,
7 regimes which conform to that and even then going to court
8 to stand for the principle that existing Aboriginal and
9 treaty rights is an expansive sphere in this land. A lot
10 could be done in that way.

12 **MODERATOR REGGIE CROWSHOE:** At this
13 time we will take a five-minute break, and then we will
14 go to the next two presenters.

16 --- Upon resuming at 3:40 p.m.

21 MIKE BRUISED HEAD, Executive Director,
22 Sik-ooh-Kotoki Friendship Society: Oki, Reggie. Oki,
23 Georges. Oki, Viola.

2 Good afternoon, Reggie, Georges, Viola.

6 After going through the information on
7 the terms of reference for this Commission and the
8 literature, Framing the Issues, and a process to deal with
9 Native issues in this country called Canada, I can't help
10 but use a report that was put together through another
11 Commission called the Cawsey Report. If we were to follow
12 through on all their recommendations, it would come close
13 to the tune of \$53 million. I can't help but imagine the
14 costs that each recommendation may possibly carry through
15 your travels throughout this country.

22 I hope that what I say today I don't have
23 to repeat, as young as I am, at some future Commission

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1 that may travel across this country again.

2 First of all, a little preamble on the
3 Friendship Centre.

4 Next year we are going to be celebrating
5 our 25th anniversary here in Lethbridge, in 1994. In the
6 past 24 years we have seen many people come through the
7 doors of the Friendship Centre, utilizing our services
8 and programs, from referral to culture to recreation and
9 just about everything under this sun of ours.

10 Since the inception, the Friendship
11 Centre here in Lethbridge, I guess like the 100-odd
12 Friendship Centres in this country, 14 in this province,
13 has helped create that liaison, that transition of the
14 Native people migrating into the urban centre. We have
15 helped in the adjustment, and we are still continuing to
16 do so.

17 Twenty-four years later, today, we face
18 elimination and extinction like all other Native programs
19 in this country because of federal and provincial cutbacks.

20 Everything seems to be taxed to death; yet, when it comes
21 to federal Native programs, they are on the wayside sooner
22 or later.

23 I don't think I have to really visionize

10 I have been working with the Friendship
11 Centre for going on six years. As a possible resolution
12 that I ask right off the bat is that there be continual
13 long-term funding agreements, with no cutbacks, from the
14 federal government to the Friendship Centre -- the
15 national, the provincial and the local Friendship Centre
16 programs.

17 The Friendship Centres in this country,
18 I think, deserve the recognition that they have been pushed
19 to do the political, the legal, the social, the economic,
20 the educational, and whatever is needed to help these
21 Native people adjust to the city. Some of the reserve
22 communities cannot and are unable to facilitate their needs
23 of housing, economic development, education, land base

2 As I have already addressed in my opening
3 statement, I looked and synthesized my presentation today
4 to come up with resolutions to these problems and
5 recommendations that will have a potential process when
6 the dust settles after this forum and after this Royal
7 Commission wraps up its references and roles and duties
8 of their trip.

17 The first item is language preservation.

18 I would like to see the federal and provincial governments

19 and any religious or church groups that were involved in

20 the loss of our language compensate the Native people in

21 this country, to bring back our languages, to pay for those

22 people still fluent in their mother tongue, to pay for

23 the materials and the preservation costs. I think an

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1 apology is a start from the Anglican and some of the
2 Catholic churches, but it still doesn't even hit the pain
3 of people that were forced to speak a foreign language
4 other than their own.

5 The second is literacy programs. We
6 estimate 60 to 70 per cent of urban Native people living
7 in this country are functionally illiterate, meaning
8 having Grade 8 or less education. To have long-term
9 funding literacy programs for Native people, especially
10 the urban Native people, and that these literacy programs
11 have Native representation and governments to address
12 them, not to have these pilot projects that are coming
13 out every so often from the provincial and federal
14 governments.

15 The third is museum artifacts, to have
16 the federal and provincial museums return those sacred
17 artifacts to Native people for us to retain and to maintain
18 our sacred ways and our sacred ceremonies, to return these
19 artifacts to people who know what to do with these artifacts
20 and who have the right to handle them, to discuss them,
21 to transfer them, and who have the right to bring them
22 home.

23 Those are the main three. We talk about

6 The fourth item is border crossing,
7 which some of the Elders brought to my attention, to speak
8 on their behalf -- to establish a working relationship
9 with the federal immigration and customs officials and
10 with the Native people for a more peaceful and
11 understanding approach for people crossing the borders
12 of Canada and United States and the process where we have
13 our ceremonial bundles, pipes and artifacts that the
14 customs and immigration officials have a right to handle
15 and touch and open.

20 To have something that will alleviate
21 this sacrilegious activity from our perspective, the white
22 people touching our sacred bundles. Maybe one of these
23 days, before I cross the Canadian border, I will strip

5 The fifth item is the Pathways Program.

16 I think Native people should be
17 full-time, permanent employees of CEIC. We need our own
18 Native people sitting on the other side to work jointly
19 with the Canada Employment Centre staff and the Native
20 management boards. I think a full review and

StenoTran

4 The next item is taxation. I ask this
5 Royal Commission not necessarily physically to reverse
6 but to begin the lobby of the Supreme Court decision on
7 taxation with regard to taxation for status Indians living
8 off the reserve. It is hard enough that we cannot find
9 jobs in our Native communities; now we are providing taxes.

13 Many status people are employed
14 off-reserve, and I don't think it is justified, when they
15 are working for their people, that they have to pay taxes,
16 too.

19 With the low and decreased funding, it is difficult enough
20 to pay taxes; yet, we are just getting a drop in the bucket
21 for funding. I wouldn't mind if we were getting a million
22 dollars and they were charging GST; I wouldn't mind that,
23 but not just on a measly \$100,000.

11 There should be more visibility of
12 Native people, especially status people who seem to be
13 falling through the cracks. These Native people should
14 be hired on a full-time basis, permanently, rather than
15 just ad hoc, catch-all kinds of employment programs.

StenoTran

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1 self-sufficiency, but at this point in time, with
2 continuing cutbacks, what is the alternative? There are
3 only so many goodwill dollars that go to non-profit
4 organizations. I think the Friendship Centre should be
5 allowed to have a more business and economic enterprise
6 approach and be allowed to maintain some business
7 functions.

8 The ninth item -- I just want to tell
9 a little story. This being a long weekend, I was at the
10 Waterton Park on Sunday having a family picnic. Two things
11 occurred to me that, if I had done something, I think I
12 would be making this report from a maximum federal
13 penitentiary.

14 I think Native people are sick and tired
15 of racist attitudes. If we take the law in our own hands,
16 the consequences will be, I guess, at our expense.

17 I was in Wiarton going up to Cameron
18 Lake, and we were looking for a picnic table. There were
19 two tables by a picnic site, and there were four people,
20 all non-Native, two females and two males. We stopped
21 to use the washroom, and we started working our way toward
22 the picnic table to have lunch there. These four people
23 were not using one table. They saw us coming, and one

9 The second part is the same thing,
10 looking for a picnic table, this time in downtown Waterton
11 by the lake. There were three people there. Two people
12 were putting on their diving equipment, and we asked
13 politely, "Can we use the other table?" This one guy that
14 was videotaping these people putting on their diving
15 equipment did not hesitate and said, "No!"

21 Number nine is to pursue that there be
22 a complaints office -- and it is not the first time I have
23 heard these stories -- and that all federal national parks

4 I think this is part of the whole thing
5 of racism. Those parks belong to us, more so than anybody
6 else because we were here first. Yet, we feel like we
7 are from an alien country going into parks, just the way
8 we are treated.

23 It has never been done, and I think this

4 The eleventh item is the constitutional,
5 the legal, the cultural, historical and language
6 differences of off-reserve or Treaty Indians and the Métis
7 must be recognized separately. Their legal and political
8 positions vary, and they should be processed separately,
9 not integrated into the dominant Canadian society's idea
10 of the melting pot syndrome.

20 The twelfth item is to have research
21 grants and foundations that are directed at studying Native
22 people, to have Native representation. We are being
23 studied to death, and I think we will continue to be studied

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1 to death. But, if we are going to be studied to death,
2 let's have our own people study us to death. How many
3 dollars have been set aside for research? I think the
4 Native people should be allowed grants for us to study
5 the parliamentary system, for us to study the white people,
6 for us to study the institutions that are still somewhat
7 vague to us, and any other topic that would create justice
8 and at least have some kind of co-operation. We want
9 dollars to study the activities of Parliament, for us in
10 our own terms to find out what they are there for.

11 In conclusion -- my colleague, Stan, is
12 kicking me in the shin. I am truly grateful to be allowed
13 to address my issues and presentation to the Royal
14 Commission on Aboriginal Peoples. I know one day I will
15 be an Elder, if I live long enough, since we have a mortality
16 rate of 60 or 65, males and females. If I live long enough,
17 I might be a good Elder. I pray that my children and my
18 future grandchildren will benefit from my presentation
19 and from the other submissions that have been addressed
20 at this forum.

21 I hope in my lifetime I will live to see
22 those changes and my people to be given back the honour
23 and respect that we deserve. This country was first ours,

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1 and we are still at the bottom of the list.

2 I thank you all, and I also ask kindly:

3 Please take what we have said today to heart because we
4 are the people; we come from the land.

5 Thank you.

6 **MODERATOR REGGIE CROWSHOE:** Thank you,
7 Mike. The Panel will ask some questions now.

8 **CO-CHAIR GEORGES ERASMUS:** Thank you
9 for your presentation.

10 In your Point No. 10 you recommended that
11 the Royal Commission get together with the Federation of
12 Municipalities and have a conference on urban Aboriginal
13 peoples. You might be surprised, but this took place last
14 June. We contacted the Federation of Municipalities some
15 six or eight months earlier. At the beginning they were
16 very enthusiastic. We put together some ideas; they put
17 together ideas and meetings. The closer we got to the
18 meeting, the less interest the municipalities had.

19 In the end there were less and less
20 mayors going to come. In the end, I don't think there
21 was a single mayor that showed up. There were officials
22 sent from certain places, but no one had any authority
23 to actually participate in anything. They came as

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1 observers.

2 We were actually quite disappointed.
3 As you state, it is a very, very important area. What
4 we did was invite Aboriginal people from all of the major
5 cities, the large ones, in the country. In Alberta we
6 had Calgary and Edmonton, and right from Montreal all the
7 way across the country. We knew there were other urban
8 areas like Lethbridge, for instance, and many other areas
9 that were being left out, but what we did was take nine
10 or ten of the huge ones -- Toronto, Montreal, Vancouver,
11 et cetera -- and we brought a cross-representation of
12 Aboriginal people from those cities so that we could have
13 this dialogue that we thought was absolutely necessary.

14 There was a huge turnout by Aboriginal
15 people, a huge turnout, and there were even more wanting
16 to come. We had hundreds of Aboriginal people that came.
17 Unfortunately, on the other side of the coin, we were
18 hoping that we would have police chiefs, mayors, people
19 delivering social housing -- all the different services.

20 It ended up that the services that came
21 were the Aboriginal services -- the Friendship Centres,
22 all of the different organizations that Aboriginal people
23 have created in the large urban areas.

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1 The dialogue that we had hoped for didn't
2 occur, unfortunately. Since then we have discovered that
3 the municipalities have decided to create a committee;
4 they are looking at this issue. They are having a
5 conference -- if they didn't have it this past weekend,
6 I think it is this coming weekend. This issue actually
7 is part of their annual meeting. Their committee has been
8 looking into it, and it is going to be delivering a report.

9 We are sending one Commissioner to it,
10 and we have some of our officials going to it.
11 Unfortunately, the dialogue we had hoped for -- it was
12 a good dialogue. Because we had so many Aboriginal people
13 there, we learned a lot. We had lots of workshops and
14 so forth, but they were not as good as they could have
15 been.

16 I am telling you that just to let you
17 know that we made an effort there, and we will make more
18 efforts in the future. We recognize that as an important
19 part of our work.

20 That was our first Round Table. The
21 reason we started off with that first was because there
22 has been lots of work in other areas, but one of the areas
23 where there has not been a lot of work yet is Aboriginal

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1 people living in an urban area -- what institutions are
2 going to be there in the future, and on and on.

3 **MIKE BRUISED HEAD:** If I may, Mr.
4 Chairman, I was involved in a conference similar to this
5 in Calgary. I was one of the presenters with regard to
6 policing and how to deal with policing problems.

7 I guess what you have said supports this
8 thing of Canada and each local municipality. I have to
9 give some credit to the City of Lethbridge -- the aldermen,
10 Alderperson Debbie Crampo and the Mayor -- for the support
11 they have given us. But it is unfortunate that that same
12 kind of support either doesn't exist or it's nil in other
13 parts of Alberta and Canada.

14 I think maybe this Commission in its
15 findings and concluding remarks should really establish
16 if not only Lethbridge but Canada is really, truly racist.

17 **MODERATOR REGGIE CROWSHOE:** I would
18 like to thank you for your presentation. We will move
19 on to Stan.

20 **STAN KNOWLTON:** Oki. (Native language
21 - not translated)

22 Georges, Reggie, Viola, my name is Stan
23 Knowlton. My Indian name, translated, would go something

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1 like Man Like Rabbit in Motion.

2 I would like to start off with a brief
3 letter that I have here to give some idea of where I will
4 attempt to go with this. It starts out:

5 "Dear Mr. Knowlton:

6 Thank you for your thoughtful response
7 to our program on bilingualism. The
8 Aboriginal perspective on it is one I
9 hadn't thought of.

10 I congratulate you on your work to
11 keep your language alive. I wish you
12 every success with it. Please keep me
13 informed of your progress."

14 It is signed "David Suzuki."

15 I have another letter here that goes
16 something like this:

17 "Dear Mr. Knowlton:

18 Many thanks for your letter and
19 wonderful package. You are doing so
20 many important things. Your thoughts
21 about immersion as being the crucial key
22 to preserving linguistic traditions
23 seems so right.

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1 I would very much like to hear more
2 about your work as the project
3 progresses."

4 This is signed "Miriam Nitham,
5 Representative for United Nations on Aboriginal
6 Languages."

7 I have another document here, a quite
8 lengthy document of about 500 pages which is only half
9 of it. This comes from the Fitzner Institute, entitled
10 "The Dialogue between Indigenous and Western Scientists."
11 This involves some 30 scientists, some of the best
12 scientists in western ways of thinking.

13 The research that the Sik-oo-h-Kotoki
14 Friendship Centre does here in Lethbridge is being
15 recognized. It goes a long way. I think we have to start
16 taking it a lot more seriously. At this particular point
17 I believe we are on the cutting edge of a new era but,
18 unfortunately, this era comes from our past. A lot of
19 times what happened is that a lot of what we had was taken
20 away.

21 We have often referred to the countries
22 of Canada, United States and Mexico as North America.
23 They have their constitutions, and we have problems with

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1 it. In the last couple of days I went from a reserve into
2 the city. In that time period I went from a reserve status
3 to an urban Indian, and I went into the States and I became
4 nothing.

5 These are the problems we have with them.
6 Unfortunately, we are not here to talk about the problems.

7 Some of the work that we do is
8 interpretation. When we talk about languages, we talk
9 about culture. We talk about a perspective. We talk
10 about all the things that make us who we are.

11 I came from a reserve. I have been in
12 the city for maybe 15 years, over half of my life, and
13 I still haven't turned white. In fact, I seem to keep
14 going back to my original roots.

15 In the research I do, a lot of times I
16 am unable to find it from my own people because the boarding
17 schools have blocked it all off. A lot of times it takes
18 careful study. One of the recent things I discovered is
19 that the Blackfeet did have a written language. It is
20 something that most people don't know about. We have
21 computerized it so that we can start teaching it in school
22 but, unfortunately, it is classified as artifacts and not
23 subject to federal grants.

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1 This 50-page document is not even
2 classified as literature. We have astronomy which is
3 being displayed in the Planetarium in Calgary but, as far
4 as the scientists are concerned, it is not considered
5 astronomy.

6 A lot of times, when we look at these
7 types of situation, we do have a language problem; we do
8 have a communication problem. Just very recently we were
9 given the ability to vote. Before that we weren't
10 considered humans; we weren't given that right. Those
11 attitudes still continue today.

12 A lot of the problems that we see in the
13 city are the direct result of Aboriginal people not being
14 treated like people, or the Aboriginal people themselves
15 not really seeing themselves as being complete, as in my
16 case.

17 There is a reason why I went out to look
18 for who I was. What I found out was that we did have our
19 own constitution; we were complete at one time, but these
20 things have been taken away. It is up to us to go out
21 and look for those things, to re-discover who we really
22 are.

23 One of the things that we found out as

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1 we went through here, as we talked with many different
2 groups, is the common motif that occurs all over the place
3 which makes reference to Turtle Island. Turtle Island
4 encompasses the whole North American continent, the
5 Ellesmere Islands in the north representing the head,
6 Labrador representing one of the flippers, Florida another
7 flipper, Mexico the tail, California another flipper,
8 Alaska another flipper, and then the shell is divided into
9 13 areas which represent the custodians of those areas.

10 These custodians

11 -- and we belong to one of them. In our language we use
12 the word "Spoo-pii" to describe the Turtle, which means
13 an area which is high.

14 This area that you are in right now, what
15 we have here is that the water flows off in all directions
16 from this area, which represents that high spot.

17 All these areas, as in the live turtle,
18 are what represents our sacred constitution, the
19 Constitution of Turtle Island. One of those areas on that
20 turtle's back -- like any other turtle, it is broken into
21 13 areas. We represent one of those areas, and within
22 those areas it breaks down further.

23 If you come through Calgary, the

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1 Blackfoot people refer to this area as the Old Man and
2 the Old Woman, as in the river. The Rocky Mountains
3 represent the backbone. The Nose Hill in Calgary is the
4 centre of his face. The Bow River is his bow. The
5 Porcupine Hills is his breastplate, The Elbow River is
6 his elbow. The Belly River represents part of his stomach
7 -- and it goes all the way down to Missoula where you have
8 the Blackfoot River.

9 Off to the east you have the Old Woman.
10 She looks back this way. Likewise, her body parts are
11 all marked. This forms part of the Constitution of Turtle
12 Island. It doesn't include just the Canadian
13 organizations, like the Treaty 7 groups. It doesn't just
14 include the AFN; it doesn't just include the Treaty
15 Alliance and different organizations we have today. It
16 goes clear from Mexico all the way to the tip.

17 What we have to do is realize that this
18 Constitution has been there for a long time. It still
19 exists. We can still utilize it, which we do. It has
20 its own legal system; it has its own economic system; it
21 has its own education; it has its own philosophy; it has
22 its own language; it has its own logic. We can utilize
23 those things. We have been doing it for the last 500 years.

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1 It's nothing new. It is something that, if more people
2 realized what it was and realized that it's not a threat,
3 it's who we are, it's what we are, it is something that
4 is very real and we can use it; I use it every day.

5 It is something that, through education,
6 was taken away from me. I learned the Canadian system.

7 I learned the American system. I learned every other
8 system, but I never learned my own. I was 30 years old
9 before I started finding these things out. I was 30 years
10 old before my education in the Canadian and the American
11 system stopped and I started looking at my own and realized
12 how important it was.

13 It is our tradition. Like I said, we
14 are working in areas of high technology. We are utilizing
15 virtual reality programs to teach our language. We are
16 moving into computers. We are moving into areas where
17 science is just beginning to go. It's time we quit looking
18 at our systems; I think they are not worth looking after.

19 It's time we started revising them, to get to know what
20 they are. It's through that that we will find ourselves.

21 As Aboriginal people, we can no longer
22 afford to simply just ad hoc our futures, the future of
23 our children. There are too many organizations that deal

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1 with little more than crisis management. We have to get
2 away from those.

3 In the Friendship Centre we see what
4 happens on a daily basis. There are people who don't know
5 who they are. We deal with it every day; we experience
6 it.

7 Moving into a system, what I call the
8 Constitution of Turtle Island, doesn't really cost
9 anything. It's nothing to be scared of. It is something
10 in this area that we can implement, and we have been
11 implementing it. It is a type of urban Aboriginal
12 government, whatever you want to call it. It is something
13 where we can use existing resources that are currently
14 being thrown at inefficient or obsolete programs. I guess
15 the most important thing about it is that it works, not
16 only for Aboriginal people but for everybody else. It
17 has huge benefits that go with it.

18 If you look at the tourism industry and
19 the different industries that are out there which are
20 moving in the directions of eco-tourism, one of the things
21 that is mentioned is that cultural and leaving the land
22 the way it is are some of the things that people are
23 beginning to look at. Again, we are in an economic

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1 situation where we can start utilizing that.

2 So there are many advantages to this.

3 It eventually will pay for itself. We don't have to
4 depend on anybody. It can exist within the other framework
5 that the other people have brought over here. It is
6 completely compatible. It could be an alternative to the
7 failing system that we see happening all over the place.

8 I see this thing taking us into the 21st
9 century. As it is, countries under economic systems are
10 becoming obsolete. The present system does not allow
11 scientists to go beyond the use of their own languages
12 right now. With that, we have to have systems. We are
13 going into space. We are doing things where there is going
14 to be a lot more expected than what we have right now.
15 Rather than buying into this system, we can use our systems
16 right now to get that.

17 The scientists are in a position where
18 they are looking to us to provide that leadership. I don't
19 think they are looking for us to use their system to do
20 it. They want us to start using our own. They want us
21 to start thinking the way we used to think a long time
22 ago.

23 It would be nice to fix the system. In

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1 a lot of cases I don't think it is worth fixing. I think
2 we have to look at the future; we have to go on with it.

3 With that, some of the things we have
4 come up with, our language has been around for a long time.

5 I have a site here. If I was to hold up this picture
6 here and show you a pyramid of Egypt that I have found
7 in the prairie, there would probably be a lot of fascination
8 with it. This particular site was something like
9 Stonehenge where our writing used to be stored -- there
10 is a little syllabic writing here.

11 Growing up, this is what the system did
12 to us, hoping that they could kill our languages, kill
13 our culture. Boarding schools were put in place to do the
14 same thing. A lot of times I would say they were about
15 90 per cent efficient in what they did. It is scary to
16 sit here.

17 This document was written in the early
18 1800s, with Blackfoot syllabics. That language has 54
19 characters, and English has 26. They only have 13 that
20 are in common. The Blackfoot language is verb-based; the
21 English language is a system which is noun-based. So there
22 is very little communication that occurs between them.
23 Yet, we hold meetings with the language.

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1 We are missing a lot of things here.
2 The thing about it is that this document that I have here
3 was put together by a group of Elders. A lot of the
4 information I have is confirmed in there, if you can
5 understand it. Eventually, we will have full
6 understanding of it.

7 It is through our legends that we are
8 able to locate geographical wonders like this, an old
9 Stonehenge structure dating back 20,000 years.

10 There are five archaeological surveys
11 out there to prove that this site doesn't exist. There
12 is all this stuff out there that we haven't even begun
13 to look at yet. Yet, we have to start doing it. The
14 children that we have growing up in the cities depend on
15 this. The children on the reserves, children everywhere,
16 depend on leaders looking at this line. We ought to quit
17 laughing at it and take it seriously. I have taken it
18 seriously, and I have been laughed at. I have been thrown
19 out of a few buildings. I have been thrown out of a few
20 meetings.

21 The thing is that it took us two meetings
22 for these scientists to sit down, almost a week, to get
23 them to even begin to start listening to us. And, do you

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1 know what? They quit laughing. I think it is time that
2 Aboriginal people start looking at these things that we
3 do have, start putting it together and start showing them
4 what we can do.

5 I would like to thank you.

6 **MODERATOR REGGIE CROWSHOE:** I would
7 like to thank Stan for his presentation. There may be
8 some questions from the Panel. Then I would like to
9 present Keith Chiefmoon, and then we will break at 5
10 o'clock.

11 **CO-CHAIR GEORGES ERASMUS:** Do you have
12 enough of those things that you were holding up to share
13 with us?

14 **STAN KNOWLTON:** All we had was 20
15 minutes. With this meeting we had six days. I would like
16 to extend an invitation to come over and visit our Centre.
17 We could sit down and go through everything we have.
18 In the meantime, I will give you what I do have. I will
19 mail them to you. I would like to keep the door open at
20 some future date where we can sit down and go over it in
21 a lot more detail.

22 **CO-CHAIR GEORGES ERASMUS:** Can you just
23 tell me who was supposed to have blown up this site that

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1 you were talking about?

2 **STAN KNOWLTON:** It was blown up by the
3 government. It was all part of their assimilation
4 program. With the material that we do have here, it puts
5 a measurement on how far they have gone and the extent
6 they would go to.

7 **CO-CHAIR GEORGES ERASMUS:** How far back
8 does the written language of the Blackfeet go?

9 **STAN KNOWLTON:** We have a document here
10 with some of the dates in here, which we have been able
11 to put back to the early 1800s, 1827, 1819. These are
12 some of the dates they are using in this particular
13 document.

14 There is a lot of things that we do have
15 to get together on. The language is only part of a greater
16 constitution. The systems are all still intact, but they
17 exist within the languages themselves. We have to do a
18 lot more studying on the languages.

19 **CO-CHAIR GEORGES ERASMUS:** We will be
20 very interested in looking at the stuff you are going to
21 provide. Thank you for coming forward.

22 **MODERATOR REGGIE CROWSHOE:** I would
23 like to thank Stan and Mike for their presentations. At

2 KEITH CHIEFMOON: Thank you very much.

5 (Native language - not translated)

9 He is the Deputy Mayor as well as the Chairman of the
10 Task Force on problem housing. Unfortunately, he is busy
11 with meetings, and he extends his apologies and said I
12 should address the issues that we were going to talk about.

19 As you know, racism is very much alive
20 and well here in the city of Lethbridge. Part of the reason
21 is that we have had several incidents that keep coming
22 up. It came to the point that the City Council appointed
23 this Task Force to deal with the issue of housing, or

2 We worked with the various committee
3 members. We had committee members from the City, some
4 of the councillors, members of the Native community, the
5 Friendship Centre, the City Solicitor. A group of us
6 decided that there had to be something to accommodate the
7 many of the Aboriginal people who are usually, for lack
8 of a better word, sleeping on the streets on any given
9 night. I consulted with the City and the City Police,
10 and they have told me that on any given day, even today,
11 you are going to find 20 to 25 adults that need emergency
12 shelter. Some of them are not on assistance because they
13 are just more or less left out. They are to the point
14 that they just don't want to bother going through all the
15 bureaucracy of having to apply to Social Services and then
16 getting bounced around.

17 Actually, they really don't have any
18 voice. Moreover, housing is a major issue for us, not
19 only for the homeless but for the many students who come
20 to Lethbridge to study. They are trying to better
21 themselves; yet, they face this problem. The doors are
22 slammed in their faces, and it is very frustrating. I
23 went through that lots of times.

9 When I knocked on the door and they saw
10 who I was, they said, "I'm sorry, but we just rented it
11 out 10 minutes ago." I said, "But you said on the phone
12 to come and have a look." "Sorry."

17 I was the General Manager of the Housing
18 Department on the Blood Reserve some three years ago.
19 At that particular point, the backlog of families that
20 did not have access to housing was 700 families. That
21 is how much the demand was -- and I am only speaking of
22 the Blood Reserve. I would imagine the circumstances are
23 almost similar on the Peigan Reserve. The reason I quote

3 What happens? There is no housing on
4 the reservation, so they are forced to go to the cities
5 only to be subjected to houses that are sub-standard, are
6 really old, and in the winter time they get very cold.
7 The electricity and heat is quite high and, as a result,
8 they have to pay quite a bit to maintain a reasonable level
9 to keep themselves comfortable.

11 Mr. Martin on the City Council was very concerned. He
12 did not want to find one of the regulars here in the city
13 on one of these cold winter mornings dead on the street.

17 However, what has happened is that the
18 provinces are not co-operating, the federal government
19 is not co-operating. It is coming to the point that the
20 City is prepared to provide this type of emergency shelter
21 because they feel that type of service is required.

StenoTran

8 We agreed with the City that this is what
9 is required. These serious discussions have been taking
10 place in the past 18 months. It just didn't happen that
11 we applied yesterday.

17 The other thing I wanted to address is
18 the students. There are a lot of students coming to school
19 here. As one of the expert sociologists or psychologists
20 indicated, you have to have a good home in order to excel
21 in your studies. What happens is that, when students come
22 to the city, it is not a very good situation, so they end
23 up commuting back and forth to the reservation. That adds

2 We feel that, if it is not addressed,
3 it causes more problems. What usually happens is that
4 they end up being statistics. They say, "These Native
5 students came, and they failed in their studies." But
6 they don't realize that all the factors weren't equal.

12 I know that, as far as some of the Native
13 students who have tried, they get bounced around here,
14 and it makes it very frustrating.

17 Emergency shelter should be a priority.

19 We should have an urban Indian housing
20 program.

StenoTran

6 That is what I have included. Again,
7 my apologies for my colleague, Ed Martin. He was going
8 to be here, and I guess he had meetings.

10 **MODERATOR REGGIE CROWSHOE:** Thank you
11 for your presentation, Keith. At this time, the Panel
12 has some questions.

18 **CO-CHAIR GEORGES ERASMUS:** How big is
19 the Blood Reserve? How many people are there on the
20 reserve?

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2 What has happened there is that the
3 majority of these tribal members are moving to the
4 neighbouring cities. If you drive around in the
5 neighbouring cities, such as Cardston, you will find that
6 there is a high rate of families living in the town of
7 Cardston, Fort McLeod, Lethbridge, McGrath, Raymond
8 because of the fact that the tribe just can't keep up with
9 the demand.

11 COMMISSIONER VIOLA ROBINSON: I have
12 just one question.

16 **KEITH CHIEFMOON:** Yes. There was a
17 committee established called the Task Force on Problem
18 Housing, and that is what the City is prepared to make
19 a contribution, just so that we can address the need for
20 this emergency shelter.

StenoTran

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1 **COMMISSIONER VIOLA ROBINSON:** You don't
2 have any kind of urban housing society?

3 **KEITH CHIEFMOON:** There is, but again
4 there is a backlog. I can't really speak for them, but
5 there is an existing housing program called Treaty 7.
6 There is a backlog of all these families. I think they
7 only allow -- I forget how much, but they just can't keep
8 up.

9 The other program that is available is
10 the Low Rental Housing Program. Again, the Native people
11 have applied, and they are usually away down the list.
12 I think they have a one-year or two-year waiting list that
13 exists all the time.

14 **COMMISSIONER VIOLA ROBINSON:** Thank
15 you.

16 **CO-CHAIR GEORGES ERASMUS:** Thank you
17 for coming forward.

18 **MODERATOR REGGIE CROWSHOE:** Thank you,
19 Keith.

20 There is one person at the mike, and then
21 we will break for dinner so that we can start the Youth
22 Circle at 6 o'clock.

23 **MARTIN HEAVY HEAD:** Thank you very much.

4 I also am the Chairman of the Treaty 7
5 Urban Indian Housing Authority here in Lethbridge. We
6 started out in 1986. Actually a little before that, we
7 did a Needs Assessment for the City of Lethbridge. When
8 we did that Needs Assessment back then, there were 800
9 families that applied for housing here in Lethbridge.
10 At the time we didn't have one house.

16 We are well aware of the housing problem
17 for Native people here in town. In fact, there are places
18 referred to as Indian Village, Mexican Village, Devil's
19 Corner, that are tenanted by low-income Native families
20 that really have no other place to go. The slum landlords
21 here in town are doing a great business.

22 We have bought these houses that are
23 individual family units, but we can't even come close to

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1 providing for the demand that is out there.

2 What happened this year is that this
3 program has been cut by CMHC. The other program that
4 exists specifically for Native people is the on-reserve
5 or Rural Native Housing Program, and that hasn't been cut
6 yet.

7 One of the things that I would like to
8 recommend is that the Urban Native Housing Program be
9 continued after this year because it is serving a great
10 need, especially here in Lethbridge and also in Calgary.

11 With that, I would like to thank you very
12 much for your time.

13 **CO-CHAIR GEORGES ERASMUS:** Thank you
14 for coming forward with that.

15 **MODERATOR REGGIE CROWSHOE:** Could I ask
16 Martin to come up to the front. We will end this
17 afternoon's session and break for dinner. We will start
18 the Youth Circle at 6 o'clock.

19 I will ask Martin Heavy Head to say the
20 closing prayer.

21 --- **Closing Prayer**

22 --- Whereupon the Hearing was concluded at

23 5:00 p.m.