

COMMISSION ROYALE SUR  
LES PEUPLES AUTOCHTONES

ROYAL COMMISSION ON  
ABORIGINAL PEOPLES

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"for the record..."

**STENOTRAN**

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1 Edmonton, Alberta

2 --- Upon commencing on Monday, June 14, 1993

3 at 1:30 p.m.

4 **CO-CHAIR GEORGES ERASMUS:** I think we  
5 will begin. We are going to open with a prayer. I am  
6 going to ask Connie Morin to open the meeting for us with  
7 a prayer. If the rest of us could stand, please.

8 **OPENING PRAYER - MS CONNIE MORIN**

9 **CO-CHAIR GEORGES ERASMUS:** We will  
10 start with Father Jacques Johnson from the Lubicon  
11 Settlement Commission of Review. Please begin whenever  
12 you are ready.

13 **FATHER JACQUES JOHNSON (Lubicon**  
14 **Settlement Commission of Review):** Mr. Chairman, as  
15 Co-Chair of the Lubicon Settlement Commission of Review,  
16 I am very pleased to introduce to you some of the members  
17 of our Commission. To my left is Ms Jennifer Klimek who  
18 is Co-Chair. She is from Edmonton and is a city lawyer.  
19 Ms Sandy Day from High River, south of Calgary. Rev.  
20 Menno Wiebe, Executive Secretary of the Mennonite Central  
21 Committee from Winnipeg.

22 We are very grateful to the Royal  
23 Commission for your invitation to appear before you today.

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1

2

3 We are aware that you are after solutions  
4 more than problem areas and this is what we have in mind  
5 today as we come before this Commission. Hopefully, our  
6 presentation will be useful. So, I would like to begin  
7 by speaking a little bit about the Commission itself, the  
8 Lubicon Commission, as a model or an instrument that could  
9 be useful to bring about problem resolution in regards  
10 to native land claims.

11

12 We were organized about a year ago and  
13 launched by Mr. Ray Martin, the Leader of the Opposition  
14 in the Government of Alberta. We had a mandate or terms  
15 of reference to investigate, compare, assess and report  
16 on the presentation of the Lubicons to the two levels of  
17 government and to report to the three parties and also  
18 to the public.

19

20 In March we were able to table our report  
21 before the public with the Lubicons present. Regretfully,  
22 both levels of government chose to boycott our Commission's  
23 Hearings, despite repeated invitations for them to present  
24 themselves and to present their views and reasonings behind  
25 some of their positions.

26

27 Of course, we had access to all of their

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1 reports. We had access to all the different presentations  
2 they made to the Lubicons. The Chief is supposed to be  
3 here today, Bernard Ominayak. Unfortunately, I failed  
4 to report to him that we were advanced from 2:30 to 1:30  
5 and so he might be a bit late. He is not a part of the  
6 Commission, but he wanted to be here today.

7                   The Commission is made up of people from  
8 all walks of life. There were a dozen of us, people from  
9 no parties, people belonging to the Conservative Party,  
10 the NDP and to possibly the Liberal Party. We were not  
11 there because of our party affiliation, but because perhaps  
12 of our interest in a variety of backgrounds that we  
13 represent.

14                   We held, I believe, eight public  
15 Hearings, most of them in Edmonton, although we held one  
16 in Little Buffalo and one in Peace River, where we heard  
17 the business people of that community give us their views.

18

19                   We were pleased to have Mr. E. Davie  
20 Fulton, who did a very thorough study of the situation  
21 back in 1985 and 1986. Also Mr. Goddard who wrote a book,  
22 "The Last Stand of the Lubicon Cree", in which he presents  
23 a pretty detailed account of the history of the Lubicons

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1 and their struggle for justice.

2                   We were self-supporting. No government  
3 gave us any kind of resources. Even today, Mr. Wiebe flew  
4 in from Winnipeg at his own private expense, as did Ms  
5 Sandy Day. She drove in from High River this morning,  
6 but we were pleased to do so because we believe that it  
7 was an experience that we were very privileged to have  
8 been asked to serve on. Also, I think as we warmed up  
9 to the subject we felt that there was really something  
10 there that needed to be addressed.

11                   We tried to do a thorough job and we came  
12 with a number of very important findings and also 12  
13 recommendations. Briefly, in regards to the findings,  
14 we felt that the whole system was stacked against the  
15 Indians and in favour of the government, who were able  
16 to use their position of power, for instance, to pass  
17 retroactive legislation to undermine legal claims and  
18 annul a caveat that the isolated communities from that  
19 area where the Lubicons reside, I believe there are six  
20 communities that filed in order to have redress before  
21 the development of the oil and gas resources that were  
22 discovered there around 1979.

23                   We also feel that there is a conflict

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1 of interest on the part of the government because they  
2 act as an interested party, a beneficiary of royalties  
3 and presumed judge of the validity of the Lubicon claim.

4  
5                   We feel too that there is no equality  
6 between the two discussing parties. It is like the  
7 traditional mouse and the elephant, the unlimited  
8 resources and monies and personnel available to the  
9 government and the very limited resources available to  
10 the Lubicons.

11                   We also feel that there is an in-built  
12 conflict of interest within the mandate of the Minister  
13 of Indian and Northern Affairs. As Minister of Indian  
14 Affairs, he is purported to protect the interest of the  
15 Indian people, but as Minister of Northern Affairs he is  
16 put in situations where he has to make decisions regarding  
17 the development of contested lands, decisions with  
18 negative consequences for the Indian peoples. A case in  
19 point, Minister Bill McKnight in Opposition was also  
20 responsible for Western Diversification Funding and  
21 allowed funds for the development by Diashawa on disputed  
22 Lubicon lands.

23                   We found that the Lubicons acted in good

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1 faith. They deliberately avoided oil wells in production  
2 in the selection of their land, so as to avoid  
3 confrontation. They want open and public negotiations.  
4 They have responded to invitations from the government  
5 to negotiate. They have presented a well thought out plan  
6 for a settlement for which they still await an adequate  
7 response from the government. They have also agreed to  
8 a process of mediation.

9 We feel also that the situation is urgent  
10 because these people are disintegrating fast -- their  
11 society. Basically, these are some of our main findings.  
12 Maybe some of our my peers here could point out some others  
13 that I may have neglected before we pass on to the  
14 recommendations.

15 **REV. MENNO WIEBE:** Maybe I could add a  
16 few comments that would reflect stalemates in other areas  
17 of the country, one of them being that the regulatory  
18 process operated within the country seems to poorly  
19 accommodate the special interests of Aboriginal  
20 communities, the Lubicon Nation being one of them.

21 If one asks where were the Members of  
22 Parliament or the elected MLAs who should be representing  
23 the areas or if one asks what about an entire department,

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1 mandated by the federal government and known as the  
2 Department of Indian Affairs and Northern Development,  
3 if one asks where were they in the advocacy for a just  
4 resolution, or if one asks a question of the courts, then  
5 it seems like each of these prevailing institutions within  
6 the country has difficulty accommodating the unique  
7 interests of in this case the Aboriginal Cree people.

8                   The emergence of this particular  
9 Commission is a testimony to the fact that new mechanisms  
10 are needed that will fairly represent those who are  
11 marginalized because of minority status or because of  
12 unique historical or cultural backgrounds.

13                   I think we can also fairly say that our  
14 experience in entertaining the submissions by people  
15 indicates to us that there is a great deal of public  
16 interest in getting the Lubicon case resolved. This is  
17 not a concoction of an agenda. We are realizing that an  
18 honest resolution to this conflict is in the interest of  
19 Canadians and of Albertans.

20                   As a representative of the churches, I  
21 would also like to say that a just resolution is in the  
22 interest of the churches across the country. They have  
23 mandated me to bring that point to this Commission, in

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1 the hopes of making some kind of a difference in the  
2 negotiation process and in its outcome.

3                   This Commission has provided a forum for  
4 those who otherwise have a hard time making their case  
5 known. The comments, the stories we heard from the Elders  
6 of the Lubicon Nation, from others who are not Aboriginal  
7 people, verifies to us that the situation is serious.  
8 There is an imbalance in the country over this case and  
9 it is our sincere hope that rectifications can be made.

10

11                   A little later on we would like to test  
12 with you whether interim recommendations are possible or  
13 feasible, recommendations that will not necessarily have  
14 to wait until the end of your Commission and the writing  
15 of your reports to facilitate what is a very urgent and  
16 critical matters. Thank you.

17                   **FATHER JACQUES JOHNSON:** I would like  
18 to add that about three years ago Mr. Brian Malone invited  
19 Bill Phipps who is the Executive Secretary of the United  
20 Church of the west here and myself to meet with him and  
21 Ken Colby for a breakfast meeting at the Westin Hotel to  
22 discuss the issue of the Lubicon situation. This came  
23 about because of repeated letters to the Prime Minister

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1 by Bill Phipps. The Prime Minister suggested that he meet  
2 with Brian Malone.

3 At the conclusion of that meeting it was  
4 for Brian Malone to suggest for the churches to come up  
5 with a third option. Why don't you make a study of the  
6 situation yourselves and come up with an option. We  
7 pursued that and we contacted the former Chief Berger,  
8 whom you know well, and other people. When we looked at  
9 the monies involved we were scared to death and we had  
10 to back off.

11 The Commission, the way it came about  
12 with Ray Martin launching us, was a very simple and feasible  
13 way, inexpensive relatively speaking, and I think also  
14 very effective. It is a tool that we recommend and that  
15 in fact, interestingly, the government itself suggested,  
16 something of that nature. Jennifer.

17 **MS JENNIFER KLIMEK:** What I would like  
18 to do now is go over some of the recommendations with two  
19 aims in mind: One, you will see how our report, what it  
20 accumulated into and, secondly, it might be something that  
21 you would consider as some possible forms of  
22 recommendations from your Commission, as well as looking  
23 at the process that we went through because it might be

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1 a viable alternative for other disputes or problems.

2                   After listening to all the public  
3 Hearings and the various witnesses that attended before  
4 us, we came up with 12 recommendations. These were all  
5 by consensus and everyone from the Commission agreed with  
6 them. I will briefly summarize those 12. I won't go into  
7 them in any detail.

8                   Our first one was that the federal  
9 government send somebody with authority to the  
10 negotiations, that it not simply be bureaucrats who would  
11 then have to go back. This was an urgent situation and  
12 we felt that everyone at the table should be in a position  
13 to make final decisions.

14                   We then recommended that the Fulton  
15 Discussion Paper be used as a good starting point. The  
16 Hon. Mr. Fulton had spent a year, was able to look at all  
17 sides of this issue, pointed out areas of agreed, as well  
18 as a framework for resolving those areas where there was  
19 no agreement.

20                   In the event there could be no  
21 resolution, we recommended that each party appoint an  
22 independent mediation who then those two people would  
23 appoint a third person and that they could mediate or make

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1 a decision on any areas that were still in dispute.

2                   We are of the view that all negotiations  
3 should be in public because there seemed to be a lot of  
4 conflict over what was really happening. We felt that  
5 if the public could be apprised of this then they would  
6 understand what was going on. Our understanding was that  
7 the Royal Proclamation of 1763 was that the Crown must  
8 be committed to public negotiations. The Lubicons advised  
9 us that they were certainly willing to have their side  
10 done in public.

11                   One recommendation we felt very strongly  
12 about was that all royalties from that area be held in  
13 trust until the matter was resolved. It appeared that  
14 the status quo certainly benefited the government. They  
15 were being able to take out the value or the profits from  
16 the resources, while the Lubicons were seeing their  
17 resources slip away every day. Development could continue  
18 in that regard. Any new development should not be allowed  
19 while the process was going on. This would even out the  
20 bargaining table. The government would not be benefiting  
21 from the passage of time.

22                   We felt that the Grimshaw Accord which  
23 was negotiated between Chief Ominayak and Premier Getty

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1 be implemented immediately. That seemed like one area  
2 that had been resolved and agreed upon and there was no  
3 reason why the reserve should not be set up now.

4                   We felt that the Lubicon proposal to get  
5 a self-sustaining society well underway with their  
6 agriculture, rice harvesting, wildlife management, get  
7 underway, so they could at least start towards the  
8 self-sustaining society that they so deeply wanted.

9                   One area was the rights of Aboriginal  
10 -- the issue of Aboriginal rights. We felt that that was  
11 a broader issue than the Lubicon and that this could be  
12 set aside, leaving that for when the courts or whatever  
13 mechanism was used to decide that. The agreement should  
14 not be contingent upon that being agreed upon.

15                   We felt that the settlement should  
16 reflect cultural considerations. Hunting and gathering  
17 should not be regarded as a past and irrelevant part of  
18 the economy, but as a contemporary and continuing part  
19 of their lifestyle. It should be dealt with in Cree and  
20 there should be translators there for the native peoples  
21 and that cultural sustainability be held as an alternative  
22 to the assimilative philosophy that seemed to be  
23 prevailing.

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1                   We felt that membership eligibility  
2 should be a prerogative of the Lubicons as in the past  
3 the bands were allowed to decide who was part of their  
4 band.

5                   We felt that the compensation requested  
6 by the Lubicons was fair. We based this a great deal on  
7 the Fulton Report and on the value of the resources that  
8 have been removed from that land, with none of those  
9 benefits flowing to the Lubicon people.

10                  Finally, we felt that if no settlement  
11 had been reached within six months that it should be  
12 referred to a third party for resolution and in that regard  
13 we recommended the United Nations Human Rights Committee,  
14 as they had already had ongoing familiarity with the  
15 Lubicon situation.

16                  Those were the nuts and bolts of our  
17 recommendations from the Hearings we had. Like I said,  
18 we give you those as possibilities or recommendations to  
19 settle this dispute because our overall aim was to get  
20 a just and fair settlement for the Lubicons, as well as  
21 they may be recommendations that could be used in other  
22 areas of dispute.

23                  What I would like to close with now is

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1 with some of the views we had of our Commission as to our  
2 strengths and weaknesses and how it could be better used  
3 and what could be taken from it for other situations.

4 One of our biggest strengths was I think our independency.

5 Once we were appointed by Mr. Martin we were strictly  
6 on our own. No one told us what to do, who to hear or  
7 where to set up. It was a group decision and it went so  
8 far as we had to finance everything ourselves. That is  
9 a two-edged sword. It was difficult for us to maybe get  
10 everybody we wanted or to do things we wanted to do from  
11 limited finances but, on the other hand, we weren't  
12 beholden to anybody.

13 Secondly, we were a committee of  
14 citizens. We are from a wide variety of backgrounds.  
15 Some people brought some expertise in Aboriginal issues  
16 with them. Others, like Sandy and myself, were fairly  
17 clean slate. We knew very little about this issue. It  
18 was a good balance I felt to have people who were learning  
19 for the first time, plus some people who had a great deal  
20 of knowledge.

21 Everything we heard was in public. That  
22 provided us to be I think a very educative forum. We had  
23 good coverage. On some Hearings we had several people

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1 there and I think one of the important things was this  
2 issue became accessible and open to the public. It would  
3 have been, as Jacques said, we were essentially boycotted  
4 by both levels of government. It would have added a great  
5 deal for us to be able to question them and find out why  
6 and where their proposal came from. Unfortunately we  
7 didn't have that opportunity to question them, although  
8 we did have their proposals before us. That is one of  
9 the shortcomings.

10 I think a committee like this would have  
11 had a lot more clout if we had the commitment by all parties  
12 to attend and to buy into the process and the  
13 recommendations. Unfortunately, we didn't have that, but  
14 I think our recommendations are still viable  
15 recommendations and are still valuable in spite of that.

16 As I said earlier, not having any  
17 financial support, it would have made our job a lot easier,  
18 but I am not sure we were limited by that at all. People  
19 were very committed from the membership of the committee  
20 and people came a long way and really did put their heart  
21 and soul and all their wisdom into these Hearings.

22 I can only speak from one situation.  
23 I am not aware of any other disputes out there, so I leave

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1 it to you to extrapolate whether or not this would be useful  
2 in other situations. I personally found it a very  
3 educative process. I think we came up with some very  
4 strong recommendations and I do hope we can see a resolution  
5 of this process.

6 I would ask that your Commission review  
7 this and endorse the process or some modification of it  
8 as a possibility. I realize it couldn't be used in every  
9 situation, but there may be a way where such a process  
10 would get the citizens involved and is a viable  
11 alternative, as well as our report and recommendations.

12 If any of the other committee members  
13 have anything to say, I will give them the opportunity  
14 now, or I'd like to open it up to questions from the  
15 committee.

16 **MS SANDY DAY:** I would like to comment  
17 on knowing that settlement is possible. After being part  
18 of this process and hearing what has gone on in the past  
19 and yet I still feel so strongly that settlement is  
20 possible. There has to be the will.

21 If parties can come together with the  
22 will to settle, it will be easy. We talked about this  
23 prior to coming here and how do you get the will. I think

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1 we get people involved in negotiating who have the power  
2 to settle, who have the determination to settle and they've  
3 heard from the people that this is important to us as  
4 Canadian citizens that this goes on no longer.

5                   That it is a disgrace to us who realize  
6 that this has been an issue that has gone on for over 50  
7 years without any settlement for these people. I think  
8 we realize that this is possible, that it is important  
9 to us and that our leaders listen to us and listen to  
10 themselves and come together and begin and finish this  
11 process and that settlement is reached.

12                   **CO-CHAIR GEORGES ERASMUS:** Thank you  
13 for your presentation and a short overview of your  
14 recommendations. I had a chance to read the report a  
15 couple of weeks ago.

16                   If you don't mind, we will ask you a  
17 number of questions. I will start with Commissioner  
18 Chartrand on my left. Paul.

19                   **COMMISSIONER PAUL CHARTRAND:** Thank  
20 you, all of you and your Commission, for making this  
21 presentation to our Commission.

22                   This, of course, is an issue that has  
23 been around for a long time and has attracted considerable

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1 publicity, not only domestically, as you know, but  
2 elsewhere. I think you are right in suggesting it has  
3 the potential to illustrate some of the basic difficulties  
4 that face the future relationship between Aboriginal  
5 peoples and the rest of Canada, not only with respect to  
6 the matter of land issues, but with respect to other matters  
7 as well.

8 I would like to ask a few questions in  
9 the time available. One could go on for a long time, but  
10 I will restrict myself and select a few questions for you.

11 I must say they are asked to try to assist my  
12 understanding, particularly of your recommendations and  
13 they are asked with the greatest respect because my view  
14 is that organizations such as your Commission are designed  
15 to assist the peaceful resolution of disputes demand  
16 respect and admiration. I wanted to say that first.

17 I am looking now at the recommendations.

18 I refer to the fifth one, so identified in the report  
19 before me. I don't know if it corresponds to anything  
20 you have before you or not, that all royalties be held  
21 in trust. I wonder if you would assist me by telling me  
22 who has the legal ownership of the royalties at the present?

23 Is my understanding wrong that this involves both the

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1 federal and the provincial government? Who is going to  
2 hold them in trust and for whom? This is my first point  
3 or specific question.

4 **MS JENNIFER KLIMEK:** Addressing that  
5 issue, it my belief that most of the royalties in that  
6 area have gone to the provincial government in the form  
7 of the oil and gas royalties and now we have logging taking  
8 place in the area that is in dispute, which again will  
9 go to the provincial government.

10 Our view is that as long as we, the  
11 taxpayers, or the government continue to benefit from that  
12 there is not as much incentive to settle it.

13 Now, who would hold it, that could be  
14 by agreement and what our proposal will be is that that  
15 money that once it's held would be distributed as it was  
16 agreed to by the parties. If it was resolved that that  
17 should go back to the government or some of it should go  
18 to the Lubicons or whatever, but it is there for the  
19 settlement and the government would not be benefiting from  
20 it as negotiations are going along.

21 As to who has ownership to those now,  
22 I think that's an issue in great dispute. It is like who  
23 has rights to that land and it goes back to the whole

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1 Aboriginal rights issue. I don't believe that has been  
2 resolved.

3 **COMMISSIONER PAUL CHARTRAND:** There is  
4 not a current legislated agreement between the two  
5 governments, federal and provincial with respect to  
6 royalties from the lands?

7 **MS JENNIFER KLIMEK:** The royalties  
8 coming out of there would be provincial because it is on  
9 the oil and gas and that's provincial. That is one of  
10 the reasons why we felt the provincial government should  
11 be paying part of the compensation. They benefited from  
12 that area, although compensation essentially is a federal  
13 responsibility.

14 **COMMISSIONER PAUL CHARTRAND:** That's  
15 one of the issues I will have to explore further because  
16 it's unclear and I think you've said that, that the issue  
17 of legal ownership is unclear.

18 The second part of my question was for  
19 whom are the royalties to be held in trust?

20 **MS JENNIFER KLIMEK:** It would be held  
21 in trust -- to me I would characterize as a disputed fund  
22 of money. It would be held there pending resolution.  
23 If it was found that it belonged to the Lubicons, they

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1 would get it. If it was found it belonged to the  
2 government, they would get it, but it would be held until  
3 that's decided.

4 **COMMISSIONER PAUL CHARTRAND:** Similar  
5 to a court, but necessarily a court, but as a disputed  
6 fund.

7 **MS JENNIFER KLIMEK:** Yes. If they  
8 resolve it between them or if it ends up being in  
9 arbitration or wherever, that will be decided where it  
10 will go.

11 **REV. MENNO WIEBE:** Commissioner  
12 Chartrand, if I could add a point that is well known to  
13 you.

14 **COMMISSIONER PAUL CHARTRAND:** Please.

15 **REV. MENNO WIEBE:** The Resource  
16 Transfer Act of 1930 allocated subsurface rights to the  
17 provinces where applicable. As a result, the royalties  
18 would then flow to the Alberta government. So, to our  
19 knowledge the federal government receives no direct  
20 royalties from either the timber or the oil, so these are  
21 the benefits to the province.

22 But the Resource Transfer Act also  
23 stipulates that if and when the lands accruing to

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1    respective bands upon settlement, that the province has  
2    an obligation then to make those transfers. So, that's  
3    the background to the holding in trust clause.

4                   **FATHER JACQUES JOHNSON:** I would like  
5    to add that the Alberta government seems to recognize that  
6    it owes something to the Lubicon people because Premier  
7    Getty, I am told, was in agreement to compensation being  
8    paid. Half of the compensation asked by the Lubicons was  
9    to be paid by the provincial government. In fact, we have  
10   received written communication recently between Mike  
11   Cardinal, the Minister for Native Affairs for Alberta in  
12   an encounter with the Lubicons, whereby Mr. Cardinal  
13   indicated that he would be ready to propose to the Cabinet  
14   that they assume 50 per cent of the compensation.

15                   So, it seems to us, like this  
16   Recommendation No. 5, I don't know what clout your  
17   Commission has, but if it were to strongly recommend that  
18   disputed monies or monies accruing to the government from  
19   such claims as the Lubicons be held in trust to serve as  
20   an incentive to settle because right now to put it off  
21   is beneficial to the government and very detrimental to  
22   the Lubicon people. In fact, I think that the government  
23   plainly wants them to just go away, to disintegrate and

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1 force them eventually to join with the Woodlands Cree Band  
2 or the Loon River Band which were fast-tracked by the  
3 federal government in the last two to three years. There  
4 is enormous pressure put on the Lubicon people to do just  
5 that because their livelihood and their quality of life  
6 is really pretty bad. They would get at least some decent  
7 housing, if not much more by joining with those bands.

8                   It seems like it is something that the  
9 government is supporting by just putting it off all the  
10 time. So, if somehow these monies accruing from royalties  
11 were put in trust, then I think that would be an effective  
12 incentive for them to settle.

13                   **COMMISSIONER PAUL CHARTRAND:** Thank  
14 you. Given the time constraints perhaps what I'll do is  
15 refer to a couple of other important points and they may  
16 arise in the other questions here today and then I'll  
17 restrict myself to one more question.

18                   Respecting No. 8, this Commission has  
19 undertaken some significant work in the area, research  
20 work to try to determine what options exist with respect  
21 to the matter. It is a critically important issue that  
22 concerns us very much, the details of which it would be  
23 fun to debate forever, but it is just a little bit difficult

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1 right now.

2                   With respect to No. 10 as well, the  
3 membership issue comes back or was included in the first  
4 question I asked. In trust for whom would be the  
5 beneficiaries and you gave the answer to that of course,  
6 but my broader point is that at the core of most disputes  
7 between Aboriginal peoples and the Government of Canada  
8 is a question of representativity, that is who speaks for  
9 the people. I think as members of this Commission you  
10 are much more acutely aware of those difficulties than  
11 I am in this particular context as well.

12                   I would like to ask, finally, if in  
13 perhaps some materials that I do not have available now  
14 if there might be a fuller elaboration to support your  
15 twelfth recommendation. It is apparent that you have come  
16 to the conclusion that the United Nations Human Rights  
17 Committee is an appropriate forum. Now, an appropriate  
18 forum means a number of things, including it has the  
19 jurisdiction and so on.

20                   Are you in a position now to perhaps give  
21 a brief elaboration of that or do you have a fuller  
22 elaboration of the reasons for that conclusion in the  
23 materials? I don't have before me a detailed history of

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1 the -- I know I do have some files back home which I have  
2 to review yet, as I said before it's a very complicated  
3 issue and in reply to what Rev. Wiebe said before about  
4 the NRTA, I might say that the NRTA, as you know, contains  
5 the three schedules, one specific to each province and  
6 the details are complicated by the fact that they were  
7 added to. That the provisions with respect to the  
8 ownership of surface and subsurface rights were different,  
9 not only from province to province, but also in the  
10 expansions, when the boundaries were expanded, so I think  
11 there are different formulas that apply even in different  
12 parts of the Province of Manitoba for instance. So, I  
13 am not at all clear on the details of the ownership issue.

14 I'm sorry, that's a tangent. The  
15 question had to do with the reasons for you arriving at  
16 the conclusion that the Human Rights Committee would be  
17 an appropriate forum, either if you can elaborate now or  
18 refer me to some documentation.

19 **FATHER JACQUES JOHNSON:** The document  
20 that we have that may be useful in explaining this  
21 background, I don't know if you have the transcripts of  
22 the Commission Hearings?

23 **COMMISSIONER PAUL CHARTRAND:** No.

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1                   **FATHER JACQUES JOHNSON:** We will table  
2 that with you, but in the last transcript of the January  
3 29th, 1993 meeting of the Commission, we had as a guest  
4 Sharon Venne who is an international lawyer. She works  
5 with the United Nations Human Rights Committee in Geneva  
6 about three or four months per year. She gave us quite  
7 a bit of background as to where the human rights of the  
8 United Nations, the Human Rights Committee stands in  
9 regards to the Lubicon situation.

10                   I think granted it is not the legal clout  
11 that they may have, but it is more the moral power that  
12 they can generate that represented for the Commissioners  
13 I believe something worth pursuing if everything else  
14 fails. Already the Human Rights Committee has intervened  
15 on behalf of the Lubicons with the federal government.  
16 They have been very negative and condemnatory of the  
17 attitude of the federal government in its dealing with  
18 the Lubicons. In fact, they have instituted a rapporteur  
19 who is monitoring the situation and who brings these issues  
20 to the Human Rights Committee so they can act on it.

21                   This rapporteur has asked the federal  
22 government four times in the last several months to elicit  
23 its positions and he has received nothing so far. We have

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1 tabled with him our Commission report, as well as all  
2 relevant documentation.

3 **COMMISSIONER PAUL CHARTRAND:** Thank you  
4 very much.

5 **CO-CHAIR GEORGES ERASMUS:** Could you go  
6 over what you just said again? Have you submitted this  
7 to government in any kind of formal way?

8 **FATHER JACQUES JOHNSON:** Yes, we have.  
9 When we tabled our report we had tabled for the Lubicons  
10 for the federal end of the provincial government and on  
11 behalf of the Commission I presented to the Lubicons and  
12 to the two empty tables the report that no one was there  
13 to receive. But then we mailed that out to them and they  
14 acknowledged having received it.

15 We have been in communication with Mr.  
16 Siddon and also Mr. Cardinal. We have received from Mr.  
17 Siddon a letter in which he tries to respond to a couple  
18 of the recommendations. I have written back to him and  
19 I am awaiting his answer.

20 It doesn't seem that they want to take  
21 our recommendations too much at heart. I think they are  
22 trying to dismiss them and to really not follow through  
23 on them with any great amount of enthusiasm, to say the

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1 least. We are quite distressed with their attitude. We  
2 are continuing to function and in September we should meet  
3 again to consider what do we do now that six months have  
4 evolved, if by that time there is no solution to the  
5 problem.

6 **CO-CHAIR GEORGES ERASMUS:** What about  
7 the Alberta government?

8 **FATHER JACQUES JOHNSON:** Pardon?

9 **CO-CHAIR GEORGES ERASMUS:** What about  
10 the Alberta government?

11 **FATHER JACQUES JOHNSON:** I think there  
12 seems to be more movement there, or at least it seemed  
13 at one time, although following that initial meeting of  
14 Mr. Cardinal and the Chief there seemed to be a cooling  
15 off. After several phone calls from the Lubicons to Mr.  
16 Cardinal's office, reportedly Mr. Cardinal mailed a letter  
17 to the Chief and I have had a copy of that letter in which  
18 Mr. Cardinal said that they will explore the possibilities  
19 and what is a fair amount and so on and so forth, and that  
20 he will pursue his resolution to meet or to discuss these  
21 things with the federal Minister of Indian Affairs.

22 It's all very non-committal and about  
23 a month after that meeting of the Chief and Mr. Cardinal,

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1 Mr. Klein on an open line show said that he knew that they  
2 had met, but he did not really know what transpired from  
3 that meeting.

4 So, you know, who is fooling who exactly?  
5 What's going on. Like Mr. Cardinal says, "I will bring  
6 this to the Cabinet immediately" and push this thing and  
7 then Mr. Klein says he doesn't know anything about it.

8 **CO-CHAIR GEORGES ERASMUS:** What  
9 response did you get from the Lubicon people?

10 **REV. MENNO WIEBE:** The Lubicon  
11 community responded immediately upon the release of this  
12 report. Chief Ominayak said, of course, that he would  
13 have to study the recommendations and the rest of the  
14 findings, but his initial impression was favourable. His  
15 communication since that time to individual members of  
16 us has indicated that they regard this with favour. They  
17 seem to be happy with the recommendations to my mind.  
18 There have been no negative responses from that community.

19

20 **CO-CHAIR GEORGES ERASMUS:** Okay.

21 In relation to using this process as a  
22 model, what do you think can be gained from this in other  
23 circumstances, I mean outside of setting up an independent

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1 body and having people coming up with results, how does  
2 it actually expedite a particular difficulty where there  
3 has been conflict in a situation?

4 **FATHER JACQUES JOHNSON:** In a sense I  
5 think it has given a voice to the Lubicons that they kind  
6 of had lost over the last two or three years. It gave  
7 them a forum whereby they could be heard.

8 It also gave a forum to the government,  
9 had they wanted to come up with active participation in  
10 it. Also because we had access to all of their proposals  
11 we could vent this in public and in a sense do away with  
12 some of the public relations exercise that repeatedly  
13 claimed that there was a lot of negotiations, they were  
14 close to a solution and things like that, where it was  
15 just posturing basically. We gave the lie to that.

16 I think it would be, like Jennifer  
17 mentioned, a lot of more effective if a process like that  
18 were set up whereby the government would agree for such  
19 a study to be taken up by an independent panel.

20 **CO-CHAIR GEORGES ERASMUS:** Who would  
21 set this up?

22 **FATHER JACQUES JOHNSON:** Who set this  
23 up?

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1 CO-CHAIR GEORGES ERASMUS: No.

2 FATHER JACQUES JOHNSON: Pardon?

3 CO-CHAIR GEORGES ERASMUS: We're  
4 talking about a model for the future.

5 FATHER JACQUES JOHNSON: Yes. Who  
6 would set it up?

7 CO-CHAIR GEORGES ERASMUS: Who would be  
8 setting these up in different places across the country?

9 FATHER JACQUES JOHNSON: Well, when  
10 there was question of this Commission being set up, I was  
11 thinking of another body than the political party in  
12 opposition. I was thinking, for instance, about the  
13 prestige of a university. For instance, the University  
14 of Alberta or perhaps the churches, but with the  
15 complicity, I might add, of the governments and their  
16 approval, their willingness to put their cards on the table  
17 and have it explored by others who would come up and work  
18 towards a solution, make recommendations that effectively,  
19 if not being binding to them at least be morally very  
20 forceful and clarifying issues and proposing what would  
21 appear to such a committee to be a fair and just settlement.

22

23 CO-CHAIR GEORGES ERASMUS: Unless there

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1 is some kind of reason for government to do something with  
2 the results why go through the effort? Public education,  
3 is that the primary reason? Pressure?

4 **FATHER JACQUES JOHNSON:** Pressure  
5 certainly. Public education also.

6 **CO-CHAIR GEORGES ERASMUS:** Can you  
7 think of a way in which government can be brought into  
8 the process, so that they are actually --

9 **FATHER JACQUES JOHNSON:** I think that  
10 would be very, very useful. If the government were to  
11 say, "We'll put our cards on the table," and perhaps with  
12 the event of a new government, a new federal government,  
13 for instance. Maybe one government has had a certain  
14 history, certain position, a certain stance and a new  
15 government comes in, fresh. Maybe that would be an  
16 opportunity for them to say, "Yes, we are open to such  
17 a model".

18 **CO-CHAIR GEORGES ERASMUS:** Does anybody  
19 else want to add to any of those questions?

20 **REV. MENNO WIEBE:** If I can, Mr.  
21 Chairman, I'd like to add a few comments to that. I think  
22 this Commission indicated that all people of all stripes  
23 have an occasion to come forward, that is democracy at

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1 its theoretical best and practical best.

2                   The fact that we could hear the Cree  
3 Elders in their own language and provide proper  
4 interpretation made it possible for them to give us a  
5 meaning set of data that otherwise easily escapes the  
6 discussion. I think hearing from them, as well as from  
7 the very young people, indicated that their relationship  
8 to the land and to the meaning of their existence was very  
9 profound and is not easily cast into professional  
10 consultants' reports terminology.

11                   To your question about who should  
12 implement such Hearings. I'm not sure whether that should  
13 be an institutional pattern or not. I would like to refer  
14 you to one previous non-government public hearing that  
15 took place in Manitoba, namely the inquiry into the  
16 Churchill-Nelson Diversion Project. That one came about  
17 upon request of the five Cree communities that were  
18 implicated by the altering of the water regime on the  
19 Churchill-Nelson.

20                   When a public inquiry was declined them,  
21 first from the federal government and then from the  
22 provincial government and finally from Manitoba Hydro  
23 which was the perpetrator of this dam project, then the

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1 Cree community said why don't you churches start a public  
2 inquiry. We said we don't do those kind of things and  
3 then they asked why not. I am paraphrasing on that point,  
4 but that was the beginning of that inquiry.

5 In the case of the Manitoba inquiry, the  
6 government people indeed appeal before the commission at  
7 great lengths and presented their case, which ultimately  
8 contributed to the formation of the Northern Flood  
9 Agreement. There are pros and cons about assessing the  
10 value of that agreement, but at least an agreement was  
11 reached and has been binding to this day. The person who  
12 was instrumental in drafting the agreement indicates that  
13 the report of that inquiry, that independent inquiry, was  
14 basic to the shaping of the Northern Flood Agreement.  
15 So, we do see some fruitfulness in it. We think that a  
16 public inquiry is a democratic tool. It is not a deviancy  
17 from our processes and we find it rather inexcusable that  
18 the government people refuse to participate in this.

19 **FATHER JACQUES JOHNSON:** I might add  
20 that in Meadow Lake there is a blockade, as you probably  
21 know, that has been standing now for about a year. These  
22 people are asking the government to support the  
23 establishment of a Commission similar to the Lubicon

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1 Settlement Commission to resolve that issue out there.

2 I would like to also point out that the  
3 idea of a third party opinion came from Mr. Malone, the  
4 chief negotiator from the government side about two or  
5 three years ago. So, there may be negotiations possible  
6 to arrive at the governments agreeing that such a  
7 commission may be set up fruitfully.

8 **MS SANDY DAY:** I think the reason why  
9 we felt strong in our position too is that none of us had  
10 any vested interested and to me that's very important and  
11 because we are a cross-section of people, very varied,  
12 we had some businessmen from the Peace River area who were  
13 knowledgeable in that area and who are a part of that  
14 community and knew it, it just seemed to bring a coherency  
15 to it. Yet, we were all very diversified. Our intent  
16 was that resolution had not been able to be accomplished  
17 and we wanted to see something done and I think because  
18 we are the people. That's all we were. We were just  
19 people that were concerned about the issue and brought  
20 together. To me that's what our power comes from and where  
21 our voices should be heard.

22 It has been disappointing not be heard  
23 and have the government participate with us because they

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1 are elected by us and we are the people.

2 **CO-CHAIR GEORGES ERASMUS:** I was trying  
3 to get at whether or not you are talking about  
4 institutionalizing this or continue to leave it as an ad  
5 hoc system. That's partly what I am trying to get an idea  
6 on, what you say it should be considered as a model by  
7 us. What does that mean; that it has occurred a number  
8 of times in the past and is likely to occur in the future,  
9 or that we look as of the Royal Commission as a way to  
10 institutionalize. This is what I am trying to get my  
11 tentacles around.

12 What is it you are trying to tell us  
13 because so far what Menno Wiebe has been talking about  
14 is the different circumstances because of the conflicts  
15 there, because of the inability to resolve it, these kind  
16 of events create another public inquiry kind of process?  
17 Should we be looking at a way in which we institutionalize  
18 this or should we just continue to let it occur the way  
19 it is occurring now?

20 **FATHER JACQUES JOHNSON:** Well, I see all  
21 over the country many, many land claims that have been  
22 going on for innumerable numbers of years. It seems that  
23 the government somehow has all the power on its side.

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1                   If such a commission, with the  
2 participation of the government, was set up to deal in  
3 different places of the country, I think it would be a  
4 useful way. I don't know if it's the way, but I think  
5 our experience has given us a great deal of encouragement.

6  
7                   I would like to say too that it has given  
8 the Lubicons a new impetus in seeking redress with support  
9 from all over the country and indeed from the international  
10 community. I am told that there is a bill before the  
11 European Parliament, proposing that they press Canada to  
12 support the Commission's recommendations just as an  
13 example.

14                   **CO-CHAIR GEORGES ERASMUS:** Okay. On  
15 another --

16                   **MS JENNIFER KLIMEK:** I would like to  
17 address that one issue, if I could. I think what Sandy  
18 said was that the power of our Commission was the fact  
19 that we are people. I think if you get an institution,  
20 commission or whatever, I think you lose some of that.

21                   I think the idea should be used  
22 sparingly. I don't think it should be used for every land  
23 claim. I think it is when things break down.

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1                   When people come to a resolution on their  
2 own, I think they buy into it, they are more empowered  
3 by it, but it's when you can't do it or you are getting  
4 into a situation. I don't think it should be left as long  
5 as the Lubicons because that has become a very urgent tragic  
6 situation at this point.

7                   I think our power is that we were average  
8 people, part of a group that got together and became  
9 knowledgeable on this. If you institutionalize it too  
10 formally I think you lose that. That's I think one of  
11 our biggest strengths.

12                   **CO-CHAIR GEORGES ERASMUS:** On the point  
13 that was made earlier about an interim report, the  
14 Commission has decided to do a number of interim reports.  
15 We are not sure how many completely we will be doing yet,  
16 but since we decided to do that the recommendations for  
17 interim reports have been coming hard and fast. If we  
18 were to do all the interim reports people wanted us to  
19 do, we would actually be doing our final report all in  
20 interim reports.

21                   At some point it's better for us to start  
22 on the final report and we get it all done faster. But  
23 we will take your suggestion under advisement.

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1                   Is there any final comment you wanted  
2 to make?

3                   **FATHER JACQUES JOHNSON:** Well,  
4 precisely about the interim report. I think this  
5 Commission would like to see pressure put on the federal  
6 government especially to resume negotiations with the  
7 Lubicon people, but also to put a hook to it too by insisting  
8 that the royalty revenues be put in trust, so as to create  
9 an incentive for the government to move with this thing  
10 and settle it once and for all. Unless it hurts them a  
11 little bit, I don't think they will be inclined to move  
12 very fast.

13                   **REV. MENNO WIEBE:** If I could add just  
14 a footnote that has not been referred to. It's the  
15 international nature of Canadian conflict. I have  
16 travelled in Switzerland and in Germany in the not recent  
17 past and have learned that there is an association  
18 representing 13 European countries who have an interest  
19 in the Lubicon case in particular. One of the intervenors  
20 was Dr. Heinz Pooner from Switzerland, from Zurich. He  
21 makes this case with some strength. So, it isn't only  
22 in the interest of the development corporation that the  
23 internationalization of Canadian issues takes place, but

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1 it is also in the human rights.

2 So, Canada is not alone in hiding in a  
3 corner with its human rights issues. Thank you.

4 **COMMISSIONER PAUL CHARTRAND:** Thank you  
5 for that. I wanted to add just a brief comment by way  
6 of emphasis that these facts strike at the heart of some  
7 of the more difficult matters that we have before us.  
8 I think for that reason, given their overwhelming  
9 complexity it would be very difficult to decide on doing  
10 something in the short term with them, although it may  
11 be possible to pick some parts, but just to illustrate  
12 the difficulties.

13 I recognize the general desirability of  
14 semi-independent tribunals which is one of your  
15 recommendations here to resolve disputes, like land  
16 disputes, because everyone is wrestling with the dilemma  
17 that the Co-Chair was referring to, how do you get the  
18 governments to act or at least set up a commission. Well,  
19 you disband what really has been accomplished.

20 So, the question is can we recommend the  
21 establishment of institutions that assist and then you  
22 bring in third parties to do that. The Northern Flood  
23 Agreement that you are familiar with, more familiar than

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1 I am, contained, as I understand it, an arbitration clause  
2 which was a reason, as I understand it, for it to be hailed  
3 as a rather unique mechanism in Canada. Yet we were  
4 advised very recently that some of the parties to that  
5 agreement take the view that that cost, that provision  
6 for a tribunal has been ineffective and, in fact, people  
7 are walking away from it. So, that illustrates the  
8 complexities.

9 We have to inform ourselves what is it  
10 that has not worked in that case and that's a domestic  
11 situation where a tribunal, which is generally perceived  
12 as a good thing, has not worked. I am just again  
13 emphasizing out a bit of frustration what are the  
14 difficulties involved with these issues.

15 Anyway, there is no more time, I suppose.

16 I again want to thank you very much for your work and  
17 for taking the time to talk to us.

18 **CO-CHAIR GEORGES ERASMUS:** Thank you  
19 for coming forward.

20 Next we will have Lawrence Coutreille  
21 from the Fort McKay First Nation community. Please begin  
22 whenever you are ready.

23 **MR. LAWRENCE COUTREILLE (Fort McKay)**

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1 **First Nation):** Commissioners, my name is Lawrence  
2 Coutreille from Fort McKay. To my left is Jeff Rath.  
3 He is our legal adviser and to my right is my son, Alex.

4  
5 I must apologize, I don't have a written  
6 submission. I thought I would come here and talk about  
7 some of the concerns that we've emphasized to the  
8 Commission over a year ago and something that I think is  
9 very important to our community and something that I don't  
10 see addressed in the overall report.

11 I know the Commission has travelled  
12 throughout Canada listening to Aboriginal people of all  
13 sorts about problems they are faced with and particularly  
14 the on and on discussion about treaties. It is something  
15 that I want to emphasize even more today is the importance  
16 of treaties.

17 The first thing I would like to do is  
18 probably talk a little bit about the treaties. Then I  
19 want to address the four cornerstones that has been  
20 addressed in the focusing dialogue and how I as an  
21 individual Aboriginal person feel about where the  
22 Commission is going with its summary.

23 The treaties are something very

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1 important to our community and that's Fort McKay. We are  
2 20 kilometres from the two biggest oil- sands in Canada,  
3 yet half the community does not have water and sewer and  
4 we don't have the basic things like good roads, services  
5 and yet this plant, these two plants have provided \$1.4  
6 billion in royalties alone to the Province of Alberta and  
7 our people still have to try to live off the land and try  
8 to sustain themselves. Yet the province and Canada have  
9 benefited from the resources from our land and yet the  
10 people next door can't do it.

11 We have to beg for jobs. We have to  
12 fight governments to try and exercise our right to hunt,  
13 to fish. We see our territory being destroyed. So the  
14 whole emphasis of a relationship is based on treaty and  
15 those treaties are there and supposed to protect the way  
16 of life that we were promised. To us the whole basis of  
17 a relationship with Canada is based on treaties.

18 I want to re-emphasize some of the  
19 historical aspects of what the legal world has defined  
20 our treaties and what the treaties say legally. Then I  
21 will have Jeff Rath talk about those treaties and those  
22 court cases, something that the two of you, Commissioners,  
23 as Aboriginal people are well aware of and, hopefully,

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1 make a strong voice for the Aboriginal people that have  
2 presented their views, particularly the Indian people on  
3 treaties. Jeff.

4 **MR. JEFFREY RATH:** Honourable  
5 Commissioners, to put this into context I would like to  
6 start today by discussing the law with regard to treaty  
7 interpretation. I am sure you are both well aware of the  
8 cases to which I will be referring throughout this  
9 presentation.

10 I would then like to move from the  
11 question of interpretation and how the Supreme Court of  
12 Canada says that Treaty No. 8, to be specific, is to be  
13 interpreted and from there discuss the specific terms of  
14 the treaty. How it is that they are interpreted by the  
15 Fort McKay First Nation. Then in outline allow Mr.  
16 Coutreille to discuss how it is the Fort McKay First Nation  
17 views that these rights are not being respected by both  
18 the provincial and the federal government.

19 To begin, it's clear that the Indian  
20 treaties and both the statutes relating to treaties should  
21 be liberally construed and any uncertainties in these  
22 documents are to be interpreted and resolved in favour  
23 of the Indians. This was restated in a number of cases,

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1 such as Simon v. The Queen, Noagiguk, again in Sparrow.

2 At this point it is the view of the Fort McKay First Nation  
3 that this is trite law. It is absolutely clear that these  
4 are the rules of interpretation laid down by the Supreme  
5 Court of Canada, yet time and again the federal government  
6 and the government of the Province of Alberta refuses to  
7 apply these principles of interpretation in dealing with  
8 the rights accorded the people of Treaty 8 under that  
9 treaty.

10 In Horseman the Supreme Court went on  
11 to say that the treaties were the product of negotiation  
12 between very different cultures and the language in them  
13 probably does not reflect and should not be expected to  
14 reflect with total accuracy each party's understanding  
15 of their effect at the time they were entered into. And  
16 that the courts are charged with being especially sensitive  
17 to the broader historical context in which such treaties  
18 were negotiated.

19 They must look at that context in order  
20 to ensure that they reach a proper understanding of the  
21 meaning that each treaty held for the signatories at that  
22 time.

23 **MR. LAWRENCE COUTREILLE:** One of the

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1 things that we were promised under treaty very clearly  
2 was our mode of life would be protected, that we would  
3 be able to exercise our way of life, which is hunting,  
4 fishing, trapping, gathering and living off the land.  
5 Those particular guarantees were in treaty.

6 **MR. JEFFREY RATH:** To summarize, rather  
7 than continuing to run through the full body of case law,  
8 I will use the summary that was restated in the Sparrow  
9 decision as taken from the case of Taylor v. Williams in  
10 the Ontario Court of Appeal. As you are both well aware,  
11 the three prime principles of interpretation that need  
12 to be respected are: First, that discussions and  
13 representations made at the time of signing of the treaty  
14 form part of the treaty itself.

15 In the case of Treaty 8, this  
16 specifically includes by reference the report of the  
17 Commissioners of Treaty 8. This was acknowledged in the  
18 Horseman case by Cory, J. in that judgment.

19 Secondly, in determining the effect of  
20 the treaty, it is importance to consider the history and  
21 oral traditions of the tribes concerned and the surrounding  
22 circumstances at the time of treaty and then, finally,  
23 that inconsistencies and ambiguities resolved in favour

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1 of the Indians. This is the key as there can be no  
2 appearance of sharp dealing by the Crown.

3                   The interpretation must take into  
4 account the evidence by conduct or otherwise, including  
5 the conduct by the parties after the execution of the treaty  
6 of the parties' understanding of the terms of the treaty.

7  
8                   In short, the understanding of the  
9 Elders, as at today's date and at the time of the treaty,  
10 by law form part of the treaty and that would be the  
11 submission of the Fort McKay First Nation in this regard.

12                   The actual Treaty Commissioners' Report  
13 in Treaty 8, I will just read a part of it that is  
14 particularly relevant to our discussion today, again  
15 states in part as follows:

16 "There was expressed at every point the fear that the making  
17                   of the treaty would be followed by  
18                   the curtailment of hunting  
19                   privileges and many were impressed  
20                   with the notion that the treaty  
21                   would lead to taxation and an  
22                   enforced military service."

23                   The Commissioners go on to say that:

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1 "Our chief difficulty --"

2 and this is the difficulty of the Commissioners:

3 "-- was the apprehension that the hunting and fishing  
4 privileges were to be curtailed.

5 The provision in the treaty under  
6 which ammunition and twine is to  
7 be furnished went far in the  
8 direction of quieting the fears of  
9 the Indians, for they admitted that  
10 it would be unreasonable to provide  
11 the means of hunting and fishing  
12 if laws were to be enacted which  
13 would make hunting and fishing so  
14 restricted as to render it  
15 impossible to make a living from  
16 such pursuits."

17 The Elders of Fort McKay understand that  
18 provision in the Treaty Commissioners' Report as a promise  
19 that laws would not be made which would make it impossible  
20 to make a living from traditional pursuits.

21 The Commissioners' Report goes on to  
22 say:

23 "But over and above that provision we had to solemnly assure

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1                   them that only such laws as to  
2                   hunting and fishing, as were (1)  
3                   in the interest of Indians, and (2)  
4                   were found necessary in order to  
5                   protect the fish and fur-bearing  
6                   animals would be made."

7                   Finally:

8                   "That they would be as free to hunt and fish after the  
9                   treaty as if they'd never entered  
10                  into it."

11                  Further, the Commissioners went on to  
12                  say:

13                  "We assured them that the treaty would not lead to any  
14                  forced interference with their  
15                  mode of life, that it did not open  
16                  the way to the imposition of any  
17                  tax and that there was no fear of  
18                  enforced military service."

19                  Of those promises, the only one that has  
20                  not been broken to date is the imposition of forced military  
21                  service.   Lawrence.

22                  **MR. LAWRENCE COUTREILLE:**   That is  
23                  something that we wanted to present to the Commissioners.

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1 We tried to emphasize where the community's concerns are.

2 We were promised through treaty that we  
3 would be able to continue our way of life. We were promised  
4 that we would continue to carry out our own livelihood  
5 and yet today, this very day, our community or the First  
6 Nations of Fort McKay, the members of Fort McKay, are bound  
7 by laws of the provincial government.

8 When the treaty process was clearly  
9 warned that there would be no sharp dealings, yet did we  
10 know that the federal government already had the Indian  
11 Act in place in 1899. The Indian Act destroyed our way,  
12 our mode of life because it told us how we were going to  
13 govern ourselves, how we were going to be restricted and  
14 confined to reserves and how we were going to elect our  
15 leadership in their fashion under the Indian Act.

16 Those are consequences. The situation  
17 in our community re consequences of the sharp dealings  
18 that the federal government or the Crown had with our  
19 people. Those issues will never -- those situations in  
20 our community will not change unless someone is prepared  
21 to tell us that the Natural Resource Transfer Act is  
22 illegal, that the federal Crown had no authority to give  
23 the resources to the Province of Alberta. That the federal

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1 Crown has to clearly tell the world, tell the people in  
2 this country, the non-Indians specifically that those  
3 sharp dealings destroyed the mode of life and the right  
4 to livelihood for our people. That is the basis of how  
5 the relationship was supposed to be developed, both on  
6 mutual respect and understandings of what our people  
7 believed the treaties were to be.

8                   We find it hard in our community where  
9 we see our resources being taken from our backyards, where  
10 the federal government has allowed the province total  
11 control to the resources and we've got to be like beggars  
12 to have a paved road or water and sewer, 20 kilometres  
13 away from the oilsands. There is something wrong in this  
14 whole system. That is not going to change our relationship  
15 with Canada if that's not addressed.

16                   What we have been dealing with and the  
17 problem that we have in this country is a denial, that  
18 it's not clear in the report of the Commission so far,  
19 is the denial of the federal government that these things  
20 happened, that there were sharp dealings and what had  
21 happened was illegal by international law. That they had  
22 no authority to sign the Natural Resource Transfer Act.  
23 That those constitutional amendments were illegally done.

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1 And until that time, until the federal government quits  
2 denying it, quits denying what has happened, only then  
3 serious reconciliation can happen. Because our people  
4 still have to live on the land. We still have to see the  
5 intrusion of pulpmills. We still have to see the intrusion  
6 of development and we still have to see our people living  
7 in those conditions.

8 I don't know how the Commission is going  
9 to make recommendations to the federal government or what  
10 their report is going to be when I look at the four  
11 touchstones, a new relationship. We don't need a new  
12 relationship. There is already a relationship  
13 established through the treaties and that relationship  
14 has not been fully recognized by one of the parties.

15 We don't need a relationship with the  
16 non-Indian people, a new relationship. The relationship  
17 -- what has to happen, there has to be a strengthening  
18 of the relationship that is already there.

19 It is very tough -- we are in a very tough  
20 situation, when I see non-Indian people looking at our  
21 situation, our concerns over land claims, our concerns  
22 over programs and services because they don't understand.

23 They have never been told the real truth of what the

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1 relationships are all about. They just look at us and  
2 say, "Oh, man, more money". It's hard to deal with a  
3 country that has totally denied what has happened.

4 Self-determination is another  
5 touchstone of the program. We have always been  
6 self-determined, but what you have is you have a government  
7 that has totally ignored court decisions, Supreme Court  
8 decisions of how we are supposed to deal with the federal  
9 government.

10 How can the Commission assist the  
11 Aboriginal people in telling the government that they have  
12 to follow their own Supreme Court decisions, would it be  
13 Sparrow, Sioui or the Simon decision. It is very tough  
14 because what you have also in both levels of government,  
15 you have Justice lawyers who are out there trying to find  
16 ways of diminishing our rights and shortcutting and if  
17 not finding legislations to erode those rights.

18 **MR. JEFFREY RATH:** A specific example,  
19 honourable Commissioners, that I can report to you and  
20 this is from my own personal experience working with  
21 various First Nations and First Nations' organizations  
22 on various negotiations is the example of discussing the  
23 question of treaty interpretation as we are discussing

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1 it here today. Lawyers on behalf of the federal Department  
2 of Justice or on behalf of various provinces will point  
3 to a provision in Treaty 8 which says that the said Indians  
4 shall have the right to pursue their usual vocations of  
5 hunting, trapping and fishing throughout the tract  
6 surrendered, ignoring the question of whether or not a  
7 surrender was understood, subject to regulations that may  
8 be made from time to time by the government of the country.

9 But in citing that provision and  
10 applying a very strict, narrow, legal interpretation to  
11 it, they ignore all the principles of interpretation as  
12 set down by the Supreme Court and fail to take into account  
13 that this provision in the specific treaty has to be  
14 interpreted in accordance with what was said in the  
15 Commissioner's Report which also forms part of the treaty  
16 and any ambiguities resolved in favour of Treaty 8 people.

17

18 **MR. LAWRENCE COUTREILLE:** So what you  
19 have is you have Justice lawyers defining what treaties  
20 meant. A very good example is land claims. I have yet  
21 to find an Elder that told us that when the first survey  
22 was done that that was a final survey, there will be no  
23 more additional land. Nowhere under treaty it says that

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1 there will be only one survey and that is a very important  
2 part to the community of Fort McKay because we have a lot  
3 of questions in our shortfalls, our landless transferees  
4 and the number of claims that we might have.

5 But the federal government, the Justice  
6 lawyers have said, "Well, you've had one survey and that's  
7 it. Nowhere in treaty has that been agreed to."

8 So, it's very tough when you have  
9 governments telling us, interpreting what they believe  
10 the treaty is and we spend millions of dollars trying to  
11 defend ourselves in court. We are always defending  
12 ourselves because governments are making decisions,  
13 unilateral decisions and interpreting what treaties are.  
14 We spend millions of dollars trying to fight those  
15 particular arguments and it's a very tough situation to  
16 be in.

17 I wanted to come here today to try and  
18 plea to the Commissioners here who have the job of  
19 recommending to the government of what has to be done to  
20 change the situation of Aboriginal people in Canada. I  
21 see the four touchstones and I am a little disappointed  
22 because I feel the Commission is not really saying what  
23 has to be said. And that is the federal government has

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1 to stop denying its true relationship with the First  
2 Nations people, especially under treaty.

3                   Until that particular relationship is  
4 strengthened and until the federal government recognizes  
5 those treaties as agreed to by our people, there will be  
6 no new relationship.

7                   I don't see any answers for our community  
8 because when we talk about livelihood, the province says,  
9 "No, we can sell all those trees to the Japanese. We can  
10 take all the oil from your ground and if it's not on your  
11 reserve then it's not yours."

12                   Until you deal with that political  
13 reality, you are going to have a tough, you are going to  
14 have a bad relationship between our people and governments,  
15 unless, unfortunately, we are prepared to sell those  
16 rights, or until we are prepared to recognize that we don't  
17 have any rights to those lands. That, unfortunately,  
18 seems to be the case.

19                   I don't know what is going to be in the  
20 future for my children or our children if this country  
21 continues to deny the treaty process and what it really  
22 meant. The court decisions are all there. Unfortunately  
23 sometimes I think I am a little reluctant to put my faith

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1 in the court because I think what dangerous things could  
2 happen is if the court starts to backtrack from Sioui,  
3 backtrack from Sparrow and backtrack from those specific  
4 court decisions that recognize the treaties. It's very  
5 scary to put our emphasis on those court decisions because  
6 the reality is we have parliamentary rule. Parliament  
7 can ignore courts and Parliament can make legislation that  
8 affects peoples' everyday lives. Our lives are totally  
9 dependent on the parliamentary process.

10 So, that's all I have to say. I just  
11 hope that the Commission would recommend not a new  
12 relationship in such a sense that there would be new  
13 treaties. I have seen some talk about new treaties, but  
14 I see a direction of how the federal government will now  
15 sit down and talk about where things went wrong and how  
16 we are going to be compensated for those things that went  
17 wrong. Those lands that had been taken away from us, those  
18 resources that had been taken away from us.

19 Again, I apologize that I don't have a  
20 written submission. We will have a summary within a couple  
21 of weeks.

22 **CO-CHAIR GEORGES ERASMUS:** Thank you  
23 for the presentation.

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1                   The four touchstones that you referred  
2 to, we debated about whether we should be saying its  
3 transiting the existing relationship or a new  
4 relationship. In the end we settled on a new relationship  
5 because it seemed that, as you explained yourself, whether  
6 or not there is a treaty relationship or not governments  
7 act in a particular way. We were told repeatedly across  
8 the country how treaties are being ignored and how even  
9 more recent treaties, like the James Bay Agreement and  
10 so forth, before the ink is dry the government is ignoring  
11 relationships.

12                   So, we tried to explain that in the text  
13 of the document, that in some instances what we meant by  
14 a new relationship was to go back to old treaties, early  
15 treaties, pre-Confederation treaties and resurrect again  
16 the old relationship, but in essence it would be a new  
17 relationship. It would be an improved relationship. It  
18 could be based on an old agreement, but it would be a new  
19 relationship because actions would be different. That's  
20 what we were trying to get across.

21                   So, we certainly heard what you said and  
22 the presentation you have made has reinforced other  
23 presentations that we have heard before. It is reflecting

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1 certainly ideas that we are picking up in Saskatchewan,  
2 in northern British Columbia and the Northwest  
3 Territories, in Manitoba and it's coming forth in research  
4 that we are doing on treaties.

5                   Would you answer any questions if we have  
6 any?

7                   **MR. LAWRENCE COUTREILLE:** Yes. I just  
8 wanted to comment on what you said about a new relationship.

9  
10                   The problem that some of us are  
11 observing, what this new relationship would look like is  
12 a little scary. If you look at the federal government  
13 particularly, if you look at the presenters that were  
14 before us and the Lubicon who have talked about entering  
15 into an agreement with the federal government that would  
16 recognize their inherent rights, the rights to the land  
17 and to recognize their political process. There has been  
18 total denial of that approach.

19                   But if you look at the new process that  
20 the federal government has embarked on, specifically on  
21 the comprehensive claims, where groups of Aboriginal  
22 people are prepared to somehow weaken their Aboriginal  
23 title and set up the forum of discussion between

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1 institutions, recognized institutions to sign agreements  
2 with the federal government, then it talks about a  
3 relationship that is away off in terms of the  
4 nation-to-nation relationship.

5                   Georges, I was just trying to point out  
6 that when you have a particular claim like the Lubicons  
7 do, in comparison to some other claims that have been  
8 announced recently, where they are prepared to work within  
9 the context of not only Canada, but are prepared to sign  
10 an agreement as institutions and corporations, then there  
11 is total open arms in terms of negotiating a settlement,  
12 but when you have a claim such as the Lubicon, we are talking  
13 about their own resources, we are talking about their own  
14 government, their own political institutions, then there  
15 seems to be a denial.

16                   I am prepared to answer any questions.

17                   **CO-CHAIR GEORGES ERASMUS:** I think  
18 Commissioner Chartrand has a comment he wants to make.  
19 Paul.

20                   **COMMISSIONER PAUL CHARTRAND:** Thank you  
21 for your presentation. I only have a brief comment to  
22 make here. You chose to focus our attention on some of  
23 the difficulties involved in attempting to get your

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1 people's view of the treaties implemented. You have  
2 talked about an approach that would rely on the courts  
3 of Canada to assist you in that process. For example,  
4 you have told us that the NRTA was illegal because the  
5 federal government did not have the title to pass.

6 Well, we could hear arguments about how  
7 nemo dat quad non habet might apply there, although I doubt  
8 if any court would ever uphold that in Canada. But the  
9 point is that ultimately you would rely on the courts.

10 It seems to me that you are bound to be  
11 frustrated if you rely on the courts. If we learn anything  
12 from the history of reliance on the courts for minority  
13 rights in Canada, it is that the legacy is a rather bitter  
14 one, at least in the assessment of those who are experts  
15 in this area. They have characterized the history of  
16 minority rights litigation as a very bitter history.

17 There are a number of examples where  
18 governments have ignored constitutionally entrenched  
19 guarantees, so an approach that would rely exclusively  
20 upon the courts seems to me would be bound to bring with  
21 it frustration.

22 What's the other option? Presumably  
23 not to rely entirely on the courts of the other side, but

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1 to see how it is that you can aggregate the power of the  
2 Aboriginal peoples. So, rather than relying on the good  
3 will of the government or rather, putting it another way,  
4 rather than relying on the power of the courts to move  
5 them in action, you might see how power might be aggregated  
6 so that you no longer talk about good will or political  
7 will, but rather you talk about your ability to move  
8 interests, to move your interests, to move institutions  
9 so that your interests are catered for.

10                   So this it seems to me is one of the basic  
11 issues before the country and around which different views  
12 are being held. Of course it's very much a matter of  
13 balance because I think it would be unfair to discount  
14 reliance on the court as not being a source of power that  
15 can be aggregated as well, but we have heard your views  
16 and the judicial route, reliance on the courts to interpret  
17 the rights of Aboriginal peoples, reliance on Canadian  
18 courts. It's certainly something favoured by many people  
19 and we've heard it before and we shall do a thorough  
20 examination of that. But we also are bound to assess other  
21 means whereby Aboriginal peoples' interests can be  
22 promoted and I invite your response.

23                   **MR. JEFFREY RATH:** Mr. Chartrand, if I

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1 may, the litany of case law at the beginning of this  
2 presentation wasn't meant specifically to underline the  
3 fact that the Fort McKay First Nation views the Canadian  
4 courts as being the best forum in which to obtain justice  
5 under the treaty. Clearly it's the position of the Nation  
6 that the courts have failed and failed miserably time and  
7 time again.

8                   As Mr. Coutreille has indicated in his  
9 presentation, it is only with the greatest trepidation  
10 that First Nations proceed to the courts for fear that  
11 their rights will be restricted overly narrowly and  
12 restrictively by courts who do not understand the meaning  
13 and the substance of the treaty.

14                   The purpose of the introduction and the  
15 case law that we went through was just to again underline  
16 the fact that the Supreme Court of Canada has laid out  
17 clear rules of interpretation which time and time again  
18 are not followed by the servants of the Crown who are  
19 supposed to be behaving honourably as set out in the Garand  
20 decision. In essence they are just not following -- they  
21 are not even following their own rules with regard to the  
22 treaty. That was what we wanted to demonstrate or put  
23 before the Commission by way of concerns.

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1                   With regard to alternative mechanisms,  
2 I think Mr. Coutreille on behalf of the Fort McKay First  
3 Nation can speak more ably to that than I as that's a  
4 political process. Thank you.

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

6  
7                   **MR. LAWRENCE COUTREILLE:** I just wanted  
8 to add on the problem that I see the strained relationship  
9 between Canada and the First Nations is that the  
10 relationship has gone -- been strained so badly that we  
11 don't trust each other.

12                   I know the Commission was established  
13 around the premise of finding out what the Aboriginal  
14 peoples' concerns are and what the problems are and what  
15 the solutions might be. A lot of it came out of the Oka  
16 situation. I mean Oka was not an Indian Act breakdown.

17 Oka was a relationship that broke apart between the First  
18 Nations' people of Kanasatake and the federal government  
19 with intrusion of the provincial government.

20                   We have never really addressed that  
21 particular situation. The same thing with the people of  
22 Fort McKay and our people in that region. We entered into  
23 treaties, believing that we are not strictly to be confined

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1 to reserves and that we will be able to exercise our way  
2 of life, be able to continue our livelihood and yet we've  
3 sat back for 93 years now since our treaty has been signed  
4 with an Indian Act that is over 100 years old to restrict  
5 those particular things that they guarantee us under treaty  
6 and at the same time we are being confronted with all of  
7 these constitutional amendments that took place between  
8 two other parties that restrict the very thing that we  
9 were guaranteed under treaty. That's the situation that  
10 we are dealing with.

11 Unless somebody comes up with a -- I  
12 think it takes a political process. It definitely is.  
13 I don't think it will be done through the courts. It's  
14 just a matter of the Prime Minister announcing to Canada  
15 that, yes, what has happened is there has been sharp  
16 dealings by our governments, both provincial and  
17 federally. We have taken away the land from the Indian  
18 people. We put them in residential schools. We have  
19 confined them to reserves. We have done all these things  
20 to these people and what we owe them through treaties is  
21 free education, et cetera, et cetera and now I am prepared  
22 to sit down with the First Nations again and redevelop  
23 and strengthen that relationship.

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1                   That's the only way -- that if two people  
2 can't get along, I would assume they would sit down and  
3 say, "Well, come on, let's sit down and talk about how  
4 we can live together and be friends again," not find ways  
5 around the process and saying, "How best can I take  
6 advantage of the person across from me," and not deal with  
7 the real relationship that we have. That's the tough one.

8       We in McKay are in a tough situation. We see the Japanese  
9 coming in and taking all the trees. We see the oil industry  
10 coming and taking all the riches from our land and our  
11 people have to live in those conditions.

12                   I don't know what is going to give us  
13 that recognition that those are also our resources and  
14 our land and that we have a right to the animals. What  
15 is it going to take? It's not going to take the courts.

16       It's not going to take any other thing except the Prime  
17 Minister and the Premiers sitting down with the First  
18 Nations people and saying, "Yes, what we did was wrong."

19       Now we are going to redevelop and strengthen that  
20 relationship that we have and live side by side because  
21 many of us still believe that we are not Canadian citizens  
22 yet and a lot of people are taken back when some First  
23 Nation says that because all of these constitutional

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1 discussions was about how we could fit into the  
2 Constitution and that hasn't taken place really yet.

3                   So, what do you tell the people of Fort  
4 McKay and those other communities, such as Lubicon? That  
5 we have to do a new relationship with the agenda of the  
6 federal government because we've seen how they have  
7 developed their agenda in developing our new relationship,  
8 defining how they are going to change the Indian Act on  
9 their own agenda with the land act, the number of  
10 legislative options that they have gone on their own with  
11 co-operation of a few chiefs. But they've never really  
12 dealt with the issue.

13                   I am not looking for answers,  
14 Commissioners. I am just trying to emphasize that that  
15 is the real problem and that's the issue, is that the Prime  
16 Minister has to sit across from our chiefs and talk about  
17 how they are going to be friends and how they are going  
18 to live side by side as neighbours. Until that takes place  
19 nothing is going to change because we are going to be  
20 fighting off legislative change. We are going to be  
21 fighting off court decisions. We are still the same way.

22                   **CO-CHAIR GEORGES ERASMUS:** I would like  
23 to thank you for coming forth. We've certainly heard your

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1 opinion. Thank you.

2 **MR. LAWRENCE COUTREILLE:** I would like  
3 to thank both of you also. The only thing I recommend  
4 is that you have the tough job of making recommendations  
5 of how things have to change with the Aboriginal people.

6 I don't think we should do it the soft approach. You  
7 are two well-respected Aboriginal people in our  
8 communities and hopefully you will tell it the way it is  
9 and recommend how properly it could be dealt with.

10 **CO-CHAIR GEORGES ERASMUS:** Once again,  
11 thank you.

12 I would like to call up the Mayor of the  
13 City of Edmonton, Mayor Jan Reimer, please.

14 **MAYOR JAN REIMER, (Mayor, City of**  
15 **Edmonton):** Good afternoon. First of all, I'd like to  
16 welcome the members of the Royal Commission to Edmonton.  
17 On behalf of City Council and indeed the people of  
18 Edmonton, I extend best wishes for the successful  
19 completion of your work here and in other communities  
20 across Canada.

21 Coming over here I thought there are two  
22 things that the Aboriginal communities and cities have  
23 in common; neither of us are recognized in the

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1 Constitution.

2                   The task that you have been given here  
3 is an important one for our Aboriginal residents and it  
4 is important for the City of Edmonton.

5                   In the 1991 census, 42,695 people in the  
6 Edmonton area reported that they were North American  
7 Indian, Métis or Inuit. This is an increase of 53 per  
8 cent since the 1986 census, and it adds up to more than  
9 5 per cent of our population. Our Aboriginal population  
10 is significantly younger than the population as a whole,  
11 so they will continue to play a significant role in the  
12 future of our city.

13                   Each year funders and providers of the  
14 human services in Edmonton sponsor a publication called  
15 Tracking the Trends. It provides an overview of  
16 socio-demographic information and monitors significant  
17 trends that will affect the delivery of human services.

18                   This year the publication has a special feature on  
19 Edmonton's Aboriginal population. I have brought a copy  
20 of it here and several copies for you. I think it may  
21 provide some useful information for you.

22                   In addition to statistical information  
23 about Edmonton's Aboriginal population, the publication

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1 identifies a number of important trends in the areas of  
2 governance, economic development, human services and  
3 culture. These won't be new to you; in fact, they are  
4 similar to the issues you identified in Round One and Two  
5 of your community consultations across Canada.

6 In addition, I would like to provide a  
7 few thoughts based on our efforts to provide a mechanism  
8 for addressing the needs of Edmonton's Aboriginal  
9 residents.

10 My first observation is to confirm the  
11 importance of dealing with the situation of urban  
12 Aboriginal people in a specific area. Their needs cannot  
13 be lumped in with the issues affecting reserves or  
14 land-based Métis communities. Approximately two-thirds  
15 of the Aboriginal population in Canada are urban  
16 Aboriginals, but they don't receive two-thirds of the  
17 attention, nor do they receive anywhere near two-thirds  
18 of the funds spent on Aboriginal peoples.

19 In many ways, urban Aboriginal people  
20 feel abandoned by the society around them, but even more  
21 importantly they often also feel abandoned by their own  
22 people and by the federal government. One caller to my  
23 office, who had come into the city from a reserve, described

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1 the problem well when he said, "I feel like a space person.  
2 I don't belong here and there's no future for me on the  
3 reserve."

4                   It seems to be practically impossible  
5 for off-reserve people to tap into reserve-based programs.  
6 They are sent from one government agency to another to  
7 meet some of the most basic needs. The different  
8 jurisdictions and policies affecting the Métis, status  
9 and non-status Indians, means that people living together  
10 in one community receive very different treatment. Given  
11 the different backgrounds, categories and public policies  
12 affecting Aboriginal people, it is difficult for urban  
13 Aboriginal people to form one strong organization to  
14 represent their needs within our city.

15                   During my first term as Mayor I worked  
16 with both the Métis Nation and the Indian Association of  
17 Alberta to establish an Edmonton Aboriginal Representative  
18 Committee. The goal was to provide a forum for bringing  
19 forward and addressing the needs of Aboriginal residents,  
20 whatever their background. Attached is a copy of their  
21 report to City Council, which identifies some specific  
22 recommendations in the areas of health, employment and  
23 housing. While we did make some progress, it is fair to

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1 say that we lost momentum during the focus on national,  
2 constitutional issues in 1992 and their implications for  
3 different groups of Aboriginal people.

4                   The group itself has identified the need  
5 to establish closer links with the grass roots community  
6 and the people who are providing services on a daily basis.

7     Now an inter-agency network is being formed to take up  
8 the work of the Aboriginal Representative Committee. In  
9 keeping with the trend toward self-government, it is  
10 important for urban Aboriginal people to identify their  
11 own objectives. As the Mayor of Edmonton, and with the  
12 support of City Council, I have made a commitment to work  
13 with them to achieve their objectives through co-operative  
14 channels and negotiation with other levels of government  
15 as well.

16                   At the same time, the City of Edmonton  
17 has made some progress in appointing Aboriginal members  
18 to some of our standing boards and committees, such as  
19 the Police Commission, the Royal Alexandra Hospital Board  
20 and the Advisory Committee on Community and Family  
21 Services. Aboriginal representatives were included on  
22 the Steering Committee to develop an Economic Development  
23 Strategy for Edmonton and on the Mayor's Task Force on

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1 Safer Cities.

2                                 Edmonton Police Services has  
3 established a separate advisory committee from the  
4 Aboriginal community, and they are now working with the  
5 Safer Cities Committee to address a number of  
6 recommendations relating to the Aboriginal community.  
7 An Aboriginal committee has also been established as part  
8 of our Action Group on Prostitution.

9                                 In the urban setting, I think it is  
10 important for Aboriginal voices to be heard through  
11 Aboriginal organizations, but also through participation  
12 in non-Aboriginal agencies.

13                                 While we are making some progress, much,  
14 much more needs to be done. You will find no shortage  
15 of reports identifying issues and even developing  
16 recommendations to address them. In a number of the  
17 reports there is one similar recommendation I would like  
18 to point out because I think it merits further attention  
19 by the Commission. That is the need for one place for  
20 Aboriginal people to go when they come to the city.  
21 Various groups have recommended one place for Aboriginal  
22 youth to find the help and support they need; others have  
23 identified the need for one place for information on all

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1 government and community services; others the need for  
2 a cultural centre. In the context of my comments about  
3 urban Aboriginal people feeling lost, it is not surprising  
4 that the need for a one-stop approach would be a common  
5 theme.

6                               Establishing a one-stop approach will  
7 require that federal and provincial governments co-operate  
8 to meet Aboriginal needs instead of focusing on  
9 jurisdictional issues. It is fair to say that most  
10 municipalities, Edmonton included, are concerned that they  
11 will get caught up in the jurisdictional wars and find  
12 themselves left with providing services that were once  
13 provided by other levels of government, but without the  
14 financial resources being transferred to do it. When that  
15 happens, the political will to look at different ways of  
16 doing things is often lost in retrenchment and defensive  
17 postures to protect the legitimate interests of each  
18 partner.

19                               For this round you have asked  
20 participants to address whether the principles in your  
21 discussion paper are a good starting point. They are the  
22 need for a new relationship, self-determination,  
23 self-sufficiency and healing. I can tell you they are

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1 themes I hear from Aboriginal people in the City of  
2 Edmonton. The question is: What do they mean in an urban  
3 setting?

4 I also hear a good deal of frustration  
5 because while the needs are so obvious, it seems so hard  
6 to make good progress on solutions. In fact, in some areas  
7 we are losing ground. I think of the cuts in the federal  
8 housing programs for off-reserve aboriginal people as an  
9 example of a serious loss in our community. As well as  
10 a loss of funds, it represents a break down of trust for  
11 both Aboriginal communities and cities. It makes all the  
12 talk about co-operation and consultation sound hollow,  
13 because there was no discussion with the city, nor our  
14 Aboriginal community.

15 I hope the Commission will stress the  
16 importance of the federal government not arbitrarily  
17 withdrawing from support of urban Aboriginal people, until  
18 successful new relationships are in place. Success for  
19 Aboriginal people in dealing with municipal councils will  
20 depend on the federal government not making arbitrary  
21 decisions that simply down-load costs onto our cities.

22 New initiatives must also reflect the  
23 fact that most aboriginal people live in urban areas.

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1 will probably be local ones, and they won't be the same  
2 in every community. If individual communities can set  
3 specific, achievable targets and then be successful, it  
4 will help to build hope, it will help to build confidence  
5 in both the Aboriginal and non-Aboriginal community. We  
6 need to show that the present situation for urban  
7 Aboriginal people is not inevitable; positive change is  
8 possible and indeed it is achievable.

9                   For this reason I believe pilot projects  
10 and models will be important strategies for the Commission  
11 to consider. Edmonton would be a good place to pilot  
12 projects in different areas to develop some models of what  
13 urban self-government might look like if it is developed  
14 in co-operation with all levels of government.

15                   Achieving the four goals you have  
16 identified in an urban setting will not be easy, but it  
17 probably has the best potential for a long-term resolution  
18 to the challenges that are facing our urban Aboriginal  
19 residents. Thank you.

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

21                   Would you mind if we asked you a few questions?

22                   **MAYOR JAN REIMER:** Go right ahead.

23                   **CO-CHAIR GEORGES ERASMUS:** I will start

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1 with Commissioner Chartrand if he has any comments or  
2 questions. Paul.

3 **COMMISSIONER PAUL CHARTRAND:** I will  
4 begin, Mayor Reimer, by thanking you for welcoming us to  
5 Edmonton. I can say today that it's the fourth time that  
6 I have had the pleasure of coming to Edmonton in my capacity  
7 as a Commissioner here. Most recently for the purpose  
8 of making a presentation to the Federation of Canadian  
9 Municipalities here in Edmonton.

10 **MAYOR JAN REIMER:** That's right, just  
11 two weeks ago.

12 **COMMISSIONER PAUL CHARTRAND:** At which  
13 I took an approach somewhat similar to yours, that is of  
14 stressing matters that Aboriginal peoples and  
15 municipalities have in common.

16 Thank you for your brief which is quite  
17 clear and requires little elaboration. I may say that  
18 you have indeed identified one of the key elements in  
19 striving for Aboriginal self-government in Canada and  
20 particularly in urban areas where you have identified the  
21 matter of Aboriginal representation. It seems to me that  
22 your approach, if I may characterize it as a functional  
23 approach and by that I have in mind the one-stop service

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1 and one-stop shopping for services approach and the action  
2 strategy approach definitely seems to have much merit,  
3 given the overwhelming complexities of the issues  
4 involved. Again, I want to thank you.

5 **MAYOR JAN REIMER:** Thank you.

6 **CO-CHAIR GEORGES ERASMUS:** One small  
7 question; the one-stop shop idea. Would that mean kind  
8 of like a clearing house to more or less assist a newcomer  
9 to the city to figure out where the different services  
10 are, where the different organizations are, like the  
11 Friendship Centre over there, the Métis office over here  
12 and so forth?

13 **MAYOR JAN REIMER:** That's part of it.

14 I think as we have looked particularly at the needs of  
15 Aboriginal youth, clearly it was identified that there  
16 needs to be a place when they come to the city to find  
17 out what support there is and how to go about it, so that  
18 it doesn't become a life on the street.

19 I think if you extend that in terms of  
20 the adult community, we get comments all the time that  
21 I have to go here and there and over here and no one is  
22 really very clear. I think you could even take it a step  
23 further to, God forbid I suppose, have the provincial and

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1 federal representatives there to give that information  
2 on the spot.

3                   It is something that I think I have said  
4 to our own local community, you need to identify the needs  
5 and then we can look at putting it together. It may vary  
6 from city to city, depending on how close reserves may  
7 be and what the needs are. But certainly it's this idea  
8 of always being shunted from pillar to post and no one  
9 being there clearly to identify what services are available  
10 and also the cultural support which was another element  
11 that was identified.

12                   **CO-CHAIR GEORGES ERASMUS:** So, in a  
13 one-stop shop that you are talking about there would be  
14 some services there in addition to --

15                   **MAYOR JAN REIMER:** I would see that as  
16 the potential, rather than referring everybody so they  
17 have to try to find the correct location. We've got  
18 computer networking now. We should use that technology  
19 as an advantage for people.

20                   To give an example, at our own City Hall  
21 we have what's called the Citizens' Action Centre.  
22 Citizens come in the front door and if they've got a  
23 question or a concern or they want to know how to solve

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1 it, the Citizens' Action Centre will get them the answer.

2 It doesn't mean all the departments are located in City  
3 Hall, but the answer can be found for them.

4 **CO-CHAIR GEORGES ERASMUS:** How long has  
5 it been since Aboriginal people started sitting on  
6 different committees?

7 **MAYOR JAN REIMER:** It was a commitment  
8 I made when I ran for election the first time which would  
9 have been 1989. Since then the Police Commissioner was  
10 put on I guess about three years ago, two years ago. Royal  
11 Alex just recently -- my Task Force on Safer Cities, from  
12 the moment I started that one, I think it was about four  
13 years ago now and Action Group on Prostitution we've just  
14 been working on that a year, so it's from that time.

15 **CO-CHAIR GEORGES ERASMUS:** I must  
16 commend you, this is a very, very good idea.

17 We were certainly disappointed that we  
18 couldn't organize our urban conference last year here in  
19 Edmonton when you were available. It was unfortunate.

20 **MAYOR JAN REIMER:** Yes, I'm sorry I  
21 missed that. It was family holidays I think at the time.  
22 When my husband can get a locum we take it.

23 **CO-CHAIR GEORGES ERASMUS:** Thank you

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1 for coming forth.

2 **MAYOR JAN REIMER:** Thank you very much.

3 **CO-CHAIR GEORGES ERASMUS:** We are going  
4 to take a very short coffee break at this time.

5 --- Short Recess at 3:35 p.m.

6 --- Upon Resuming at 3:45 p.m.

7 **CO-CHAIR GEORGES ERASMUS:** If we could  
8 come to order, please. We will now come to order. I will  
9 ask Everett Lambert to act as Moderator for this portion  
10 of our Hearing.

11 **MR. EVERETT LAMBERT (Moderator):** Thank  
12 you, Georges. Just a brief introduction about myself.  
13 I have been a student since 1982. I major in native  
14 politics at the University of Alberta and as such I am  
15 honoured to be rubbing shoulders here with men like Georges  
16 Erasmus and Paul Chartrand.

17 The lady organizers at the back asked  
18 me to moderate the session today. They usually like to  
19 have local people do this. They have also asked me to  
20 ask the presenters to try to stick to the agenda.

21 I won't be asking any questions, I will  
22 leave that to the Commissioners here. Our first presenter  
23 will be Andy Von Busse who is with the Alberta Fish and

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1 Game Association.

2 **MR. ANDY VON BUSSE (Alberta Fish and Game**  
3 **Association):** Thank you, gentlemen.

4 I was here almost a year ago exactly at  
5 the Edmonton Inn when we made a presentation and I was  
6 requested by, I believe it was one of your subcommittees,  
7 to come and see if we could have some answers to some of  
8 the points that we have raised, so I will attempt to do  
9 that.

10 I listened with interest to the  
11 gentleman from Fort McKay. I thought he spoke very  
12 eloquently and he certainly made some similar comments  
13 that I felt is -- he quotes there is definitely mistrust  
14 between people. He talked about getting along and I agree.

15 I feel that the Fish and Game and a lot of the native  
16 organizations have a lot of common interests,  
17 environmental forestry particularly. There is no  
18 question there is common interests that we would have.

19 There is differences, but I think those  
20 differences should not be resolved through governments  
21 or through courts. I think those differences should also  
22 be resolved through people and organization of people.

23 Most of my remaining comments -- you

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1 hopefully have the written presentation and it will relate  
2 to that written presentation.

3 Our particular interest is in the  
4 management of fish and wildlife resources. There are a  
5 number of concerns that we have, particularly relating  
6 to the unlimited and unregulated hunting and fishing  
7 ability of status and non-status Indians.

8 We feel to somewhat alleviate that  
9 individual bands should be given a clear authority to make  
10 by-laws concerning the management and use of fish and  
11 wildlife resources within their boundaries. The present  
12 laws are really unclear on that. Although there is a  
13 general restriction of non-natives hunting on reserve  
14 lands, those same laws of general application don't  
15 necessarily apply to treaty Indians when they come in from  
16 a different area.

17 Our position is that in those areas that  
18 are clearly reserve lands that those that are responsible  
19 for those lands, in other words the band itself, should  
20 be able to make laws regulating the use of wildlife  
21 resources on those reserves.

22 We also feel that status natives not  
23 members of a band should become subject to wildlife

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1 regulations the same as other non-status Canadians. A  
2 complaint we often hear from our members and to some extent  
3 we've heard them from some natives also is that the mobility  
4 of modern times and the regime of unregulated and unlimited  
5 hunting and fishing allows those who choose to abuse rights  
6 a much wider region of impact.

7                   We certainly have heard of cases of  
8 individuals coming from Manitoba to the Cypress Hills or  
9 from northern B.C. to mid-northern Alberta and taking a  
10 number of animals back to their home grounds.

11                   Of particular concern is what has often  
12 been termed as Bill C-31, a number of these Canadians with  
13 newly acquired status have little contact with traditional  
14 lifestyles and don't necessarily respect our understanding  
15 of conservation values. The simple fact is if one must  
16 depend on wildlife and fish as part of one's subsistence,  
17 that person normally would have a tendency to have a lot  
18 more respect for the conservation of that wildlife and  
19 the fish.

20                   We feel that status natives not members  
21 of a band should be in the same regulations as non-status  
22 Indians. There has been much written and some earlier  
23 comments on the Sparrow decision, but very little is

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1 referred to the Agawa decision which I will read from.  
2 Agawa, for those of you who aren't familiar, is a case  
3 that was held before the Ontario Court of Appeal. The  
4 Supreme Court of Canada refused to give leave to appeal  
5 to the Supreme Court itself and it involved a treaty Indians  
6 who was accused of fishing for commercial purposes with  
7 a gill net, without a gill net licence. The court said  
8 in that case:

9 "Conservation and management of fish and game resources  
10 are required if they are to be  
11 protected from extinction and  
12 preserved for the benefit of  
13 Indians as well as other  
14 Canadians."

15 It also stated:

16 "In this respect, Indian treaty rights are like all  
17 other rights recognized by our  
18 legal system. The exercise of  
19 rights by an individual or group  
20 is limited by the rights of others.  
21 Rights do not exist in a vacuum  
22 and the exercise of any right  
23 involves a balancing with the

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1 interests and values involved in  
2 the rights of others."

3 We feel that some of these legal  
4 decisions indicate that the courts feel that the laws of  
5 general application do in fact allow some regulation of  
6 status peoples. We are referring to regulation in terms  
7 of fish and wildlife laws only.

8 It is also clear that the Government of  
9 Canada has been reluctant to act on this and we strongly  
10 urge yourselves to note in your final report that for those  
11 people that choose to be abusive, that there must be some  
12 form of regulation.

13 We feel there is a very, very strong need  
14 to involve bands and treaty organizations in the  
15 co-management of wildlife. We feel there should be an  
16 effort to recruit status natives to form an enforcement  
17 branch and a comprehensive information sharing program  
18 with native peoples on the necessity of fish and wildlife  
19 conservation.

20 When the numbered treaties were first  
21 agreed to, unlimited and unregulated fishing rights had  
22 little effect because of the numbers of people and the  
23 lack of mobility at that time. Since that time there have

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1 been many changes in the dynamics of society and the  
2 population of Canada, the impact of a much larger  
3 population, the impact of a more urbanized society,  
4 mobility gained through technology and the effectiveness  
5 of hunting methods through the use of vehicles, an  
6 increased range and power of weapons used, all of that  
7 has vastly changed the success rate and the effectiveness  
8 of hunters, both native and non-native.

9                   What has also changed is that if a  
10 person, no matter what their status is, could, if he chose  
11 to be, be abusive and become much more destructive in his  
12 activities. The difference is that if a non-status person  
13 who is involved in an abusive activity can be dealt with  
14 severely through existing laws. If a status individual  
15 wishes to abuse the wildlife, especially if he is not a  
16 member of a band, has very little persuasion to act  
17 otherwise.

18                   There is little co-operation right now  
19 between our Fish and Wildlife managers and native bands.

20 A lot of that has to do with what the gentleman from Fort  
21 McKay suggested is the mistrust between peoples. We feel  
22 the exchange of information between the provincial Fish  
23 and Wildlife managers and native bands must start, the

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1 suspicion must be minimized in order to allow the fish  
2 and wildlife to thrive.

3                   We feel there must be a real effort made  
4 in involving natives in the enforcement of wildlife laws,  
5 specifically on the bands themselves, but they must also  
6 have the authority to deal with infractions off the  
7 reserves with both native and non-native peoples.

8                   The Federation of Saskatchewan Indian  
9 Nations has recently signed a Memorandum of Understanding  
10 which essentially outlines those type of things that I  
11 just talked about.

12                   The Fish and Game Association also feels  
13 that there must become some sort of co-management of  
14 wildlife resources. In order for that to be effective,  
15 individual treaty rights must be circumscribed.

16                   I have often heard it said by natives  
17 or native leaders that the treaty rights must be portable,  
18 but there are a number of problems that happens when we  
19 take that as a philosophy. It undermines any regulations  
20 that a band may want to impose in an area. Any status  
21 Indians from any other part of Canada can come into the  
22 area and pursue his unlimited hunting or fishing rights,  
23 especially those who have been status under Bill C-31.

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1 They haven't been members of a band, they haven't had the  
2 adhesiveness to the band. They haven't been involved as  
3 families there and they haven't had the influence of the  
4 Elders.

5                   We see a real problem with that system,  
6 that there is no influence of regulation for those that  
7 choose to be abusive. Quite frankly, we feel that's where  
8 most of the problems lie.

9                   We feel the argument of the portability  
10 of treaty rights becomes one that frustrates management  
11 of fish and wildlife.

12                   We think an emphasis must be placed on  
13 conservation first. We think there must be fairness in  
14 laws and we also feel that there has got to be some  
15 recognition of the concern that there are some racist  
16 attitudes out there. We also feel some of those attitudes  
17 are out there as a result of the existing laws.

18                   We feel our focus should be on  
19 conservation and co-operation, not confrontation. It has  
20 often been said a law must not only be fair, but it must  
21 appear to be fair. I think the federal government has  
22 recognized that in their recent policy in settlement of  
23 native land claims, where they state -- and I am referring

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1 here to specific claims -- that even the program does not  
2 accept that claims or actions have not been in breach of  
3 the federal government's lawful obligations. However,  
4 in such cases there may nonetheless be legitimate  
5 grievances that could be resolved in a negotiated  
6 settlement. That's an attitude of -- maybe it's just a  
7 new attitude of the federal government. All I've been  
8 hearing from some of the other speakers it hasn't been  
9 in the past, that fairness must appear to be there.

10 We also feel that feeling of fairness  
11 must apply in reverse. The present situation where you  
12 have one set of wildlife conservation laws for one group  
13 of people and another for another is divisive. It's not  
14 something that has in the past helped the situation as  
15 far as co-operation is concerned and if it continues I  
16 don't think it will in the future frankly.

17 Using wildlife resources as a hammer,  
18 as in the case of the Miramichi River natives is something  
19 that we feel real strongly against. Chief Roger Augustine  
20 in August of 1991 at that time was very clear of the fact  
21 that native leaders would not talk about conservation until  
22 their economic development concerns were met. That is  
23 holding wildlife to ransom and that is exactly the type

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1 of situation the Fish and Game wants to avoid here in  
2 Alberta.

3 In conclusion -- we have a lot of other  
4 things in the brief, but some of those are background --  
5 we hope that our input enables yourselves to at least  
6 consider the impact of the existing regime. We feel our  
7 alternatives are viable. They allow for exceptions to  
8 regulation in those areas where supplementation of food  
9 or the sole source of food is wildlife or fish.

10 It also allows for a very major input  
11 by natives in wildlife management and enforcement and,  
12 most of all, it calls for co-operation and not  
13 confrontation. In the long term we must all exist in  
14 harmony and any regime or situation which legislatively  
15 discourages such co-operation and harmony must be altered.

16

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

18 Would you mind if we asked you some questions?

19 **MR. ANDY VON BUSSE:** By all means. I  
20 expected you might have some.

21 **CO-CHAIR GEORGES ERASMUS:** I will see  
22 if Paul Chartrand is interested in asking you any. Paul

23 **COMMISSIONER PAUL CHARTRAND:** Thank you

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1 for your brief. It is interesting that someone from the  
2 Commission asked you to return to make another submission.

3 I know that the issue that you have presented before us  
4 in the past and today is a very, very important one that  
5 must be a part of any good report that this Commission  
6 makes.

7 It seems to me in the very quick glance  
8 that I have been able to give to your paper that you are  
9 saying that given that there are natural resources, in  
10 this case wildlife and game, that there is competition  
11 for their consumption, that there must be regulation to  
12 the consumption. It seems to difficult to argue with that  
13 proposition.

14 It seems that this issue is one that is  
15 at the core of the idea of Aboriginal rights in Canada.

16 It seems to me to illustrate how theory meets fact. That  
17 is, your brief refers to notions of hunting rights and  
18 implicit I think in your discussion is the question of  
19 in whom are these rights vested. It seems to me that it  
20 is right to conclude that the answer is not clear in this  
21 country. I think it is one reason why we have these  
22 difficulties.

23 Putting it another way, are these

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1 hunting rights individual rights or are they collective  
2 rights? I don't think we can find a solution by answering  
3 questions to that, because it seems that so far the courts  
4 appear to be treating these rights as rights that are vested  
5 in an individual as a consequence of his or her membership  
6 in a group, rather than perceiving these rights to be  
7 inherently group rights, that is rights that are not vested  
8 in the individual at all but in the group. It seems to  
9 me if that was the case, if these were pure group rights,  
10 that the only rights would be in the group, to exercise  
11 a power, to regulate the use, the consumption of the  
12 resources.

13                   If that were so, then there would be no  
14 right inherent in the individual, so there would be no  
15 such problem. There would be no right in the individual  
16 to hunt because the group is vested in say the First Nation  
17 or the band or whatever and it requires then some  
18 regulation.

19                   **MR. ANDY VON BUSSE:** I am not sure if  
20 the courts have defined whether it is a group or an  
21 individual right. I concur with you that certainly an  
22 individual right in the cases of Sparrow particularly,  
23 it was an individual right that they ruled on. They

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1 certainly have not ruled against a group right, at least  
2 I am not aware of any cases where they have.

3                   **COMMISSIONER PAUL CHARTRAND:** I am  
4 suggesting that it seems to me that the courts are treating  
5 the Aboriginal rights as vested in individuals as a result  
6 of their membership in a group, as opposed to rights that  
7 adhere not to the individual, but in the group itself  
8 because they are recognizing the rights, as you have  
9 indicated, of an individual to fish. It seems to me that's  
10 a right that adheres to an individual as a result of his  
11 membership in a group, which I think is different from  
12 a right that is vested in the group.

13                   If you took an analogy, I am sure an  
14 imperfect one, there might be a right in the province to  
15 regulate or a right in the federal government to regulate.  
16 That doesn't give any rights to the individual citizens,  
17 but only in the group.

18                   It seems to me that my point is that I  
19 think this brief illustrates very well the fact that these  
20 are keen questions, have a real significance as your brief  
21 is full of instances where this has real impact. My point  
22 is that there are overwhelmingly complex issues that we  
23 have to consider because there are consequences that flow

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1 from legally characterizing rights in this particular way  
2 or in that particular way. I think one of the difficulties  
3 we face is that the characterization is not yet clear.  
4 But I think what you have done in this paper is to show  
5 how, because we don't know what the characterization is,  
6 these problems arise instructing us as a good illustration  
7 of why it is that the uncertainty of the law of Aboriginal  
8 rights gives rise to these considerable kinds of  
9 difficulties. It's just one of the wrinkles that we have  
10 to face.

11 **MR. ANDY VON BUSSE:** I don't disagree  
12 with much of what you have to say. The fact that an  
13 uncertainty does lie out there is maybe part of the problem.  
14 The fact that the uncertainty is also out there is part  
15 of the reason that it has been very difficult for  
16 governments, native organizations, other agencies, to work  
17 together. I think that has got to be one of the first  
18 steps is regardless of what governments do, I still think  
19 other organizations, native groups and groups like  
20 ourselves have to work together in those areas of common  
21 interest.

22 We are going to disagree on some, but  
23 there are other ones that we do agree on.

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1                   **COMMISSIONER PAUL CHARTRAND:** Again,  
2 thank you very much.

3                   **CO-CHAIR GEORGES ERASMUS:** You cite a  
4 number of things. One of the items you bring us is the  
5 portability of treaty rights issue. I understand the  
6 point you are making here in relation to game.

7                   What about treaty rights in other areas?

8       For instance, a contention was made earlier today by  
9 Lawrence Coutreille about other kinds of treaty rights  
10 that they had. One that is cited in other places is things  
11 like the right to education, for instance.

12                  **MR. ANDY VON BUSSE:** Our questioning the  
13 portability of treaty rights relates only to fish and  
14 wildlife. Philosophically we certainly wouldn't have any  
15 problem in the other areas.

16                  **CO-CHAIR GEORGES ERASMUS:** Are you  
17 aware of some of the co-management schemes that they are  
18 using in the north, either in the Yukon or the Northwest  
19 Territories?

20                  **MR. ANDY VON BUSSE:** I have a cursory  
21 knowledge of it. Yes, I do.

22                  **CO-CHAIR GEORGES ERASMUS:** Is that the  
23 kind of structure or something like it that you are

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1 referring to?

2 **MR. ANDY VON BUSSE:** I think initially  
3 we would probably would be looking at something like the  
4 memorandum that the Saskatchewan Federation signed just  
5 recently. I think we would be looking at something along  
6 that line or at least a discussion paper along that line.

7  
8 Again, I am not fully familiar with the  
9 Northwest Territories' ones, but it is certainly one that  
10 could be looked at.

11 **CO-CHAIR GEORGES ERASMUS:** What kind of  
12 power would these management regimes have; advisory to  
13 the Minister or --

14 **MR. ANDY VON BUSSE:** Do you want to  
15 repeat that, please?

16 **CO-CHAIR GEORGES ERASMUS:** What kind of  
17 authority would these co-management regimes have?

18 **MR. ANDY VON BUSSE:** That would depend  
19 on how they were structured. If we are talking about pure  
20 co-management, I think the authority would lie in -- and  
21 I suppose the way I envision it, both by the provincial  
22 government and the bands that are involved. I think it's  
23 a joint thing.

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1                   **CO-CHAIR GEORGES ERASMUS:** Thank you  
2 for coming back and elaborating on these.

3                   **MR. ANDY VON BUSSE:** Thank you very  
4 much.

5                   **MR. EVERETT LAMBERT:** Just before I  
6 introduce the next group, we have a little change here  
7 in the agenda. The Lesser Slave Lake Indian Regional  
8 Council which was to come on at 4:30 will not be here today.  
9 So, what the organizers have done is slotted in their  
10 place the Coalition Against First Nation Genocide which  
11 was to be at 5:00 and will now be moved to 4:30. We are  
12 not sure about their attendance either. We haven't  
13 confirmed that they won't be here either.

14                   On now is the Aboriginal Student Council  
15 from the University of Alberta. The four students are  
16 led by Brenda Mary Jones who is the President of the  
17 Council.

18                   **CO-CHAIR GEORGES ERASMUS:** Please  
19 proceed whenever you are ready.

20                   **MS BRENDA MARY JONES (President,**  
21 **Aboriginal Student Council, University of Alberta):** My  
22 name is Brenda Mary Jones and I am the President of the  
23 Aboriginal Student Council. I would like to introduce

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1 the students here with me. This is Cathy Sewell, she is  
2 one of our board members. There is Marty Landry, our  
3 Treasurer and Alan Telford, our Aboriginal Student Council  
4 representative and V.P. External.

5 We are here today to present our views  
6 on the quality of life or the lack of quality of life at  
7 the University of Alberta for the native students.  
8 Recently we have come across a few events that have shown  
9 us as students that there is not a lot of support for our  
10 university, for our roles as native students on campus.

11

12 Marty is going to begin our presentation  
13 with the history of the Aboriginal Student Council.

14 **MR. MARTY LANDRY:** Thank you, Brenda.

15 The Aboriginal Student Council was first  
16 formed in 1978 as a non-profit peer support, advocacy group  
17 for Aboriginal students on campus. First formed as the  
18 Native Student Club, the group started out as a peer support  
19 group. The Council is elected annually and collects  
20 membership fees. Fundraising activities contribute to  
21 the yearly operational costs of the club.

22 Recently, within the last five years,  
23 the group has become the Aboriginal Student Council and

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1 has taken on a larger role for campus students. The ASC  
2 acts as a forum for Aboriginal issues which affect students  
3 both on campus and in the larger community. Originally  
4 intended for support and social purposes, the Council's  
5 mandate has grown, along with its annual membership. The  
6 role of the Council has grown to accommodate the changes  
7 seen within our own communities and our nation.

8                   Presently, we are recognized as a  
9 representative body -- or representatives of Aboriginal  
10 students on campus. Every year we hold a four day Native  
11 Awareness Days, including speakers from in and around  
12 Alberta, as well as Canada, and we hold a round dance.

13                   The other activities of the Council  
14 include culturally relevant events. The lounge where the  
15 students meet allows for a comfortable area where students  
16 feel at ease and re able to socialize when need be. As  
17 Aboriginal students, many are away from their family and  
18 communities while attending university. The lounge  
19 offers support for personal problems or studying help if  
20 the need arises.

21                   Our concerns. In recent years the  
22 Aboriginal peoples of this nation have been active in  
23 reclaiming the self-governing ways of our ancestors. This

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1 is also the desire of the Aboriginal students on the campus  
2 of the University of Alberta. We view this as the only  
3 way to take our role with respect and honour within the  
4 university setting. It is imperative that this  
5 self-governing role enhance the quality of life for the  
6 Aboriginal students on campus.

7                   The quality of life on campus begins with  
8 the office of Native Student Services. This office was  
9 established to provide academic and support services to  
10 the Aboriginal student body on campus. The role this  
11 office plays goes beyond an academic setting. We the  
12 students believe that as a distinct society we have  
13 distinct needs that should be fulfilled by the office of  
14 Native Student Services.

15                   As Aboriginal students we face different  
16 challenges daily at the university. It is important to  
17 recognize that being an Aboriginal in a post-secondary  
18 setting is an accomplishment. The stats tell us that this  
19 achievement is almost impossible. However, the numbers  
20 dictate otherwise. Presently there are 400 Aboriginal  
21 students on campus. The needs of these students vary,  
22 but the basic need of support and encouragement is  
23 universal.

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1 I will let Brenda carry on.

2 **MS BRENDA MARY JONES:** Recently we  
3 witnessed a break down in that support. In April of this  
4 year the Dean of Student Services hired a non-Aboriginal  
5 in the role as Director of Native Student Services. The  
6 Dean ignored many letters from our Aboriginal communities  
7 requesting the hiring of a Director of Aboriginal Ancestry  
8 who not only valued the cultural sensitivity of our  
9 peoples, but also placed these values into practice.

10 The whole process was flawed from the  
11 beginning. There have been many complaints and an  
12 investigation will be launched by the Office of Human  
13 Rights on campus. We as students and our communities are  
14 left to wonder what types of messages this hiring of a  
15 non-Aboriginal has left for our people. What are we  
16 telling the young people that are in university, that there  
17 are no jobs of higher academic level for us to take once  
18 we finish our education. Is this not telling us that there  
19 is no person of our ancestry suitable for this position?

20

21 There were over 40 applicants of  
22 Aboriginal ancestry, yet only one received an interview.  
23 The students saw this as an error in judgment by the Dean.

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1 We raised our voices. We brought them letters. We were  
2 only given a few minutes to discuss our concerns and the  
3 procedure went on despite our wishes, especially the wishes  
4 of the people that are directly affected by this office.

5 This is the Office of Native Student Services, but when  
6 it came time to hear the voice of the students they were  
7 not heard.

8 **MR. ALAN TELFORD:** We were also  
9 concerned about the funding cuts to native education.  
10 This spring and summer the Alberta Region in charge of  
11 post-secondary funding deleted any funds for that time  
12 period. This has created a problem for many of our  
13 students. We believe that the students who chose to  
14 continue on during spring and summer are dedicated to  
15 obtaining their degrees.

16 It is not our belief that these students  
17 are not willing to work, as stated by some members of INAC.

18 The intersession at the university is one term compacted  
19 into five to six weeks. The students take the standard  
20 equivalent to a full-time load which is six credits or  
21 two courses. This displays not only commitment, but a  
22 desire to succeed by our students.

23 Therefore, we believe that because there

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1 is no funding and jobs are at a minimum, this has created  
2 a brand new set of welfare recipients. It is common  
3 knowledge that the government frowns upon our people when  
4 we rely on welfare. However, it is that same government  
5 that is forcing our people who are trying to break from  
6 the system on to the very same system.

7                   This does not enhance the quality of life  
8 for Aboriginal students on campus. As a result, we request  
9 that all post-secondary funding handled by the Alberta  
10 Region of Indian and Northern Affairs be immediately turned  
11 over to an Aboriginal group, committee or agency. In doing  
12 so, this would facilitate the protection and  
13 self-determination of our education. This can only lead  
14 to the survival of our ways and our culture within our  
15 own communities and that which exists on the campus of  
16 the University of Alberta.

17                   These initiatives are the first steps  
18 in creating self-reliance which can only lead to Aboriginal  
19 communities becoming full participants and contributors  
20 to Canada's economic growth.

21                   It is the hope of myself and the members  
22 of Council that the Royal Commission will recognize and  
23 perhaps dialogue on the quality of life of Aboriginal

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1 students at the University of Alberta. The students on  
2 campus are our future and in some cases the current leaders  
3 of our nation and this country. It is important that the  
4 Aboriginal community notice the commitment of their  
5 students. This includes acknowledgement of success and  
6 of the struggles of the Aboriginal student body.

7 We also realize that as Aboriginal  
8 students we set a role model for our youth. We accept  
9 this, but we also have to overcome the current situations  
10 here at the university to achieve this. In doing so we  
11 hope that we will make a solid foundation here at the  
12 University of Alberta for our future generations.

13 **MS CATHY SEWELL:** Having said all this,  
14 we have a few proposals for a course of action. We hope  
15 today that in appearing before the Royal Commission that  
16 the Royal Commission will accept these following proposals  
17 as a resolve of the quality of life on campus or the lack  
18 thereof.

19 We ask that the Royal Commission and all  
20 native communities and Elders show written support of the  
21 Aboriginal students on campus. In showing support of the  
22 students, the University of Alberta would have to recognize  
23 all Aboriginal groups on campus as a distinct society.

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1 The university would have to acknowledge that there is  
2 a place not only for the Aboriginal students, but also  
3 a place for Aboriginal peoples within the administrative  
4 roles on campus. We ask that the above groups show in  
5 support the need for self-reliance and self-determination  
6 in all areas of student life on campus.

7                   We recommend that the University of  
8 Alberta begin the development of a Native Student Centre  
9 which would facilitate the needs of all Aboriginal student  
10 groups. At this time, the University of Alberta has the  
11 Aboriginal community split into various factions. It is  
12 the hope and the desire of the students that one centre  
13 would cater to all the groups, such as the Office of Native  
14 Student Services, School of Native Studies, Indigenous  
15 Law Program, Aboriginal student groups such as the  
16 Aboriginal Student Council, School of Native Studies  
17 Student Association, Aboriginal Law Student Association  
18 and the students from all the faculties on campus.

19                   We also ask that the Aboriginal students  
20 be given a key role in the administration and management  
21 of the centre, such as the present administrative body  
22 of the U. of A. Student Council.

23                   In regard to the funding of Aboriginal

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1 students, we propose that the post-secondary funding for  
2 the Alberta Region be put for bidding on a two year  
3 contractual basis. The competition would only be extended  
4 to an Aboriginal group, committee or agency. This allows  
5 First Nations to make choices and decisions that better  
6 reflect Aboriginal priorities.

7 **MS BRENDA MARY JONES:** In our final  
8 comment, we would just like to say that students come to  
9 the University of Alberta from various Aboriginal  
10 communities across Alberta and Canada. These students  
11 then form a community here on campus. What happens to  
12 them here has a direct impact on their home communities  
13 and because of the lack of support for the Aboriginal  
14 student here, the Aboriginal communities are losing trust  
15 in the university.

16 The communities will see that the  
17 university experience of Aboriginals is damaging to their  
18 spirit and to their future. We ask that the University  
19 of Alberta recognize the Aboriginal student body as a  
20 distinct group that has distinct needs that should be met  
21 at this time. Thank you.

22 **CO-CHAIR GEORGES ERASMUS:** Thank you  
23 for coming forth and making your presentation.

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1 Can we ask you some questions?

2 **MS BRENDA MARY JONES:** Yes.

3 **CO-CHAIR GEORGES ERASMUS:** I will start  
4 with Commissioner Paul Chartrand. Paul.

5 **COMMISSIONER PAUL CHARTRAND:** Thank you  
6 all of you for your presentation and best wishes in your  
7 studies.

8 Our mandate, as you know, is to make  
9 policy recommendations to the federal government, so that  
10 limits us with respect to the matters that can be included  
11 in those recommendations. Nevertheless, in order to  
12 arrive at sound policy recommendations, it is apparent  
13 that you require a good understanding of matters under  
14 provincial and other jurisdictions as well.

15 I find it interesting that we have from  
16 you a suggestion respecting the delivery of educational  
17 services which happens to coincide with that made earlier  
18 on today by the Mayor of the City of Edmonton, referring  
19 to the one stop shopping centre, if I may use that  
20 characterization.

21 This appears to be consistent as well  
22 with many expressions we have heard across the country  
23 respecting various kinds of services, including schools,

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1 day care services supports and so on of combining  
2 institutions for the delivery of such services because  
3 it accords with the holistic approach of many Aboriginal  
4 people and tends to increase the cost efficiency of the  
5 delivery.

6 I would like to take a brief time to ask  
7 a few pertinent questions, if I may, about your brief.  
8 Do I understand you correctly that you have secured the  
9 ability to have general student membership fees diverted  
10 directly to your coffers. Is that your accomplishment  
11 or do you have a separate organization?

12 **MS BRENDA MARY JONES:** We have a  
13 separate -- like the fees that they charge for your tuition  
14 fees, none of that comes to us. We have a separate  
15 fundraising membership drive.

16 **COMMISSIONER PAUL CHARTRAND:** Right.  
17 That was my question. Thank you for that. That's what  
18 I wanted to clear up because I've heard in other quarters  
19 people aspired to a different method of support, that is  
20 to have general student fees directed directly to them.  
21 Is that an option that you have investigated?

22 **MR. MARTY LANDRY:** No. Actually, I  
23 think in the long term if we had the Aboriginal Student

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1 Centre we would look at all options of fees, university  
2 fees directed to the Aboriginal Student Council in regards  
3 to the administration of the Centre if we had a larger  
4 control of the administration of that Centre. I think  
5 that would be one of the options.

6 **COMMISSIONER PAUL CHARTRAND:** How many  
7 people are in your group? I don't find that, but maybe  
8 that's in here.

9 **MR. MARTY LANDRY:** Right now we have 100  
10 membership.

11 **COMMISSIONER PAUL CHARTRAND:** So, you  
12 have roughly a quarter of the population, according to  
13 your statistics here. There's something on the second  
14 page that I wondered if you would help me with in trying  
15 to understand that. You are referring to some  
16 difficulties concerning the hiring of a Director of Student  
17 Services.

18 How many students are there at the  
19 University of Alberta, 20,000 or so?

20 **MS BRENDA MARY JONES:** Twenty-five  
21 thousand.

22 **COMMISSIONER PAUL CHARTRAND:** And there  
23 are 400 Aboriginal students and so we are talking of a

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1 ratio of 400 to 20,000?

2 **MS BRENDA MARY JONES:** Yes.

3 **COMMISSIONER PAUL CHARTRAND:** So this  
4 Director of Student Services would direct the services  
5 respecting 20,000 students, do I have that right?

6 **MR. MARTY LANDRY:** No. Just the 400  
7 that come through.

8 **COMMISSIONER PAUL CHARTRAND:** I'm  
9 sorry?

10 **MR. MARTY LANDRY:** Just the 400 that  
11 come through. The Director would --

12 **COMMISSIONER PAUL CHARTRAND:** Which are  
13 those 400 though?

14 **MR. ALAN TELFORD:** The 400 Aboriginal  
15 students that are identified on campus here.

16 **COMMISSIONER PAUL CHARTRAND:** So this  
17 is not a Director of Student Services generally?

18 **MS BRENDA MARY JONES:** Native Student  
19 Services.

20 **COMMISSIONER PAUL CHARTRAND:** I see.  
21 So this is a Director of Aboriginal Student Services?

22 **MS BRENDA MARY JONES:** Native Student  
23 Services.

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1                   **COMMISSIONER PAUL CHARTRAND:** I see.  
2 I though you meant a Director of Student Services period.

3                   **MS BRENDA MARY JONES:** No. They have  
4 their own specific office that just services the needs  
5 of the native students.

6                   **COMMISSIONER PAUL CHARTRAND:** Right.  
7 You are referring later on on the page to something that  
8 has been the subject of a number of submissions, that is  
9 the matter of post-secondary funding, as you term it.  
10 This has to do with a Department of Indian Affairs program.

11  
12                   We have heard a number of concerns  
13 expressed about that. One of them had to do with the  
14 perceived lack of checks on the way that the funds were  
15 expended. You people are probably in an excellent  
16 position to advise us on that. At the moment then, what  
17 kinds of checks exist if I need to ensure that funds are  
18 provided for students are used by students for succeeding  
19 reasonably? A number of allegations have been made  
20 concerning that.

21                   **MR. ALAN TELFORD:** Are you talking about  
22 how much students get as individuals?

23                   **COMMISSIONER PAUL CHARTRAND:** No. I am

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1 saying that supposing --

2 **MS BRENDA MARY JONES:** The policing of  
3 it.

4 **COMMISSIONER PAUL CHARTRAND:** -- Joe X  
5 or Jane Y receives \$1,000 a year or whatever for the purpose  
6 of attending classes towards a Bachelor of Arts degree.  
7 Are there checks to ensure that Joe X or Jane Y in fact  
8 reasonable pursues with reasonable diligence those  
9 students?

10 **MR. ALAN TELFORD:** You have to be  
11 enroled in post-secondary full time. If you drop some  
12 of your classes you are no longer a full-time students  
13 and your funding is terminated.

14 **COMMISSIONER PAUL CHARTRAND:** So there  
15 are checks on the progress of the individual.

16 **MS BRENDA MARY JONES:** From the people  
17 that fund me down east, we have a consent form that we  
18 sign every year and they have access to all of our academic  
19 records. We also have to send in our monthly rent receipts  
20 and we have to send our books and supply receipts in.

21 In accessing your grades or your  
22 transcripts, they can do that at any time. So, it could  
23 be during the middle of your mid-terms and they could access

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1 your records to show that you are still within the  
2 university and you are not abusing the system that way.

3

4 **MR. ALAN TELFORD:** Some of our concerns  
5 are that the funding available for post-secondary, in the  
6 Alberta Region they are only exclusively funding  
7 university students. That means people who need use of  
8 upgrading or upgrades in services or they want to go and  
9 do a two-year diploma at a community college, they are  
10 unable to do that now because they are exclusively funding  
11 for university programs.

12 The majority of Aboriginal people have  
13 to do, as myself, upgrading in order to get into a  
14 university.

15 **COMMISSIONER PAUL CHARTRAND:** Is this  
16 a matter of Indian Affairs Department policy now that you  
17 are --

18 **MR. ALAN TELFORD:** Yes, it is. This is  
19 one of the main reasons we would like to have the funding  
20 turned over to an Aboriginal group committee or agency.

21 It would facilitate our -- we would determine our own  
22 status, rather than cutting it specifically. I think it  
23 is wrong to just exclusively fund university students.

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1                   **COMMISSIONER PAUL CHARTRAND:** You are  
2 referring to funding to Aboriginal students on the page  
3 where you begin your proposals. In a number of quarters  
4 it has been pointed out to us that the funding comes indeed  
5 from the Department of Indian Affairs and that there are  
6 no other sources of funding for other Aboriginal people.  
7 The concern expressed to us has been that the description  
8 of Aboriginal post-secondary funding mischaracterizes the  
9 nature of the program, in that it is only available to  
10 those who are defined as Indians for the purposes of federal  
11 legislation and does not include the Métis people and,  
12 in fact, other Aboriginal people as well, whether Cree  
13 or Ojibway, if they are not included within the government  
14 system. I bring that to your attention because it is a  
15 matter that has been represented to us on a number of  
16 occasions.

17                   The concern expressed has been that the  
18 general public then lives under the apprehension that there  
19 are general programs that assist educational funding for  
20 all Aboriginal people, which as you know is not the case.

21                   **MR. ALAN TELFORD:** Some of the concerns  
22 regarding post-secondary funding is that there are a lot  
23 of our students who wanted to go to intersession funding

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1 or intersession during the summer, the spring and the  
2 summer. I have a letter from Tom Siddon stating that:  
3 "The second approach is that students would be funded for  
4 the fall and winter session only,  
5 which is an eight-month period.  
6 This will mean that the Alberta  
7 Region will be able to fund  
8 approximately 420 students for  
9 eight months, rather than only 350  
10 students for 12 months. This will  
11 provide access to funding for more  
12 students."

13 When you work the math out, it's straight  
14 basic math and it doesn't work out. If you have 420  
15 students times eight months, you have 3,360 student months  
16 funding. When you multiply 350 times 12 you have 4,200  
17 student months funding. You are being shortchanged 840  
18 student months of funding.

19 Also, students who go to intersession  
20 will be finished their degree in one-third of the time  
21 that it would generally take.

22 **COMMISSIONER PAUL CHARTRAND:** Your  
23 point, just to make sure I understand it, --

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1                   **MR. ALAN TELFORD:** These are just all  
2 some of the concerns we have and overall these are the  
3 reasons why we would like to see the post-secondary funding  
4 turned over to an Aboriginal group, committee or agency,  
5 a non-political group I would like to point out as well  
6 that would take it on a two year contractual basis.

7                   **COMMISSIONER PAUL CHARTRAND:** The  
8 present federal department's authority is not to provide  
9 money for students to pay their tuition for intersession  
10 courses. Do I have that right?

11                   **MR. ALAN TELFORD:** That's correct, yes.

12                   **COMMISSIONER PAUL CHARTRAND:** And there  
13 are no reasons given for that, other than the ones you  
14 have referred to?

15                   **MR. ALAN TELFORD:** The reason that is  
16 given is finances, that they don't have the money and a  
17 secondary reason is their claim that they would be able  
18 to fund more students initially going into the next year  
19 of new students. But then, if they are going to fund more  
20 new students, if you are only funding exclusively for  
21 university, pretty soon you are going to run out of students  
22 because we have nobody up and coming after that point.

23                   **COMMISSIONER PAUL CHARTRAND:** One final

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1 question, if I may. In your proposals again you make the  
2 statement:

3 "At this time the University of Alberta has the Aboriginal  
4 community split into various  
5 factions."

6 I wonder if you might explain the meaning  
7 of that?

8 **MS BRENDA MARY JONES:** On campus we have  
9 the School of Native Studies and they have a group there,  
10 the School of Native Studies Student Association. There  
11 is the Indigenous Law Program which also has an association  
12 of students and they are the Aboriginal Law Student  
13 Association. We have the Aboriginal Student Council.  
14 There is a group of students in the medical faculty and  
15 what has happened is that we are all disbursed within the  
16 campus and the chances of either group getting together  
17 at the same time is very rare. Because our lounge where  
18 we have our office is in one building, the Office of Native  
19 Student Services is another building across campus, the  
20 School of Native Studies is yet in another building down  
21 the street and the Indigenous Law Program is in the law  
22 faculty, so what they've done is we are not together as  
23 a community.

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1 I think if we grow in numbers and stand  
2 together as a community, we would be able to I think  
3 institute our roles a little bit stronger on campus.

4 **COMMISSIONER PAUL CHARTRAND:** So you  
5 say that you are now co-operating with all these different  
6 Aboriginal groups, but the only thing you lack is for the  
7 university to provide a common room; is that your point?

8 **MS BRENDA MARY JONES:** We co-operate as  
9 much as we can. Whereas, there are times where being in  
10 touch with the other faculty is sometimes impossible.  
11 There is no centre place where everybody can gather and  
12 get information and work out of.

13 If one memo comes out about something,  
14 it has to go to six or seven places on campus. Whereas  
15 if it is was just to one place, there is quite a division  
16 of the students.

17 **MR. ALAN TELFORD:** Having a community  
18 centre, a native centre on campus would facilitate I think  
19 in remedying a lot of our concerns. A really excellent  
20 role model for that prototype is out in B.C. They have  
21 a really nice university out there and they have a very  
22 nice native centre. I believe it houses all of the same  
23 things that we have concerns with. They seem to do quite

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1 well.

2 **COMMISSIONER PAUL CHARTRAND:** Thank you  
3 very much.

4 **CO-CHAIR GEORGES ERASMUS:** What did you  
5 mean when you said, "we would run out of students" with  
6 only post-secondary education?

7 **MR. ALAN TELFORD:** My indication here  
8 is that if you are going to be only exclusively funding  
9 university students, whereas my understanding is that the  
10 stats from Indian and Northern Affairs is that the drop-out  
11 rate on reserves and urban natives is approximately 75  
12 per cent. So that means that when people are going back  
13 to university, we have an Ambassador Program here at the  
14 university where we have some Council members and they  
15 take groups of Aboriginal people who come from various  
16 communities and show them the campus and show them the  
17 prospect of going to university, the majority of these  
18 people that are accessing the Transition Year Program are  
19 probably 19 to 22 or 23 years old and they have been in  
20 high school and have dropped out and have had to upgrade  
21 their skills.

22 The funding for the Alberta Region does  
23 not fund any use of upgrade or preparation for college

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1 or post-secondary institutions. This is my point and I'm  
2 saying that if they are only funding exclusively for  
3 university, the students who are at university will be  
4 eventually through at some point and there will be no more  
5 up and coming Aboriginal people. This is my concern,  
6 the reason why they don't fund for upgrading and not just  
7 strictly university, but we are talking about trades and  
8 services and two-year diplomas at community colleges, they  
9 are no longer recognizing these. It's strictly university  
10 and I am speaking in reference to the Alberta Region here.

11 I understand that a lot of the areas of  
12 Indian and Northern Affairs their policies vary. I find  
13 that hard to believe. I think if it's a federal policy  
14 it should be in place across the country, but some of these  
15 offices determine themselves to be as sites, as reserves,  
16 so they have more flexibility in making decisions. Often  
17 and more often than not the decision goes against the  
18 student.

19 **CO-CHAIR GEORGES ERASMUS:** I am getting  
20 a better idea of what you are saying.

21 The post-secondary education funding in  
22 a lot of places across the country has been forwarded to  
23 the communities themselves. I presume that has partially

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1 occurred here. It is happening everywhere. How do you  
2 figure out if you were to take this budget that you are  
3 talking about, the money, how do you figure out what  
4 students would actually be covered by this independent  
5 agency or whatever?

6 **MR. ALAN TELFORD:** It would be the  
7 monies that would be earmarked for the Alberta Region,  
8 the money that would be earmarked for the Alberta Region  
9 of INAC which would go to this agency this group.

10 **CO-CHAIR GEORGES ERASMUS:** So, there  
11 are no communities in Alberta that actually run their own  
12 post-secondary --

13 **MR. ALAN TELFORD:** Yes, 80 per cent of  
14 the reserves are looking after their own post-secondary.  
15 We are talking about 20 or 25 per cent.

16 **CO-CHAIR GEORGES ERASMUS:** So what  
17 would happen to those 80 per cent?

18 **MR. ALAN TELFORD:** This agency, this  
19 Aboriginal group would facilitate a delivery system of  
20 post-secondary funding and making accessible more funds  
21 to students who need upgrading.

22 **CO-CHAIR GEORGES ERASMUS:** You've lost  
23 me. You said 80 per cent of the funding is already --

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1                   **MR. ALAN TELFORD:** Eighty per cent in  
2 Alberta --

3                   **CO-CHAIR GEORGES ERASMUS:** What would  
4 happen to those?

5                   **MR. ALAN TELFORD:** The bands are already  
6 looked after, they are self-administered. Alberta Region  
7 only looks after --

8                   **CO-CHAIR GEORGES ERASMUS:** So nothing  
9 would happen to that?

10                  **MR. ALAN TELFORD:** Nothing. They  
11 already have their own delivery system in place. We are  
12 talking about bands that don't have delivery systems and  
13 people who are Bill C-31, so you would have this committee,  
14 this Aboriginal group, committee or agency that would  
15 facilitate a delivery system and in prying it away from  
16 Indian Affairs quite frankly.

17                  **CO-CHAIR GEORGES ERASMUS:** How would  
18 you work out a yearly budget?

19                  **MR. ALAN TELFORD:** I haven't delved into  
20 that thoroughly. It's just a proposal at this point.  
21 The budget would be based, I would assume, on the money  
22 that we would get from Indian Affairs at this point. I  
23 think you would probably have an executive director or

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1 perhaps a board, an executive director and a couple of  
2 councillors. They only have two councillors up there that  
3 administer all the funds for the Alberta Region, so I don't  
4 think you would have to be a rocket scientist in order  
5 to do it, quite frankly.

6 **CO-CHAIR GEORGES ERASMUS:** This is one  
7 of the areas where you don't need a rocket scientist.  
8 Okay.

9 **MR. ALAN TELFORD:** I think it's rather  
10 straightforward. Not only does it protect Aboriginal  
11 culture, but it also provides jobs for Aboriginal people.

12 **CO-CHAIR GEORGES ERASMUS:** When you  
13 refer to 400 Aboriginal students, you are referring to  
14 all Aboriginal students?

15 **MR. ALAN TELFORD:** These are the  
16 Aboriginal students who have been identified as such by  
17 Native Student Services on the campus.

18 **CO-CHAIR GEORGES ERASMUS:** This would  
19 include Métis?

20 **MR. ALAN TELFORD:** Yes. When I say all  
21 Aboriginal people, I mean Métis, status, non-status,  
22 Inuit, all Aboriginal people.

23 **MS BRENDA MARY JONES:** There is a system

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1 in place on campus that the students do identify themselves  
2 upon registration and if that doesn't occur, you identify  
3 yourself by filling in a form status your status.

4 **MR. MARTY LANDRY:** It's all  
5 self-recognized. It's not mandatory by the university.

6 **CO-CHAIR GEORGES ERASMUS:** Has this  
7 grown? Have the numbers of Aboriginal students grown?

8 **MR. ALAN TELFORD:** These are stats from  
9 last year. I would assume they would be growing.

10 **MS BRENDA MARY JONES:** This year there  
11 is between 100 and 150 more students joining the university  
12 that have already identified themselves as Aboriginal.  
13 So, our numbers will be around 500.

14 **CO-CHAIR GEORGES ERASMUS:** By "this  
15 year" you are referring to?

16 **MS BRENDA MARY JONES:** The 1993-94 term.

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

20 **MS BRENDA MARY JONES:** Thank you for  
21 listening.

22 **MR. MARTY LANDRY:** Thank you.

23 **MR. ALAN TELFORD:** Thank you.

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1                   **CO-CHAIR GEORGES ERASMUS:** We are going  
2 to take a little break now for a few minutes.

3 --- Short recess at 4:40 p.m.

4 --- Upon resuming at 5:15 p.m.

5                   **CO-CHAIR GEORGES ERASMUS:** We are going  
6 to close for the day. We thought Sara Potts was coming  
7 in from Hobbema, but she was supposed to be here sometimes  
8 before 5:00.

9                   I will now ask Connie Morin to close the  
10 meeting for us with a prayer. All stand, please.

11                   **CLOSING PRAYER - MS CONNIE MORIN**

12 --- Whereupon the Royal Commission adjourned at  
13 5:15 p.m., to resume in Edmonton on Tuesday,  
14 June 15, 1993 at 9:00 a.m.

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I HEREBY CERTIFY THAT I HAVE,  
to the best of my skill and  
ability, accurately taken down  
and transcribed therefrom the  
foregoing proceedings.

.....  
Bill Publow, C.V.R.  
Court Reporter.