

COMMISSION ROYALE SUR
LES PEUPLES AUTOCHTONES

ROYAL COMMISSION ON
ABORIGINAL PEOPLES

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"for the record..."

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1 **Toronto, Ontario**

2 --- Upon resuming on Friday, November 19, 1993

3 at 8:37 a.m.

4 **MODERATOR KAREN COLLINS:** Good morning,
5 everyone. I will ask my friend, Sylvia Maracle, to begin
6 our day for us with a prayer.

7 --- **Opening Prayer by Sylvia Maracle**

8 **MODERATOR KAREN COLLINS:** Thank you
9 very much, Sylvia, for those words to open our meeting.
10 I would invite our first presenters to
11 join us at the table. They are representatives from the
12 Ontario Federation of Indian Friendship Centres, my
13 friends Vera Pawis-Tabobondung and Sylvia Maracle.

14 **VERA PAWIS-TABOBONDUNG, President,**
15 **Ontario Federation of Indian Friendship Centres:** I would
16 like to say good morning and meegwetch to the Commission
17 for this opportunity to make our presentation. We would
18 like to present some of the findings that we have already
19 prepared and have made copies available to you in terms
20 of our sponsorship and participation in the Intervenor
21 Participation Program.

22 The Friendship Centre history is
23 well-known, and there are a number of distinctions in the

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1 OFIFC member centres that may exist elsewhere in the
2 country in addition to the Friendship Centre Vision
3 Statement, which is to improve the quality of life for
4 Aboriginal people in an urban environment by supporting
5 self-determined activities which encourage equal access
6 to and participation in Canadian society and which respects
7 Aboriginal cultural distinctiveness.

8 The Ontario Federation was established
9 almost 25 years ago. At that time we looked at 20-year
10 long-range plans and priorities. We operate under a Code
11 of Ethics, and it is that Code of Ethics which is integral
12 to all of our work. We have an extensive system of policy
13 and program development and an intensive training and
14 delivery process. Those people who have those
15 responsibilities are with us this morning.

16 Our current priorities include
17 self-government, support for Aboriginal Friendship Centre
18 programs, new and developing centres resource development.

19 We find that, as we grow and are successful, new and other
20 communities want to be able to participate as members of
21 the Federation and have organized and developed themselves
22 for new and developing centres, and have been doing that
23 for the past five or six years without any financial

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1 resourcing other than the fund raising and short-term
2 projects that they have been able to put together for
3 themselves as Friendship Centres.

4 We are busy and have very major work in
5 education initiatives. We are involved jointly with other
6 organizations in Aboriginal health policy; family
7 violence; child welfare and day care; alcohol, drug and
8 solvent abuse programming; training certification and
9 development; the technology development via the data base.

10 The Friendship Centre program
11 development includes a social counsellor program, a youth
12 program, Native family court work, criminal court work
13 evaluation, Native community development work, Little
14 Beavers of Ontario, and a capital program.

15 We are busy in terms of race relations
16 and, last but not least, economic development.

17 We continue to provide a process of
18 culturally-based programming and program development.
19 The Federation has been participating in the leadership
20 forum with Native Women and other First Nation
21 organizations.

22 I will ask Sylvia to present some of the
23 summaries of our Intervenor Program.

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1 **SYLVIA MARACLE, Executive Director,**
2 **Ontario Federation of Indian Friendship Centres:** The
3 thing we want to talk to the Commission about is really
4 some ideas we have with respect to governance. We
5 understood from your staff who contacted us that you wanted
6 a bit more detail with respect to that.

7 We are looking at several models here
8 in Ontario. We have managed to actually convince some
9 of the Commission's Working Groups on some of these
10 concepts, so you may hear them again.

11 One of them is something we are calling,
12 for want of a better word, special initiatives. Those
13 might be things that would extend governance, reforms that
14 would be done, but they would be undertaken within the
15 existing Canadian legislation authority and they would
16 be accompanied by direct resource allocations. It really
17 may extend, to some extent, some of the existing framework
18 around governance perspectives.

19 The second model that we are looking at
20 is a co-management model. That would either be special
21 legislation, special framework, special agreement, or
22 explicit exemption from legislation that might be already
23 in place, which would establish the right of Aboriginal

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1 people to govern their own affairs in a particular domain.

2 That could certainly happen in an urban area and, in fact,
3 has happened in the context, for instance, of provincial
4 legislation for off-reserve people in Ontario with respect
5 to midwifery, to regulated health professions. We expect
6 that it will occur in the area of employment equity; we
7 expect it will occur in pursuing our family healing.

8 The third model is obviously an
9 Aboriginal self-governing institution. That institution
10 itself might be empowered in certain ways. It might be
11 through the extension of jurisdiction of First Nations;
12 it might be an agreement around delegated authority to
13 urban service providers; it might be legislative
14 authority.

15 Those models -- special initiative,
16 co-management and Aboriginal institutions -- will exist
17 differently in certain communities. Our remarks are very
18 specific to Ontario. In Ontario there are small northern
19 communities where the Aboriginal population really is the
20 majority. Those communities, however, are extremely
21 culturally homogeneous. In Sioux Lookout they are Crees
22 and Ojicrees. In Geraldton they are really Anishinabe
23 people, or Ojibways. In Cochrane they are Crees. They

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1 are small communities where the Aboriginal population is
2 a significant majority.

3 Special initiatives, co-management and
4 Aboriginal institutions would look different in a
5 middle-sized city where they are not culturally
6 homogeneous, where you have Mohawks and Crees and Oneidas
7 living together.

8 Obviously, in large metropolitan areas
9 in Ontario, where the population is extremely diverse,
10 they might look different.

11 We are taking the notion that there is
12 a great deal that is possible within the existing framework
13 around governance. There are lots of pieces that are
14 missing. If we pursue -- and we certainly want to pursue
15 -- the notion that urban Aboriginal people should be
16 included in the decision-making -- and that
17 decision-making doesn't just mean leadership, that we get
18 to elect a Grand Chief somewhere. It means that we are
19 actively involved in whatever formation around governance
20 is ultimately recognized.

21 The fact that the significant majority
22 of the population now live in urban areas has to be
23 recognized. That power has to be recognized and it has

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1 to extend to beyond being able to participate in a ballot
2 box where you pick leadership. It has to translate into
3 where resources get identified, what programs and
4 priorities are going to exist and, in fact, what structures
5 of governance and administration are going to apply.

6 The other principle that we are
7 recognizing in special initiatives, co-management and
8 Aboriginal institutions is that it is evolutionary, that
9 it is possible to maybe start with something that looks
10 fairly limited in scope but that has the potential and
11 the ability to evolve.

12 I suppose some of the other things that
13 our proposal talks about is that it suggests -- the
14 Commission already highlighted as one of your touchstones
15 healing. In order to create a relationship in urban areas
16 that is based on self-governance and the ability of people
17 to interact with a home base which might be First Nations
18 territory or might be some delegated authority from some
19 group, there is going to need to be some development --
20 education, training and human development -- and some sort
21 of re-emergence of our spirit in terms of trust and respect
22 and to get rid of some of the learned behaviours that we
23 have.

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1 It is certainly not acceptable to the
2 people who were interviewed in the proposal that was
3 submitted to the Commission to simply transfer control
4 from one government to another without having any real
5 input from the people.

6 The other thing that is not acceptable
7 is that, whatever is developed to service urban areas,
8 it is simply a brownwashed version of what exists or is
9 somehow secondary to what people might get in terms of
10 Métis communities or First Nations communities.

11 I suppose the last issue is that here
12 in Ontario, although I have to admit it has been somewhat
13 slow and painful starting, we are trying to develop
14 agreements and protocols with the other organizations to
15 look at what role Friendship Centres are going to play
16 and, indeed, whether service nicely divorces itself from
17 governance. Or, in fact, is it the notion of structuring
18 your administration so that you can better service a
19 population?

20 Those are some of the notions and nuances
21 that we wanted to talk about with respect to
22 self-governance. That doesn't mean that we are not
23 prepared to talk about health or healing or education or

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1 other things, but maybe we will stop there, having
2 hopefully thrown a couple of intriguing ideas out.

3 **MODERATOR KAREN COLLINS:** Thank you
4 very much, Vera and Sylvia. Our Commissioners have some
5 questions.

6 **COMMISSIONER PAUL CHARTRAND:** Thank you
7 for your presentation this morning. We have received many
8 submissions from Friendship Centres across the country,
9 so we are quite familiar with the operation and goals of
10 the Centres. Nevertheless, there are always some issues
11 that are worth exploring for the reason that your personal
12 experience might assist us in understanding them.

13 There are two matters I would like to
14 ask about. The first one has to do with sports and
15 recreation programs. I have not had a chance to study
16 very carefully all the submissions we received respecting
17 Friendship Centres, and I am wondering to what extent
18 Friendship Centres have been involved in the development
19 of sports and recreation programming in the towns and
20 cities in this country and, in particular, what your
21 experience has been with your particular Centre.

22 **SYLVIA MARACLE:** The notion we are using
23 here in Ontario is that one can look at sports and

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1 recreation activities as sort of a whole ability to develop
2 leadership, an ability to keep young people perhaps
3 occupied in meaningful activity and therefore off the
4 streets. We have also found that lots of our families
5 and communities don't feel comfortable as a result of real
6 barriers or perceived barriers around racism or around
7 economics and poverty of not being able to participate.

8

9 Friendship Centres do play a role. One
10 of the things that we are involved with in Ontario is the
11 creation with the province of something called the Ontario
12 Aboriginal Recreation Council, where the status groups
13 -- the groups from First Nations, the Métis group as it
14 had existed, the Native Women and the Federation of
15 Friendship Centres -- are all sitting together and saying,
16 "How can we co-ordinate? In co-ordinating our efforts
17 and activities, how can we do several things?"

18 How can we get sports and recreation to
19 evolve away from extremely alcohol-focused events
20 sometimes? There is a big Indian hockey tournament, and
21 it is sponsored by Molson's or Labatt's, and there are
22 all kinds of parties after. The potential for that, of
23 course, is that our whole cycle with respect to alcohol

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1 continues.

2 We looked at creating the Recreation
3 Council as a way to say: Are there more traditional games
4 that we can do? Are there better ways that we can
5 co-operate to look at what might seem to be a good
6 initiative having extremely negative impact in the
7 community? People may be further abusing not only
8 themselves with respect to the addiction cycle, but
9 potentially their family and other people as they are
10 reacting to that spiral.

11 The Recreation Council is looking at
12 integrating more of our own culture-based activities.
13 People might play more hand games, stick games, lacrosse,
14 ondaxi (ph) that we brought out from B.C. -- games where
15 our young people, our adults and children and, in fact,
16 the elderly amongst our community find ways to improve
17 their self-image, their cultural understanding, their
18 perception of who they are.

19 The other thing, if we are going to do
20 organized sports activities, is: Can we do them in such
21 a way that we are promoting a healthier lifestyle across
22 the board by moving people away from alcohol and drugs?

23 I think that certainly Ontario Centres

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1 play a role. As Vera suggested, there are some nuances
2 in Ontario as a result of our long-range plan, as a result
3 of our Code of Ethics, and as a result of some of our
4 priorities and culture-based programming. Maybe we
5 approach things a little differently from our brothers
6 and sisters in Centres across the country.

7 Last but not least, in the whole
8 recreation notion, we are trying to encourage, and
9 Friendship Centres are more active in things like pow-wows,
10 Elders and Youth gatherings, and social dancing, again
11 as a way to bring back and address our culture and look
12 at some revival issues. I think those are significant
13 roles, not only in terms of what we are doing now but should
14 be expanded and extended.

15 **COMMISSIONER PAUL CHARTRAND:** Does that
16 include lacrosse?

17 **SYLVIA MARACLE:** Certainly for the
18 southern Friendship communities, absolutely.

19 **COMMISSIONER PAUL CHARTRAND:** So you do
20 have Friendship Centre teams?

21 **SYLVIA MARACLE:** Yes, we have
22 Friendship Centre teams. Fort Erie, for instance, has
23 a Friendship Centre lacrosse team that usually ends up

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1 playing the area First Nations but also goes to Buffalo
2 and Rochester and other places trying to make a name for
3 themselves.

4 **COMMISSIONER PAUL CHARTRAND:** Are they
5 winning?

6 **SYLVIA MARACLE:** They try. They tell
7 us they are, but we don't always see all the games. We
8 just have to go by the stories after.

9 **COMMISSIONER PAUL CHARTRAND:** Ask for
10 the trophies.

11 The other question has to do with a
12 matter of identity. The Friendship Centre movement, as
13 you well know, has been organized largely for the purpose
14 of providing services to Aboriginal peoples of the country,
15 and you have been doing that as an organization in Canada
16 for quite some time. It has been offering services to
17 all the Aboriginal peoples and, in fact, your official
18 mandate is to offer services generally to people, whether
19 or not they are Aboriginal. As I understand it, in fact
20 you probably end up delivering services exclusively, or
21 close to exclusively, to Aboriginal peoples.

22 One of the changes that is happening in
23 the country is that the distinct Aboriginal peoples are

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1 getting official recognition as such in the country. For
2 example, in 1982 part of the Constitution was amended to
3 recognize three distinct branches of Aboriginal peoples.

4 One of the consequences of that is that
5 there are distinct statuses in Canadian law and policy
6 regarding Aboriginal peoples, and that means that the
7 identity becomes an important issue. People will then
8 fall into one category or the other category. If you look
9 at a constitutional category, they are either Indian,
10 so-called, Inuit or Métis people.

11 With respect to the Métis people, there
12 are in this country two organizations that purport to
13 represent the Métis. The Métis National Council purports
14 to represent the people who are an historic people, based
15 on a historic common history as a people. That is a concept
16 that is widely recognized because that is the way all
17 peoples arise.

18 The other organization, the Native
19 Council of Canada, purports to represent Métis people who
20 call themselves Métis people but who do not, as I understand
21 it -- and this is the question I am going to ask you to
22 assist us with

23 -- focus for their identity on a community origin but on

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1 other factors.

2 I was going to ask you if you could assist
3 us by describing, in an urban centre like Toronto or in
4 places where you operate, to what extent you have
5 experience with this process where people, from what we
6 hear across the country, appear to be identifying
7 themselves as Métis, not because they come from a historic
8 community but because of some ancestral link.

9 The puzzling thing for many people is:
10 If they looked at their ancestry, they would trace that
11 ancestry perhaps to Micmac, Algonquin or Mohawk or
12 whatever. They are puzzled as to why they would call
13 themselves Métis. Where is that historic link?

14 The question is just a general one to
15 say: Can you assist us by telling us, in your experience,
16 what are the factors -- or are these ever revealed to you?

17 I thought they might have been revealed to you in a casual,
18 informal way over the years by urban Aboriginal people.

19 What are the factors that people look to in proclaiming
20 their identity?

21 Some scholars who have analyzed this
22 have looked at external factors such as the federal
23 government and the laws it has passed, mainly the Indian

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1 Act, as a very potent factor. I think it is important
2 for our Commission, if we are going to make reasonable
3 policy recommendations, that we understand the operation
4 of especially outside governmental factors in influencing
5 the identity of the Aboriginal people.

6 Are you able to assist us from your
7 experience in explaining how it is that people come to
8 proclaim a particular identity as Métis in urban areas.

9 **SYLVIA MARACLE:** We would like to hope
10 we can assist you. Whether or not you like the answer
11 remains to be seen.

12 I have been involved in Friendship
13 Centres in Ontario for about 18 years. I came to Toronto
14 as a youth from a First Nation. They told me it was a
15 big, bad city and there were lots of stories around
16 adjusting.

17 I started as a youth rep, then a local
18 Board member, a provincial Board member, a national Board
19 member, a national Executive member. I was fortunate
20 enough to be able to retire -- I am a recovering politician
21 -- about 10 years ago.

22 Until very recently there has not been
23 a strong Indian/Métis phenomenon in Ontario. I know there

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1 is in the prairies, and certainly the people in the prairies
2 should speak to that. Very recently, within the last year
3 or so, in Ontario, as a result of developments with the
4 Métis group, the Ontario Métis Aboriginal Association and
5 its issues with respect to direction and management, they
6 have only recently raised the notion. For instance, the
7 Métis Nation of Canada pursues that people are tied to
8 the Red River.

9 Really, our experience here if we are
10 honest -- and we have interviewed thousands and thousands
11 of people, literally, in the past year or two years around
12 family healing; we interviewed over 6,000 people in the
13 process. We interviewed several thousand people in
14 Aboriginal health policy development; several thousand
15 people in long-term care, amongst all the Aboriginal
16 organizations in Ontario. Our experience in Friendship
17 Centres is that we did not run across one person who said,
18 "I am Métis, and I want things differently." What they
19 said is, "We want to have services available to us in a
20 culturally-appropriate manner that is consistent with the
21 standards and norms in our community and that looks at
22 meeting our needs, and that we have some input into."

23 To tell you the truth, Commissioner, we

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1 didn't run across people who said to us, "Gee, I don't
2 belong somewhere." We didn't run across people -- and
3 they may be out there; maybe we just missed them because
4 we didn't interview a quarter of a million people in
5 Ontario. Of the people whom we did interview, not one
6 of them came to us and said, "We are Métis and, therefore,
7 we want this differently."

8 The Friendship Centres have tried in the
9 past decade to operate and to improve our cultural
10 understanding, our cultural awareness and cultural
11 knowledge. As a consequence, in the Circle everybody has
12 a place and everybody is welcome. People who participate,
13 who may not be the proverbial, card-carrying or status
14 Indian and who perceive themselves as a member of a First
15 Nation, I don't think have felt that they don't have a
16 place or an opportunity in the Centre to participate in
17 the programs.

18 In the programming that we have done in
19 the Healing Circles and the Pipes and the Women's Circles,
20 the Elders and nutritional people's gatherings and the
21 Elders and Youth gatherings, we haven't had people stand
22 up and say, "I am Métis, and I don't have a place here."

23 The felt very much like they had one.

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1 **COMMISSIONER PAUL CHARTRAND:** I am
2 sorry, I didn't do a good job in conveying my question.

3 **SYLVIA MARACLE:** In terms of the
4 factors, I was getting to them.

5 **COMMISSIONER PAUL CHARTRAND:** I am not
6 asking about the nature of the demands that might be made.
7 I am asking, rather, about the factors that would compel
8 people to proclaim a particular identity. If you have
9 no experience with it, that's fine.

10 **SYLVIA MARACLE:** I think the factors
11 that I am trying to get to is that people have to feel
12 like they are welcome. They are self-identifying their
13 needs. When we talk about it, we talk about gaps in their
14 spirit. They want to fill them, and they know that somehow
15 they are different and distinct and that somehow they have
16 traditions and language and ceremonies and cultures that
17 tie them back to a sort of greater circle.

18 Lots of people who come forward want
19 that. They are people who are exercising what they believe
20 is a conscious political right. They are people who are
21 looking at improvements in their life experience and the
22 quality of life for their families, so those are motivating
23 factors that bring them forward.

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1 The point is that we have had people come
2 forward and say, "We want to participate." We haven't
3 had them come forward and say, "I am this Nation or I am
4 a Métis Nation or I am that." I think that consciousness
5 is growing.

6 For instance, the diversity issues
7 around cultural homogeneousness and cultural diversity
8 are issues that are ultimately going to have to be
9 recognized in institutional development. In large urban
10 centres like Toronto, all of these have a reporting base
11 and a financing base. There aren't going to be services
12 developed that are just for the Confederacy or just for
13 the Anishinabe or just for the Plains Cree or just for
14 the Micmac. There going to need to be protocols and
15 agreements and coalitions based on what is common amongst
16 us, not on what is diverse.

17 There are ways through individual
18 pursuit of one's own identity and the practice of one's
19 culture to be able to make those distinctions comfortable.

20 When we are talking about looking at services and
21 organizing administration, then we are going to have to
22 build on common factors.

23 There are some communities in the

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1 prairies, for instance, where you may have a Cree Centre
2 and a Métis Centre, because they are that distinct. That
3 distinction has not existed here traditionally.

4 **COMMISSIONER PAUL CHARTRAND:** I will
5 try once more. That wasn't my question.

6 Are you saying -- and if this is what
7 you are saying, that will be the end of it. Are you saying
8 that you simply do not have people coming into your
9 Friendship Centres and proclaiming their identity as
10 Métis? If you said that, then that's fine. There is no
11 experience to deal with.

12 **SYLVIA MARACLE:** Yes. Until very
13 recently that has been the case in Ontario.

14 **COMMISSIONER PAUL CHARTRAND:** If that
15 was not the case, then I would have asked you in reference
16 to an expression you said -- you said they are distinct.
17 Adopting those words of yours, the nub of the question
18 would have been: What makes them distinct? That would
19 have gone to the heart of the question.

20 The issue has to do with the contemporary
21 expression of identity. I have known of the experience
22 of some people, for example, who don't really know their
23 personal heritage. They perhaps get adopted and they grow

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1 up in a foster home. When they grow up, they realize that
2 they have an Aboriginal ancestry. Let's say it's Ojibway,
3 Irish, Cree. If they have no personal community
4 association, then they have no particular group to say,
5 "Those are my people." So they are left without that
6 historical community association that I am talking about.

7 I am wondering how those people
8 identify. That is just one example to illustrate the
9 question: What is it that people identify as Métis?

10 I understand now that you have no
11 experience with that phenomenon in Ontario, and I thank
12 you very much.

13 **CO-CHAIR GEORGES ERASMUS:** I notice
14 that one of the first things you did was to take a look
15 at the general urban conditions of Aboriginal people.
16 You did a comparison between what was found in the 1981
17 report, where it listed a whole slew of urban conditions
18 of general unemployment, inadequate housing, limited
19 education, and on and on. When you reviewed it again in
20 1990, you say that there has been very little change.

21 Could you talk a bit about that. There
22 is absolutely no change? It is just exactly the same?
23 People like yourself aren't making any more money?

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1 **SYLVIA MARACLE:** They didn't interview
2 us.

3 **CO-CHAIR GEORGES ERASMUS:** Seriously,
4 the percentiles haven't changed at all?

5 **SYLVIA MARACLE:** Not proportionally.
6 The issue is that we talked in 1981 -- some of you will
7 remember that the favourite statement used to be: Thirty
8 per cent of the Aboriginal population is migrating or
9 residing in urban areas.

10 In 1993 that is not the case. In Ontario
11 we are probably talking about 75 per cent of the Aboriginal
12 population in this province living in probably 30 urban
13 communities. So, while things have occurred so that there
14 are more Aboriginal Housing Corporations, more Aboriginal
15 justice-related services -- in fact, at three Friendship
16 Centres in Ontario we offer secondary school for people
17 who are pushed out of mainstream.

18 There are people who are employed and
19 who make better wages, but as the whole society develops
20 in terms of technology and in terms of advancement,
21 Aboriginal people have not been able to have been placed.

22 As a consequence, while it may look
23 different, the urban conditions in terms of looking at

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1 the disparities in quality of life continue to maintain
2 themselves fairly consistently.

3 There are simply more people who need
4 houses, who need jobs, who need training, who need day
5 care, who need some sort of education, formal or otherwise,
6 who want quality of life issues in terms of recreation
7 programs, cultural programs and social activities, and
8 who simply need to deal with some issues with respect to
9 addictions or systemic discrimination or racism. There
10 are simply more of us.

11 The situation might have been in Toronto
12 or in Sudbury in 1981 -- in Toronto there were maybe 20,000
13 people and now there are 60,000, and in Sudbury there may
14 have been 2,000 and now there are 12,000. That sort of
15 compounded the situation.

16 There are more urban settlers than there
17 ever were, people who, if they don't own houses, do have
18 jobs and are part of the infrastructure in that urban
19 community. But there are also equally large numbers of
20 people in the same proportion who are disenfranchised,
21 who are marginalized and don't participate.

22 We have seen ghettos almost. We have
23 seen urban enclaves develop in communities that never

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1 occurred in 1981. They weren't the case. Aboriginal
 2 people were sort of spread all out. Now we can go into
 3 urban areas, and there is actually a community. That
 4 community may be around co-operative housing; it may be
 5 poor; it may be across the tracks; it may be a variety
 6 of things, but it is a very distinct urban area now. That
 7 phenomenon didn't exist in Ontario communities prior to
 8 1981.

9 Yes, the situation has changed, but it
 10 hasn't changed significantly overall, because of
 11 increased migration, because of increased growth in terms
 12 of the population resident and because of more and more
 13 focus in the development of Ontario services around
 14 regional-based services or feeder communities. That is
 15 a fact in our population.

16 **CO-CHAIR GEORGES ERASMUS:** What
 17 population figures are you work with. I have heard a whole
 18 range of figures in relation to how many Aboriginal people
 19 there are in Ontario. You cite the latest Census here,
 20 and it doesn't seem to match with what I have heard about
 21 how many people live just in Toronto itself.

22 **SYLVIA MARACLE:** Population is a real
 23 issue. We did a demographic survey in 1981 as part of

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1 the Ontario Task Force on Native People in Urban Settings.

2 It was fairly extensive. That demographic actually
3 forecasted into the year 2010, or something. In the
4 original Task Force Report it was an appendix.

5 I think we are trying, at least between
6 the Chiefs' organizations at our office and at Native
7 Women, to identify a figure that we can all concur with.

8 We can tell you that there was concurrence between the
9 five status groups -- the independents being the fifth,
10 the Native Women and the Federation -- that we did not
11 concur with the figure originally used for the Métis
12 population in Ontario. We can't tell you as finitely as
13 we would like to.

14 I think we are all trying to operate on
15 the basis of a figure of about a quarter of a million people,
16 including the migrants from other provinces and
17 territories. That is where the notion gets confused in
18 terms of looking at a population figure.

19 We are working on it. The Federation
20 is in the process of creating a data base where we are
21 having Friendship Centres identify the figure they are
22 working with, and what are the sources of that information
23 so that we can go back to some primary source.

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1 We are also working, as everybody is,
2 with Stats Canada in trying to reconcile those. But, more
3 important, the first line is trying to work with the other
4 Aboriginal organizations to figure out what it is we are
5 talking about.

6 We thought, to be honest, Commissioner,
7 that we were making great strides when we got the Chiefs
8 to concur that maybe it was close to half the population
9 that lives off First Nations territories instead of 30
10 per cent. So things are slow in a developmental sense
11 because of the political realities of making those kinds
12 of statements.

13 **CO-CHAIR GEORGES ERASMUS:** You have
14 come up with a lot of different health information here.
15 You have a graph here on Ontario Aboriginal tobacco users.
16 You don't have any percentage that don't smoke. Is that
17 actually the case, that there are absolutely none --

18 **SYLVIA MARACLE:** Oh, no. We have
19 non-smokers who reported daily use.

20 **CO-CHAIR GEORGES ERASMUS:** This is
21 side-stream. Right? This is smoking other people's
22 smoke?

23 **SYLVIA MARACLE:** It might be in Toronto.

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1 I think what this speaks to is the number
2 of people who reported tobacco use, not the whole
3 population. If we had had a pie chart, we would have seen
4 a significant portion not using tobacco. We didn't; we
5 just used a bar graph, and it just shows the people who
6 reported tobacco consumption.

7 As you know, we have feeder industries
8 in Ontario. I know you have looked at the Mohawk question
9 in particular, and some of our people must feel compelled
10 to support that economic venture.

11 **CO-CHAIR GEORGES ERASMUS:** You just had
12 to say that. It is part of their patriotic duty.

13 **SYLVIA MARACLE:** That's right; it's the
14 exercise of sovereignty.

15 **CO-CHAIR GEORGES ERASMUS:** On housing,
16 I notice one of the things you are considering is ownership.
17 You don't provide a lot of detail, so I am curious as
18 to what you are talking about.

19 **SYLVIA MARACLE:** There are sort of two
20 streams to this. Ontario is prepared to provide 2,000
21 units under its anti-recession initiative called
22 JobsOntario to house Aboriginal people in urban areas.
23 There are some negotiations and discussions going on around

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1 governments.

2 Part of our issue is that we don't always
3 want to be renters. By having capital assets and being
4 able to go to the bank and mortgage and get a credit rating
5 is important. It also shows that we have a permanent
6 presence in a community, that we are not all going to pack
7 up and leave overnight. That leads to some issues with
8 respect to credibility.

9 The other thing that people we
10 interviewed, who are involved in Centres, really missed
11 is the program that Indian Affairs used to offer in terms
12 of off-reserve housing, where people could get either
13 mortgage sureties or low interest loans and begin to build
14 some equity for themselves, some independence, some
15 self-reliance and some skills in terms how to manage that
16 and how to participate in terms of a community --

17 **CO-CHAIR GEORGES ERASMUS:** I hope you
18 are going to get to housing. That is what I am after.
19 I am convinced on the benefits; I am just wondering how
20 you are going to do it.

21 **SYLVIA MARACLE:** It is the
22 re-establishment of a national program. What we are
23 looking at is negotiations with the province around

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1 financing agreements for people who might be able to put
2 up less mortgage -- maybe not 15 per cent; maybe 10 per
3 cent or 5 per cent for a down payment -- and the province,
4 through the financial institutions that guarantee the
5 housing initiatives would look at backing a specific
6 Aboriginal housing initiative, as well as the feds, to
7 promote for their ownership.

8 **CO-CHAIR GEORGES ERASMUS:** So the
9 primary program would be to lower the down payment from
10 10 per cent.

11 **SYLVIA MARACLE:** Right. There is a
12 secondary issue. We would like to be able to take the
13 houses that are currently under control of Aboriginal
14 Housing Authorities and make opportunities for people,
15 particularly those who have been long-term residents --
16 opportunities for those houses to be able to be purchased
17 by the person who is living in them.

18 We haven't looked at all of the program
19 design work for how that could be accomplished yet, but
20 there are significant numbers of houses, into the tens
21 of thousands of units probably, in Ontario that we could
22 begin to look at. They wouldn't all be transferred to
23 private ownership, but that would be another way if we

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1 could deal with the policies that exist for both levels
2 of government which say that the Housing Corporation, after
3 the mortgage is paid off, owns this and doesn't have the
4 right to transfer title.

5 Those are some very simple policy things
6 that probably could be looked at as well as a second
7 initiative that would promote further private ownership.

8 **CO-CHAIR GEORGES ERASMUS:** Could you
9 tell me about economic development and self-government.
10 I read your section on it a couple of times.

11 What exactly are you after there? You
12 seem to be saying that the Friendship Centres are
13 well-positioned to actually deliver economic development.
14 Because of the kind of community service programs you
15 have been running in many of the areas, you can take this
16 on.

17 Isn't this a particularly specialized
18 area?

19 **VERA PAWIS-TABOBONDUNG:** As the Ontario
20 Friendship Centres have established their priorities, in
21 the sense that many of the Friendship Centres, because
22 of our capital initiative where we went to the Province
23 of Ontario to say that in the next five years these are

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1 the Centres that are going to want to renovate, want to
2 purchase and want to build their facilities in the
3 communities where they are, so that they can start to have
4 that security in the community, we were able to negotiate
5 with the province a package of \$5 million that we would
6 administer in the Federation, \$1 million per year to ensure
7 that Friendship Centres could start to build, start to
8 purchase and start to renovate their facilities.

9 As we were starting to do that, we had
10 to look at how we were going to be able to assist the Centres
11 or how the Centres were going to be able to grow so that
12 they would be able to look after those facilities and not
13 always be coming back to us or to the province for facility
14 money, but to start to look at things in the sense of the
15 growth and development of not only the Friendship Centre
16 but the people in the Centre.

17 We had to start to look at our economic
18 development initiatives. It started with talking to the
19 people and the people saying, "We have to get ready because
20 we are going to evolve into something else. It is not
21 just going to be programming and looking after a building.

22 We are going to be here; we are going to be recognized
23 in our community."

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1 We started with just the basic needs and
2 a public awareness and an understanding of what economic
3 development is and how we are going to move to that, but
4 still being a social development component as well.

5 **SYLVIA MARACLE:** One of the models that
6 we are looking at, Commissioner -- and I not suggesting
7 that you recommend this to the federal government. Under
8 Reaganomics in the United States, a number of urban Indian
9 centres found that their funding simply ceased; it no
10 longer existed. What they negotiated with the federal
11 government in the United States -- and I can remember some
12 of the communities: Chicago, Boston, various places in
13 northern California, and Utah. They negotiated some
14 settlements around economic development, and they ended
15 up buying businesses. A lot of them were around resource
16 management -- for instance, in northern California fish
17 hatcheries and environmental game warden/custodian kinds
18 of thing. All kinds of businesses were developed -- a
19 small lending institution for the Women's Collective in
20 Chicago on the south shore.

21 What they did was say, "Look, we are not
22 going to exist in that sort of form of social welfare agency
23 that existed before. We have to continue. We still have

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1 urban people. We still need to employ them. There are
2 still needs. There is still a part of our population who
3 has those skills and has that urban life experience."

4 What those organizations did was use
5 that economic development injection to buy or to create
6 or to develop some fairly extensive businesses. People
7 looked at employing our people. They made some of the
8 sort of equity notions and quota notions that the Americans
9 are somewhat famous for, and they used that as a way to
10 supplement the monies they made in those first few years,
11 some of the social welfare programming that the federal
12 government in the United States was no longer prepared
13 to support.

14 Because they had an ability with an
15 economic base to create agreements with non-Indian people
16 in the United States, it created an ability to network
17 better, and from that sprung a number of initiatives.
18 They might be health centres; they might have been
19 relationships in those businesses to get Aboriginal people
20 employed. So there was a lot more of a symbiotic
21 relationship that was created in the community as a result
22 of the first 10 or 12 urban Indian centres who lost funding
23 through the Reaganomics process.

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1 So I think, to some extent, we are
2 interested in looking at that further. We have done some
3 preliminary research, and the National Association of
4 Friendship Centres has a mutual assistance pact with the
5 National Urban Indian Council in the United States. We
6 would like to look at what their experience was.

7 One Indian centre, for instance, was
8 financed through a philanthropist who gave them several
9 million dollars and said, "Invest it or do whatever you
10 want, but don't come back to me. Here it is."

11 Those kinds of notions are things that
12 we think might promote more self-reliance and
13 self-determination.

14 **CO-CHAIR GEORGES ERASMUS:** Is that the
15 motto of this program: Don't come back to me?

16 **SYLVIA MARACLE:** The motto in terms of
17 the capital program, as Vera explained -- yes, that is
18 the motto: Don't come back to me.

19 Friendship Centres get their one-shot
20 capital. We try to help them with other financing. Then,
21 once they own their building outright, they're on their
22 own. They can sell it; they can do all kinds of things
23 to generate to their next phase.

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1 So far, in terms of the capital, it has
2 been successful. The economic development is still very
3 preliminary research. We haven't tried it. We are in
4 the midst of negotiations on the transfers around economic
5 development, but it is going to be very geared at individual
6 entrepreneurs in the urban area who maybe haven't been
7 serviced through some of the federal initiatives or some
8 of the development corporations that have been created.
9 Yet, they have good ideas.

10 **CO-CHAIR GEORGES ERASMUS:** What does
11 this mean? Are you after some kind of block capital?
12 Do you want to become one of these Aboriginal Capital
13 Corporations that actually have money to loan out?

14 **SYLVIA MARACLE:** That is one model, yes.
15 Entrepreneurial development is the other.

16 We are looking at a \$3 million transfer
17 from the province, with all the Aboriginal organizations,
18 to look at really micro and small business development.

19 If we get sufficient numbers of people employed and in
20 developmental opportunities, they are going to employ
21 other Aboriginal people, and the whole ability to look
22 at self-reliance will be improved.

23 We want more, but all they are offering

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1 is \$3 million.

2 **CO-CHAIR GEORGES ERASMUS:** You gave us
3 a number of models for self-government. Are you still
4 working on these?

5 **SYLVIA MARACLE:** Yes, we are. Some of
6 them are in place. We have some special initiative
7 activities that are done within the existing framework.
8 As I said, we have some co-management models where we
9 are working on them.

10 One of the ones that is very
11 developmental in Ontario is around midwifery. There is
12 midwifery legislation that Ontario passed, and Ontario
13 in that legislation recognized that Aboriginal healers
14 and midwives would be exempt from the legislation and that
15 that exemption gave the organizations who are involved
16 the ability to look at: If we are exempt, then how do
17 we govern our affairs in that domain? Are there standards
18 we should look at? Is there protection -- all kinds of
19 things.

20 There are some co-management models that
21 we are working on between First Nations and Friendship
22 Centres around the provision of services for that First
23 Nations membership that might be unique with respect to

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1 education or health.

2 There are any number of special
3 initiatives we could cite. For instance, the Aboriginal
4 Education Council, where the province set aside \$35 million
5 over five years to make post-secondary institutions of
6 Ontario more sensitive to Aboriginal needs. They
7 transferred control of that to a Council, which
8 unfortunately is an Order in Council appointed. It was
9 appointed by Cabinet. That Council oversees that money,
10 establishes the priorities, and there is a proposal process
11 that organizations -- Queen's or Western or community
12 colleges -- would apply.

13 We have Aboriginal people involved in
14 those council and that infrastructure. Those kinds of
15 thing are already happening.

16 What we are still working on at a very
17 preliminary stage is: What would the delegated authority
18 be, what the extension of jurisdiction or legislative
19 authority institutions would look like. We are not far
20 enough along the road on that yet -- with any luck, in
21 the next couple of months, hopefully still within the
22 window of opportunity for the Commission, but we are moving
23 along.

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1 **CO-CHAIR GEORGES ERASMUS:** Those are my
2 questions. We will be very interested in anything further
3 you can give us in that area.

4 You are right that the next couple of
5 months will still be within the window of opportunity,
6 so please forward them to us as you develop something
7 further.

8 Thank you for coming this morning.

9 **MODERATOR KAREN COLLINS:** Thank you
10 very much for your presentation.

11 I would invite our next presenters to
12 join us at the table. We have representatives from the
13 United Steelworkers of America.

14 **LEO GERARD, National Director, United**
15 **Steelworkers of America:** My name is Leo Gerard. I am
16 the Canadian Director of the Steelworkers Union.

17 With me on my left is Brian Shell who
18 is our Canadian counsel, who headed up our study project
19 which I think has been sent to the Commission and of which
20 you have summaries.

21 Before we talk about our project, I want
22 to talk a little bit about the Steelworkers Union and some
23 of the things that we do and some of the things we are

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1 currently doing.

2 The Steelworkers Union is now Canada's
3 largest private sector union, after consummating a merger
4 with the Retail/Wholesale Department Store Union earlier
5 this year. We represent some 160,000 to 170,000 workers
6 in all different parts of the country, but we do represent
7 a lot of workers in the resource sector. In that sector
8 we come in direct contact with a lot of people from the
9 Aboriginal community, and a lot of people from the
10 Aboriginal community are members and, in some cases,
11 officers of some of our union locals.

12 A person who we were hoping would be here
13 with us this morning, June Ionsen, is a President of one
14 of our local unions. She is an active member of her
15 community on Six Nations in Brantford. June is today a
16 team leader presenting a workshop on employment equity
17 at an Employment Equity and Human Rights Conference that
18 our union is conducting, so she is unable to be with us.

19 June played an important role in helping to develop the
20 material that we are presenting to you today.

21 The Steelworkers Union has, as part of
22 its policy, made an attempt to in some ways change, to
23 reconfigure itself. We are doing a lot of work to change

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1 what has been primarily a white male-dominated union, to
2 create opportunities for all of the people in our society.

3 Our theme is that our union has to reflect our society.

4 We have an employment equity approach to our union, where
5 our goal is to eventually have our organization and its
6 staff and employees and leadership reflect the make-up
7 of our society.

8 In that regard, we have started a number
9 of programs over the last several years to find ways for
10 everyone in our union to be at home and to feel like they
11 are important and to be included -- not only to feel like
12 they are at home, but to be at home.

13 As a result of that, we have adopted
14 employment equity programs and we have been very active
15 in various parts of the country promoting employment equity
16 with various governments. We have developed training
17 programs so that people who have felt excluded could get
18 the training. We have developed anti-sexual and racial
19 harassment programs. We have developed leadership
20 development courses. In particular, with one large group
21 in our membership, women, we have developed a women's
22 leadership course. Again, June Ionsen has played an
23 important role in developing that course.

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1 It is in that context that we engaged
2 in this study. We went and got Aboriginal members and
3 Aboriginal leaders from our union and formed a small
4 working group. With them, we studied two areas that we
5 thought were important, where we would be able to get a
6 firsthand view of the shortcomings of the union in dealing
7 with our Aboriginal members and to get input from our
8 Aboriginal members about things that we could do to start
9 down the path.

10 We have tried to be sensitive to the fact
11 -- and I will ask our counsel, Brian Shell, who played
12 a very active role in the development of this study project,
13 to speak to it. We were very cognizant of the fact that
14 trade unions in their very nature are perceived in some
15 cases as foreign to the Aboriginal culture. In some cases,
16 some of our members in the Aboriginal community are not
17 as comfortable with the perceived adversarial role of
18 unions and grievance procedure. They have told us that
19 is not the way they like to resolve problems in their
20 communities.

21 We tried, as our project moved forward,
22 to be sensitive to that and to make sure that it wasn't
23 seen as a program by a union which is already seen as not

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1 every effective for Aboriginal people.

2 At this point, I would like to ask our
3 counsel, Brian Shell, to run through some of the work of
4 our study and to take you through some of the highlights.

5 Then I would like to speak to some of the recommendations
6 later.

7 **BRIAN SHELL, Canadian Counsel, United**
8 **Steelworkers of America:** Thank you.

9 We approached this study from the
10 assumption that we were not meeting the needs of the
11 Aboriginal communities where many of our members work and
12 where only some of our members are in fact drawn from the
13 Aboriginal community.

14 There is no doubt that the Royal
15 Commission and its Intervenor Participation Program played
16 an important role in encouraging us to embark upon this
17 project and upon the second phase of the project which
18 follows from the determinations that we have acquired in
19 the examination of our own membership.

20 In that sense, this study is a departure
21 for a union and probably for others. It is a critical
22 self-examination. It is an opportunity for us to look
23 into ourselves and see how we impose barriers and how we

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1 have failed to remove those barriers and what we must do.

2 As you see from the results that we have
3 acquired, we have determined that there is very basic,
4 very fundamental and very pervasive systemic racism both
5 within the union's internal operating systems amongst our
6 members, whether they are active in the union or not, and,
7 very important, it is expressed in an extraordinary way
8 by the workplace culture imposed by employers and of which
9 the union is a part.

10 We tried to focus not only on the work
11 of our members but also on the literature that places this
12 study in a context. As you may have seen from the
13 literature review in the third chapter of our study, only
14 two years after the publication of "Drumbeat", only two
15 years after it, we moved forward with the first affirmative
16 action, collectively-bargained, mandatory system in
17 Canada at Dona Lake. We did that quite apart from this
18 particular project because of the perception that we were
19 failing in communities where Aboriginal people live.

20 We note, Mr. Erasmus, that in "Drumbeat"
21 you have written, and we have cited your work at page 3-6:
22 "Many treaty provisions have not been implemented, and
23 the federal government has

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1 interpreted treaties in the
2 narrowest of terms and has tried
3 to change treaties unilaterally,
4 without the consent of the First
5 Nations concerned. I doubt if
6 there is a single First Nation that
7 believes its rights are being
8 properly protected. There is no
9 effective forum for redress of
10 grievances, and no way has been
11 found to get Canada to sit down and
12 modernize, renovate or fully
13 implement existing treaties."

14 You also say that there is a quiet
15 renaissance under way.

16 "This cultural revival will eventually have its effect
17 on the appalling social conditions
18 under which so many of our people
19 suffer. But we know only too well
20 that a cultural awakening by itself
21 is not enough. We also have to win
22 the war against poverty, bad
23 housing, poor health, and an

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1 education system that is hostile
2 to the very values we hold so dear."

3 You say, I think very importantly, to
4 a largely white-dominated institution such as the
5 Steelworkers Union:

6 "We want other Canadians to understand the dilemma and
7 to work with us to overcome our
8 problems."

9 We have tried in this study to take a
10 first step. However late it may be, however apologetic
11 we may be for the fact that it is however late, we have
12 tried in this study to take a first step.

13 The second step will be the development
14 of an extensive education program that confronts head-on
15 the racism that exists in the workplace. Under the
16 scourge of that racism, Aboriginal people who are our
17 members suffer.

18 To uncover what is going on, we looked
19 to Dona Lake and we looked to Key Lake. Regretfully, the
20 Dona Lake mine was basically shut down just as we walked
21 in to examine what was going on. It had been in operation
22 for two years, and my understanding is that the mine has
23 now been re-purchased by some new purchaser and it is just

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1 slowly re-opening.

2 The fact is that the Dona Lake operation
3 wasn't in existence for long enough for us to be able to
4 effectively evaluate the consequence of the language that
5 we bargained, and that is something that we regret.

6 In the Dona Lake agreement we negotiated
7 concrete affirmative action plans, notwithstanding
8 juniority. By that I mean that, where Aboriginal persons
9 have less seniority than non-Aboriginal persons with
10 respect to certain of the advantages of the workplace,
11 such as traditional leaves for economic activity,
12 promotional opportunities, training opportunities, we
13 negotiated provisions where those Aboriginal members in
14 the bargaining unit would have access even if they are
15 junior.

16 You may or may not appreciate that that
17 is an enormous departure from traditional trade union
18 orthodoxy -- an enormous departure, and a departure that
19 is still on the front pages of trade union agendas.

20 How were we able to do that in that
21 location? The answer is: This was a location where
22 everybody was basically new. It was a new operation.

23 In our study and in our recommendations

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1 we focus on what role the union should play in the
2 development of natural resource extraction industries in
3 the north. Can we be left on the sideline? If we are
4 left on the sideline, how will we be able to develop
5 programs that can concrete impact positively on Aboriginal
6 employees who become hired by virtue of hiring programs,
7 or how do we impact positively on the communities in the
8 surrounding area so that there is not hostility that
9 develops between the non-Aboriginal employees who come
10 to work there and the Aboriginal communities in the area?

11 We also focused on Key Lake. The
12 important lesson that I think you should draw from Key
13 Lake is that, where lease agreements do not provide
14 concrete enforcement of the obligations set forth in the
15 lease agreements, there is no point in having a lease
16 agreement. We see, for example, the extraordinary change
17 in the obligations in the lease agreement between the one
18 negotiated by the Blakeney government and the one
19 negotiated thereafter by the Devine government. One was
20 concrete, was enforceable, and it had real affirmative
21 action consequences. The other one is a complete walking
22 truck stop, where you can drive through it.

23 We think that is significant, and we try

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1 to highlight that in the recommendation that we make to
2 you at page 5-8. There we suggest to you that one of your
3 recommendations that ought to be made to the Government
4 of Canada and to the governments of provinces and
5 territories is that there is a need to have ongoing
6 monitoring to ensure implementation and accountability
7 of publicly-negotiated agreements such as the lease
8 agreement at Key Lake in northern Saskatchewan. It is
9 at paragraph 5.2.2 at page 5-8 of our recommendations.

10 The other significant conclusion that
11 we draw is that in northern communities, particularly the
12 mining sector, one has to take a position on what kind
13 of shifts are established where Aboriginal people can
14 participate effectively as employees. Dona Lake is a
15 residential community. People move to Dona Lake, and they
16 live there and they work at the mine.

17 At Key Lake, this is a fly in-fly-out
18 community. We have uncovered significant differences
19 between the general perceptions and comfort levels that
20 Aboriginal employees have, depending on whether they are
21 locked in or whether they have an opportunity on a regular
22 and consistent basis to reconnect with their families,
23 to reconnect with their value systems and to reconnect

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1 with their friends back at home.

2 We think it is extremely important that
3 mining companies are compelled, as part of lease
4 agreements, to permit the employees to fly in and fly out.

5 It might, at first blush, seem that that
6 is very disruptive. On the other hand, the level and
7 nature of the disruption is so much greater if you simply
8 fly in and there you are, period, and you get to go home
9 once or twice a year to visit your family, friends, cousins,
10 et cetera. The loss of connection with your base in your
11 community is so profound that the discombobulation results
12 in an insecure attachment to the work force.

13 That is the experience at Dona Lake.
14 Aboriginal people don't stay, and it is perfectly
15 reasonable why they don't stay. It is not surprising why
16 they don't stay. At Key Lake there is much more tenure
17 of service. With tenure of service comes more training,
18 comes more skills, comes higher-paid jobs, comes a greater
19 role in the community and comes a greater role in the trade
20 union that represents the workers in the workplace.

21 One of the things that we tried to make
22 sure about in Dona Lake was that arbitrators would
23 appreciate the particular issues that impact on Aboriginal

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1 employees. We urged the arbitrator who imposed the first
2 agreement to put a clause in that would give special
3 attention to the fact that there are special socio, medical
4 and economic circumstances impacting on Aboriginal
5 employees that are different and that should be construed
6 in the context of dismissal.

7 The arbitrator saw fit to leave that out,
8 and we were not capable of negotiating the end of that
9 agreement with the company. The company simply refused
10 any affirmative action plan in the collective agreement,
11 period. That is why we forced to first agreement
12 arbitration to start with.

13 We experienced that the recognition
14 amongst non-Aboriginal workers that there are historic
15 wrongs that have to be righted is not that difficult as
16 long as there is not a perception of direct competition
17 for employment benefits between the two groups of workers.

18 We experienced that in Key Lake we are
19 able to have superadded seniority for Aboriginal employees
20 as long as the non-Aboriginal employees understand the
21 rules of the game when they get hired.

22 So one of the departures in the most
23 recently negotiated Key Lake agreement is a provision

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1 whereby everybody as of a particular date forward will
2 know that they will have less acquired seniority rights
3 than an Aboriginal person, that Aboriginals hired from
4 that date forward will have more rights even though those
5 Aboriginal employees have lower seniority.

6 If everybody understands the rules of
7 the game and nobody feels as if their pockets are being
8 fleeced or their acquired rights that they have been saving
9 are being undermined, the acceptance of Aboriginal
10 employment equity is much, much more enhanced. But that
11 doesn't get to the fundamental underlying racism in the
12 workplace.

13 As you can see from the recommendations
14 that the report makes directly to the union -- we have
15 made recommendations directly to the union in the hope
16 that the union will implement an extensive education
17 program. You will see, commencing at page 5-5, that we
18 focus on what must the union do in negotiations; what must
19 the union obtain in collective agreements; and what must
20 the union do to explain, to teach, to try to cross over
21 the cultural chasm that exists even in the same lunchroom,
22 even in the same lunchroom at a particular facility.

23 **LEO GERARD:** In my role as the national

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1 leader of our union, one of my responsibilities is to manage
2 the policy and development and the delivery of policy to
3 all the various regions where our union has members. The
4 grouping of recommendations will be developed through our
5 research department, our legal department, our education
6 department, in consultation with our Aboriginal leaders
7 of our union whom we will bring into an ongoing working
8 group to develop the material to then go out and educate
9 and train our local union leaders, so that they understand
10 the issues and can take them to the various forums in which
11 they advocate.

12 The one area that Brian didn't touch on,
13 which I find to be difficult for us, is that, unlike some
14 unions that are in the trades or construction or crafts,
15 the United Steelworkers Union only gets to represent the
16 workers after they have been hired. We can only get to
17 do that after the group of workers has decided, through
18 the various vehicles available to them in different
19 provinces and federally, that they want to be represented
20 by a trade union and have chosen us.

21 One of the bridges that we have to build
22 and one of the gulfs we have to get across is the inability
23 of the union to get involved in the development of a

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1 project. Very often the project that is being developed
 2 is done with the exclusion of the union, until the employer
 3 has determined who will be working there and under what
 4 circumstances. Unfortunately -- and I say that with all
 5 due respect. Unfortunately, they may have already been
 6 involved in some negotiations that are designed to preclude
 7 the union from being involved.

8 What I am going to say may be a bit
 9 controversial, but I think it has to be said from the trade
 10 union point of view. The development of our historic
 11 affirmative action and participation program at Dona Lake,
 12 which we saw, and still see, not only as a model for our
 13 union but a model for other unions in the resource sector,
 14 was unfortunately opposed by some persons in the Aboriginal
 15 community who wanted to stick with a federal-provincial
 16 employer negotiated agreement that had absolutely no
 17 method of enforcement. What it, in fact, did at the start
 18 was pit Aboriginal members of our union against economic
 19 leaders of that very Aboriginal community.

20 It led me to the conclusion that it isn't
 21 always because we share the same values and the same
 22 cultures that we will choose the same economic path to
 23 redress those real and perceived inequities.

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1 I think one of the roles that this
2 Commission could play is to recognize the important role
3 of the trade unions. I think you will hear from several,
4 and have heard from some, who want to play in making sure
5 that the many injustices of the past are redressed.
6 Certainly the experience of the last several years in our
7 union is a real desire to be allies with the Aboriginal
8 community, in particular with Aboriginal workers, so that
9 we can accomplish the same objectives as they want.

10 We thank you for the opportunity that
11 you have given us through the Intervenor Program to do
12 this critical self-examination of ourselves and to come
13 to the, in some ways, expected but still painful conclusion
14 that we have a long way to go before we are going to be
15 seen as the friends and allies of Aboriginal workers that
16 we want to be.

17 Thank you.

18 **MODERATOR KAREN COLLINS:** Thank you
19 both very much for your presentation. Our Commissioners
20 will have some questions for clarification or for
21 additional information.

22 Commissioner Chartrand, please.

23 **COMMISSIONER PAUL CHARTRAND:** Thank you

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1 to both of you for coming to talk about your brief this
2 morning. I would like to take the opportunity first to
3 thank you and then to have a discussion for a few minutes,
4 if I may, about one of the very difficult issues that this
5 Commission faces.

6 As I was telling another group
7 yesterday, I would like to solicit your advice, at least
8 your own views, because at the end of the day we have to
9 make some recommendations which will involve making some
10 hard choices falling on one side of the line or the other.

11 I think I would feel more comfortable if I had the advice
12 of a lot of people on the difficult issues. I can't skirt
13 them.

14 As you have indicated, the initiatives
15 you describe here are quite unique in the field of union
16 activity and very positive. They are unique partly
17 because of the inherent conflict, I suppose one might say,
18 between the legitimate goals of the union to promote the
19 interests of its membership and the aspirations of some
20 Aboriginal people to enter into a union-controlled labour
21 market.

22 Let me try to explain my question in this
23 way.

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1 The situation you describe in your
2 report has to do with what is called affirmative action.
3 Affirmative action, I suppose, can be fairly described
4 as individual action -- that is, it is directed at bringing
5 individuals into jobs. The idea, I suppose, is that
6 individuals as such, because of some historic disadvantage
7 attributed to this or that, ought to have some particular
8 entitlement to an individual preference.

9 I was relying on the summary that was
10 provided to me in advance, so I can't refer to pages in
11 your complete submission. You refer to the Key Lake
12 agreement, for example, and you highlight that. You refer
13 to a term of that particular agreement which promoted the
14 hiring of people of "Aboriginal ancestry." I am still
15 trying to describe what I mean about affirmative action
16 as an individual entitlement thing.

17 Individuals there are favoured because
18 of their ancestry.

19 Just to assist in filling out the
20 understanding of my point, if we look at analogous
21 situations in the United States, presumably one could look
22 at the situation of African-Americans and look at similar
23 affirmative action programs there.

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1 I put that to the side now and I focus
2 on the next portion of the issue, which is this: In Canada
3 today Aboriginal peoples are asserting the existence of
4 group entitlements, group claims. The usual aspirations
5 are described in terms of self-determination of
6 self-government. The point is that there are vast
7 differences in policies directed at individual
8 entitlements and policies directed at the resolution of
9 group claims. That is the basic distinction that is the
10 foundation for the question I would like to explore with
11 you.

12 I think it goes to the heart of not only
13 the claims of Aboriginal peoples but the heart of the goals
14 of unions. Who understands better the value of group
15 action than unions? You understand that, standing alone,
16 an individual --

17 **LEO GERARD:** I am anxious to answer.

18 **COMMISSIONER PAUL CHARTRAND:** I know.

19 I just want to make sure I have my idea as complete as
20 I can make it so I can listen to you with care.

21 As Aboriginal peoples would say, with
22 the group we can have a lot more strength.

23 The part that I find a bit puzzling about

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1 the history is that it seems that, for some purposes,
2 Aboriginal peoples are treated as individuals, say in the
3 case of affirmative action programs, and in some other
4 cases you can see easy models for treatment as groups.
5 For example, in the field of education we have models of
6 English schools and French schools where people work out
7 their entitlements through the group, a Separate School
8 Board for example.

9 The point here is that it seems to me
10 that in a relationship between Aboriginal peoples and
11 unions there is now no existing Aboriginal collectivity
12 -- that is, the collective strength of the union is relating
13 to Aboriginal individuals as such and working out the way
14 in which they will enter the labour market or the way in
15 which, according to the settlement at Key Lake, they will
16 work their way up through the internal promotion ladder.

17 I am wondering if you might be able to
18 assist this Commission by telling us if you see any future,
19 do you see the day coming where Aboriginal groups, as they
20 develop -- let's say, we look forward to the day when
21 Aboriginal self-government is institutionalized generally
22 in this country, so there are groups that represent the
23 interests of Aboriginal individuals. These will not be

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1 individual claims; presumably, they will not be based on
2 ancestry alone. They will be based on considerations that
3 the employees of Key Lake told you about.

4 On the last page of my summary there is
5 reference to the fact that the Aboriginal people indicated
6 that the system was unresponsive to their needs, that both
7 cultural groups have different cultural values. That,
8 as I understand it, is one, if not "the", basis for the
9 claims of Aboriginal peoples, saying "We are distinct
10 cultures; we have a distinct way of life, and we want some
11 political distinctions that give us the power to maintain
12 those cultures."

13 At the end the question is this: Is the
14 Aboriginal individual to be left to relate to the union
15 on the basis of affirmative action programs -- and we could,
16 but we won't today, go into all the consequences of that,
17 including the explanation of an affirmative action program
18 which would lead to temporary measures until you get parity
19 with other groups. Individual claims as opposed to group
20 claims are very different.

21 I wonder if I might have your views on
22 that. I have done my best to struggle with the question.

23 Do you see the day where unions such as yours would have

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1 a relationship to carry on with the institutions of
2 Aboriginal self-government for the reasons that I have
3 struggled to explain to you?

4 Now I am going to sit back and listen
5 to you.

6 **LEO GERARD:** My immediate gut response
7 and my following intellectual response is: Yes, I see
8 that. But I think we have to make many, many changes to
9 our society. I think we have to make many changes to some
10 of the inherent structures of trade unions. We are
11 struggling with trying to do that.

12 We are at a distinct disadvantage in the
13 Steelworkers Union because, as I said in my closing
14 remarks, we only get to represent the workers after the
15 project is up and started. If we focus on a resource
16 project like a mine or if we think of a facility like where
17 June Ionsen comes from, a manufacturing facility that is
18 very close to the Six Nations, that hired people, and we
19 were then chosen to represent them.

20 In those circumstances, we view the
21 approach to bringing individual rights in that workplace
22 as a part of a solution. I will stick to resources now,
23 because it easier in my head.

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1 If you are going to exploit a resource
2 that is on or near Aboriginal land and you have entered
3 into some kind of agreement with the Aboriginal community,
4 then Aboriginals, as a group, have a right to employment
5 and to the rewards of the exploitation of that resource.

6 But, with all due respect, an Aboriginal capitalist
7 behaves very much like a white capitalist, with that
8 approach.

9 So we think there needs to be collective
10 rights for workers in those environments.

11 I think one of the areas where we could
12 be very, very helpful, and want to be very helpful, is
13 in the development and negotiation of group rights with
14 enterprises that want to develop a project on or near
15 Aboriginal land, to make sure that, as a group, the
16 Aboriginal inherent rights are protected. I don't view
17 those as just the inherent right to self-government.

18 One of the things that I was personally
19 very proud of -- Brian was very proud of the affirmative
20 action victory in our Dona Lake case. I was very proud
21 of the cultural victory. It was the first time that we
22 know of in any collective agreement, negotiated or
23 arbitrated, that we succeeded in getting a clause that

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1 said that Aboriginal workers had a right to take time off
2 to practise their rights, whether they wanted to be close
3 to the land -- in the area of Dona Lake, wild rice was
4 an important part of the culture -- whether they wanted
5 to take time to harvest that. We struck a blow for group
6 rights and the right to practise the culture, with no loss
7 of seniority while they were gone to practise the culture.

8
9 It was not discretionary. In fact, if
10 my memory serves me right, we were in the process of
11 arbitrating a case at the time that the mine closed for
12 a worker from the Aboriginal community who went to
13 practise, and the employer didn't like it.

14 Our comfort level with the inherent
15 rights of the Aboriginal community -- not only the inherent
16 right to govern themselves, but the inherent group right,
17 whether it is with a white entrepreneur or an Aboriginal
18 entrepreneur or any other entrepreneur, to protect and
19 enhance and nurture their relationship to their culture.

20 On a very personal level, one of the
21 things that really shook me up and really moved me is when
22 a local union grievance person from our local at Stelco
23 on Lake Erie, Bill Beaver, came to us and asked for help

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1 to work with the Aboriginal community on Six Nations when
2 they were having trouble with the school system in the
3 community. I went and I saw. To be very blunt, the person
4 from the federal government who was supervising that would
5 not have sent his or her child to that school.

6 We worked then with the folks from Six
7 Nations and our union to join together in a social justice
8 issue about group rights.

9 I would like to envision the day when
10 the union is seen as a natural ally of the Aboriginal
11 community, certainly in the resource sector of the north,
12 where we have a lot of skill and experience, in helping
13 to make sure that the group rights are enhanced, protected
14 and enforced. Also we could put together circumstances
15 where the union on the property would be recognized, and
16 the union of that property would belong to the Aboriginal
17 community, with our union, and to form those kinds of
18 alliance.

19 My fear, to be very blunt, is that the
20 non-Aboriginal part of our society has a long way to go.

21 There has been too much inherent neglect, dishonesty,
22 manipulation. I, for one, when we got involved with Dona
23 Lake, got in a big fight with Placer Dome because we accused

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1 them of having signed an agreement with the Aboriginal
2 community that they had no intention of living up to.
3 When we got certified, I think there were two Aboriginals
4 working on the property; yet, they had a four-way lease
5 arrangement with no method of enforcing it.

6 We could have helped, because of our
7 tremendous experience with gold mining companies and with
8 Placer Dome in particular and with Dome Mine prior to that.

9 Certainly, one of my objectives as the
10 national leader of our union is to continue to develop
11 our relationship so that, when a mining company wants to
12 develop a mine on or near Aboriginal land or wants to
13 exploit a resource, we are seen as a natural ally to make
14 sure that the group rights are protected. I think the
15 first way to protect them is to entrench them.

16 So, yes, I am very comfortable with that.

17 It is certainly part of what we would like to see happen.

18 If we were the only player in the society, I would be
19 much more optimistic that it would happen soon. I think
20 we all have a long way to go to convince a lot of other
21 people in this society that there is a lot of ground that
22 has to be made up and that some rights are non-debatable.

23 I don't know if that helps you.

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1 **COMMISSIONER PAUL CHARTRAND:** It
2 certainly does.

3 **LEO GERARD:** Brian will give you the
4 legal interpretation of what I have just said.

5 **BRIAN SHELL:** I think the issue you
6 raise cuts right through to one of the central
7 difficulties.

8 You should recognize that trade unions
9 do two things in the workplace. They represent the work
10 force as a whole to the employer. Traditionally, they
11 do that in the form of collective bargaining, and one can
12 call that the engagement of group collective rights. In
13 so doing, they must identify what are the things that bond
14 the group together.

15 Generally speaking, the things that bond
16 the group together is each individual's relationship to
17 the employer as an employee.

18 That is a different way of discussing
19 a bond or a cultural bond from what it is that bonds an
20 Aboriginal community together or a Tibetan village. It
21 is quite a different thing. We are bonded as employees
22 by virtue of the fact that we work for the employer. There
23 is a distinct cultural environment that is created and

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1 that is very dominated by the employer because we are on
2 the employer's turf and we engage in the activity and at
3 the instruction and under the supervision of the employer.

4 What a trade union can do, however --
5 and there is no doubt that we have not done enough of it
6 and we haven't done it fast enough -- is that we are capable
7 of identifying community goals. Through the collective
8 economic coercive power of the employees together, we are
9 capable of achieving those collective community goals.

10 For example, it is a goal of the
11 community in general that people be more skilled and more
12 trained. It is a goal of the community in general that
13 people be compensated properly for the services they
14 perform. But it can also be a goal of the community that
15 particular people in the work force receive a particular
16 kind of training. That can also be a community goal.

17 The identification of those goals -- and
18 we did it in Dona Lake with the WASHA program and with
19 the requirement that video cameras be brought to the
20 workplace so that Aboriginal employees can continue their
21 high school education at the workplace. We recognized
22 that the barracks in which they were housed were incapable
23 of affording them the time, peace and quiet to simply watch

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1 the video programs on television. So we negotiated
2 provisions that would permit that to be the case, as we
3 negotiated the traditional economic leave.

4 One doesn't sort of pick out of thin air
5 what one negotiates. One turns to the collective and one
6 develops goals.

7 Frequently, because many employers
8 engage in systemic non-hiring, it is very difficult to
9 access what are the local Aboriginal community goals --
10 very difficult, particularly if you are a suspect
11 organization that traditionally hasn't effectively
12 represented Aboriginal people.

13 That is why, in our recommendations to
14 ourselves at page 5-5, we say in our recommendation for
15 negotiations, two-thirds of the way down page 5-5:

16 "Consult local First Nations and Tribal Councils to
17 identify the particular needs of
18 the local Aboriginal people, and
19 endeavour to address these
20 concerns in any collective
21 agreements with employers in the
22 vicinity of the local Aboriginal
23 community."

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1 We can be an effective driving force with
2 employers. We have economic leverage.

3 What frustrates us about the original
4 so-called Dona Lake, multi-party, multi-government
5 agreement is that those who engage in representation of
6 Aboriginal people and who don't grasp the significance
7 of enforcement of rights gloss over those rights. We were
8 extraordinarily frustrated by the fact that the Dona Lake
9 agreement between Tribal Councils, Ontario and Canada was
10 fundamentally not enforceable. You couldn't require the
11 company to do what the company promised to do.

12 We know our collective agreements are
13 enforceable. We can make companies do what our collective
14 agreement says. We can do it; we can do it quickly; we
15 can do it expeditiously; we can do it cheaply; and we can
16 make it stick. That is because a collective agreement
17 is a very unique legal document. It is a different kind
18 of obligation than is created by the normal contract, the
19 normal undertaking or the normal promise.

20 So, our hand is out. We want to work
21 with the Aboriginal communities where our members are drawn
22 from, and we want more of our members to be drawn from
23 those communities. We think, in that sense, there is a

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1 to relations with non-governmental institutions.

2 Thank you very much for your assistance.

3 If you have other comments, we would welcome them.

4 **LEO GERARD:** If I could make just one
5 add-on, to sort of put in another perspective a view that
6 is shared throughout our union, the theme that we have
7 in our union is that the union is not just a collective
8 bargaining tool; it's an instrument for social and economic
9 justice.

10 In that framework, particularly in
11 Canada, trade unions have been vehicles that have been
12 used, and are used, and form partnerships, with groups
13 in our society who have been systemically or otherwise
14 ignored, disadvantaged or oppressed -- everything from
15 working with injured workers to members of minority
16 communities, women's groups. For me, it is unfortunate
17 that it is only in the recent past that we have tried to
18 strengthen our bonds as movements with the Aboriginal
19 community.

20 As we think about recommendations for
21 advancing groups rights and also protecting individual
22 rights within the group, I think trade union can play,
23 and should play, a very important and leading role in that

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1 and in being partners with the Aboriginal community to
2 get a lot of the things that have to be accomplished as
3 soon as we can, not in someone else's lifetime but in our
4 lifetime.

5 **COMMISSIONER PAUL CHARTRAND:** Thank
6 you. If I may say so, with respect, that is a most
7 important addendum to your comments.

8 You may or may not know that this
9 Commission has articulated some tentative key points
10 called touchstones to focus upon in the development of
11 our recommendations. I wonder if you might urge us to
12 add social justice to the touchstones that we are working
13 on.

14 **LEO GERARD:** If we don't need a motion,
15 you can consider it so added. In fact, if it is all right
16 with the Commission, Brian and I will draft a follow-up
17 letter. In your questions, you also opened up ideas that
18 we may not have explored enough, so we will send you a
19 follow-up letter that says exactly that.

20 **COMMISSIONER PAUL CHARTRAND:** I would
21 welcome that very much. Again, thank you for a most
22 helpful and interesting discussion.

23 **CO-CHAIR GEORGES ERASMUS:** I am quite

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1 interested in your work. It is a very good start. The
2 intentions of the union are good.

3 I find interesting the analysis that you
4 have of what happened in the Dona Lake situation prior
5 to the union getting involved. There you had the Windigo
6 Tribal Council, you had the Osnaburgh community -- and
7 for those people who don't remember, this is where Desmond
8 Tutu came a few years ago because of the despicable
9 situation that the Osnaburgh people find themselves in.

10 The federal government was involved, the
11 province was involved, and they negotiated up front an
12 agreement to make sure that, if there was going to be
13 development immediately next door -- and this is not the
14 first mine in the area. They had examples of mines that
15 came into the area, and nothing had really happened. There
16 was no employment.

17 So governments got on board, the
18 political leaders amongst Aboriginal people got on board,
19 and they negotiated an agreement up front to make sure
20 that Aboriginal people were hired.

21 The unions came along and they said,
22 "Well, there is no enforcement mechanism." On our side
23 the Commissioners will know that, in fact, that is

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1 typically what happens. Agreements are made between
2 Aboriginal people and governments. For instance, we have
3 heard a lot in Manitoba about the Northern Flood Agreement.
4 There were supposed to have been all kinds of ways in
5 which compensation and remedial action was supposed to
6 take place -- community development, training, relocation,
7 more land somewhere else to replace the flooding. In fact,
8 their life was supposed to be made better by the flooding.

9 I think what we found was that they spent
10 the majority of the time and their resources since the
11 signing of the agreement trying to enforce the agreement.

12 So it is true that unions are in a unique
13 situation when they negotiate a collective agreement to
14 actually put some leverage into the situation. But,
15 surely, you understand the suspicion. Unions have been
16 around for a long time. Mining has been around for a long
17 time in the north, and Aboriginal people haven't really
18 been getting the benefits. In a lot of ways, Aboriginal
19 people see the unions coming as well: "Here comes another
20 tribe. They are going to negotiate for their folks, not
21 for us obviously." That is basically what seems to occur.

22 I thought it took a lot of courage to
23 say the things you have said here. You cited the need

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1 to do some up-front addressing of the racism that is still
2 apparent in our society in the workplace. That is where
3 I would like to ask my question.

4 You talk about the program you are going
5 to do now. Could you elaborate a bit more on that. I
6 think that is extremely important.

7 **LEO GERARD:** I will have to go back.
8 I think I addressed that, Commissioner Erasmus, but I want
9 to make a couple of comments about what you said at the
10 start.

11 As the trade union that I belong to has
12 grown and matured, we have been able to turn our mind to
13 different problems. The union is only slightly over 50
14 years old, which in economic terms isn't that long. We
15 spend an unbelievable amount of our human resource time
16 as well as our income that we get from dues in what I call
17 ongoing recognition disputes, where you negotiate an
18 agreement and you have to spend your energies enforcing
19 it, or you organize and you spend more getting organized
20 than you will ever get in revenue, because it is a matter
21 of principle.

22 It is only with the change in government
23 and in some minimal ways occasionally employer recognition

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1 of the important role of trade unions that the unions have
2 been able over the last 20 or so years to make the kind
3 of steps in changed government legislation that has allowed
4 us to move resources from one problem to another.

5 The changes that we have had in Ontario
6 legislation since the mid-1970s, where we didn't have to
7 strike for union check off, where we didn't have to always
8 prove our case to the nth degree, but have had some changes
9 in arbitration jurisprudence. All of these things have
10 given us the opportunity to focus on other areas.

11 I would say that in my own union it is
12 in the last 10 years that we have really focused on one
13 of the important social justice issues, which is employment
14 equity, racism -- how you deal with it, how you change
15 it. In so doing, during many, many years of the union's
16 existence and fighting to be recognized for collective
17 bargaining in the north, by the time we got entrenched
18 and got into collective bargaining, the relationship with
19 the employer was already carved in stone. They had already
20 hired who they were going to hire. In many, many cases
21 it didn't include the Aboriginal community on whose land
22 they were or whose land they were next to.

23 During this period of the last 10 years

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1 --

2 **CO-CHAIR GEORGES ERASMUS:** It probably
3 was the same land.

4 **LEO GERARD:** It looks that way. During
5 that period when we have been doing that, we have developed
6 an expertise. The first thing we have to do is recognize
7 that there is a problem. When you recognize and are
8 prepared to admit that there is a problem, then you have
9 the tools to deal with it.

10 We were the first union, again with some
11 pride, about seven years ago to do a study and say, "We
12 can't be hypocritical if we are going to have an anti-racism
13 policy." Up until then, the anti-racism policy was only
14 between the union and what it would do if an employer
15 behaved in a racist fashion, or what you would do to protect
16 the rights of a member if an employer behaved in such a
17 fashion.

18 With Brian's help, we developed the
19 first policy in Canada that I know of in a trade union
20 that talked about racism between workers and the right
21 of the harassed worker. We bargained that for the first
22 time in the Stelco collective agreement on the eve of a
23 strike. That wasn't the only issue, but we kept it there

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1 until finally the company agreed. We put in place for
2 the first time an anti-racial harassment counsellor. That
3 is some seven years ago.

4 Since then what we have done is develop
5 training, awareness and programs so that we didn't just
6 focus our energy on harassment and racism between the
7 employer and the workers, but amongst workers. Right now
8 I would say that the majority of our work is done in that
9 area.

10 We are now going to the bargaining table
11 where we have to, and away from the bargaining table if
12 we can get an enlightened employer to agree, and have the
13 employer agree that we will put on our anti-racial,
14 anti-sexual harassment training program in the workplace
15 during work hours for everybody that works in that
16 facility, from the manager to the newest worker. The
17 employer will pay for the lost time, or the employer will
18 provide the time to do it.

19 We have now done that in some 50
20 workplaces, and we continue to promote and do more. To
21 us, that is part of our value of social justice. But you
22 have to first acknowledge that there is a problem.

23 Then, when you acknowledge the problem,

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1 to the shop steward level and membership level.

2 As we speak, several hundred people are
3 in Scarborough being led through anti-harassment training,
4 employment equity training, so that we can assert
5 individual rights, so that we can get groups rights, so
6 that we can advance the rights of the group. A lot of
7 the leaders of those groups are people like June Ionsen,
8 an Aboriginal member of your union who is leading the union,
9 with some pride and confidence I would add.

10 **CO-CHAIR GEORGES ERASMUS:** I am sure we
11 could keep on talking about this for a while --

12 **LEO GERARD:** I love what we are doing.

13 **CO-CHAIR GEORGES ERASMUS:** -- but I
14 think you have more than adequately answered our question.

15 **BRIAN SHELL:** Commissioner Erasmus, let
16 me try to focus on some of the concrete things.

17 **CO-CHAIR GEORGES ERASMUS:** Are you
18 going to do the legal interpretation?

19 **BRIAN SHELL:** We know that, as an
20 educational matter, the program we are designing has to
21 reach our non-Aboriginal membership. It has to reach the
22 Aboriginal membership in the workplace, and critically
23 it has to reach the Aboriginal communities in the area

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1 around the workplace.

2 What we are intending to do, apart from
3 exercises and focus groups and information and leadership
4 training in that context, to undermine the whole racism
5 in the workplace is that, in addition to everything else,
6 we want to develop some historical understanding in the
7 region as to why the circumstances in the region are the
8 way they are, so that our non-Aboriginal membership will
9 understand something about the history of Aboriginal
10 people in northern Saskatchewan, so that the theory of
11 a prior claim, which is not automatically accepted, as
12 I suspect you know, by non-Aboriginal people -- the theory
13 of a prior claim, we say, has to be understood by our
14 members.

15 So we want to deliver the theory of the
16 prior claim in northern Saskatchewan or in Yukon or in
17 the Northwest Territories or in Brantford, wherever it
18 is, so that our members understand where we are coming
19 from. They have to understand where we are coming from.

20 They must understand the concept of Aboriginal rights.

21 If they don't understand that concept, it is much more
22 likely that they will resist efforts and they will fail
23 to comprehend the anti-racism program of the union.

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1 We are developing modules that will not
2 be one general blanketed "racist" statement about
3 Aboriginal history, but will be much more regionally
4 focused. To do that, we are going to have to seek the
5 assistance of Aboriginal communities and of Aboriginal
6 leaders and of Aboriginal historians and the people who
7 can help us deliver that message in a way that makes sense
8 to the Aboriginal community and that makes sense to the
9 Aboriginal employee in the workplace and that makes sense,
10 by being delivered through and by us, to the non-Aboriginal
11 communities as well.

12 But that is not going to be enough. We
13 know that is not enough in the workplace. We know that,
14 just as Leo has mentioned with anti-racial and anti-sexual
15 harassment policies of the union, we have to make the union
16 present for its Aboriginal members. We have suggested
17 at page 5-6 of our brief that we will be seeking to include
18 in collective agreements the provision for employer-paid,
19 union-selected, full or part-time depending on the size
20 and nature of the employer, Aboriginal employment equity
21 officers. Those are people who come out of the workplace.
22 Those are people who will be, in our language, skilled
23 in the art of cultural translation.

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1 We think it is crucial that our
2 Aboriginal members have a person who can help them
3 concretely in the workplace, who understands the nature
4 of the collective agreement, who understands the employer,
5 and who will advocate for them concretely in the workplace,
6 be their person just as, for example, for sexual harassment
7 we have instituted a Sexual Harassment Complaints
8 Counsellor, somebody whom a harassed woman can confide
9 in, talk with in confidence, in private, and who will assist
10 that harassed employee with the difficulty that she may
11 have with another conceivably fellow union member in the
12 bargaining unit.

13 That is part of our goal. But we can't
14 make collective agreement advances unless we have
15 concretely the support of the bargaining unit. Employers
16 don't just roll over and play dead because the union comes
17 in and says, "Hello, we want." They only roll over when
18 they understand what the collective group wants. When
19 they grasp that there is support for these goals, then
20 we think we will make advances.

21 Our goal in the short term is to develop
22 the collective support amongst our own largely
23 non-Aboriginal membership for these goals. That is really

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1 the focus of the education program.

2 **LEO GERARD:** Just to close on that, the
3 approach we have taken to exactly what Brian has said is
4 to create the environment for people to understand the
5 change and the need for the change. It is something that
6 we have done in these various programs that I have talked
7 to you about before.

8 The thing that will be interesting is
9 to see the kind of support that we get outside of the union
10 for that. All of the programs that I alluded to before
11 were completely supported -- "subsidized" is the right
12 term -- by various levels of government who saw this also
13 as being part of the government's objective.

14 As we finish what we have called our
15 Phase 1 work and we start our Phase 2 and we go to government
16 to have them help us to bring these things forward, a
17 recommendation from the Commission in that regard would
18 probably be very helpful. We have suggested in 5.2.2B.

19 **LEO GERARD:** On page 5-8, in item B, we
20 say we are important, that if the government is going to
21 have initiatives, they must not forget that we are the
22 delivery of change. We are capable. We are a vehicle
23 that can deliver change in the workplace.

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1 Some would say it can't happen without
2 us.

3 **LEO GERARD:** We would say that.

4 Thank you very much.

5 **MODERATOR KAREN COLLINS:** Thank you
6 both very much for your presentation and for assisting
7 with the clarification.

8 We will take a short break.

9 --- Short Recess at 10:57 a.m.

10 --- Upon resuming at 11:09 a.m.

11 **MODERATOR KAREN COLLINS:** I would
12 invite our next presenters to the table. The next
13 presenters are representing the Bahá'í Community of
14 Canada.

15 **REGINALD NEWKIRK, Secretary General,**
16 **Bahá'í Community of Canada:** Good morning. My name is
17 Reginald Newkirk, and I serve as the Secretary General
18 of the National Governing Council of the Canadian Bahá'í
19 Community, known as the National Spiritual Assembly of
20 the Bahá'ís of Canada.

21 I would like to introduce to you the
22 members of our delegation from the Bahá'í Community of
23 Canada. To my right is Louise Profeit-Leblanc, who is

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1 the Chairman of the National Spiritual Assembly of the
2 Bahá'ís of Canada. To her right is Dr. Gerald Filson,
3 who is our Director of Public Affairs.

4 First, let me say how respectfully
5 honoured we are and our community is to have been invited
6 to make this submission and have this discussion with you.

7 We are at once full of a sort of moderate sense of pride
8 -- it is moderated by a deep sense of humility -- that
9 our community has been invited to share with you further
10 and to engage in discussion with you on an issue that is
11 so critical to the future proper development of the
12 Canadian nation, namely the redress of concerns and issues
13 with respect to the First Peoples of this land, the
14 Aboriginal peoples.

15 Louise will provide you with an overview
16 of some of our thoughts on governance, and the three of
17 us will use a good portion of our time in answering
18 questions you might have. That is one of the reasons that
19 we have written out our notes, to be a little more
20 efficient.

21 Canada's 20,000 Bahá'ís live in about
22 1,400 localities from Newfoundland to the Queen Charlotte
23 Islands, from Grand Manan to Iqaluit, from Rocky Mountain

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1 House to Labrador. We have educational institutions on
2 Vancouver Island and on the shores of Lake Laberge in Yukon.

3 In Montreal you will find the only Bahá'í shrine in the
4 western world, and our national office is located here
5 on the northern fringe of Toronto.

6 The Bahá'í experience in community
7 building and in personal and community transformation goes
8 back a century and a half. In Canada Bahá'í experience
9 began in the early years of this century. Around the world
10 there are more than 17,000 local governing councils, known
11 as Local Spiritual Assemblies, in Bahá'í communities; 380
12 of them are in Canada. They are elected in a democratic
13 manner every year. They oversee Bahá'í marriages, now
14 legally approved in all provinces and territories of
15 Canada. They create and manage educational programs and
16 social activities for their communities, which range in
17 size from tiny groups of no more than a dozen adult members
18 to some communities of a few hundred members.

19 We our communities as laboratories or
20 experiments in new and revolutionary forms of how we can
21 best administer human affairs. We have reason to believe
22 that the principles which guide our efforts to establish
23 new approaches to the administration of human problems

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1 and community living are sound and effective. They
2 represent the most practical way by which human beings
3 can overcome the very challenging problems and intense
4 suffering which now afflicts the vast majority of human
5 beings living on this planet.

6 We are convinced as well that, as this
7 millennium closes and a new one begins, humanity as a whole
8 is passing through a profound and unique change or
9 transition in which human civilization itself is
10 undergoing a deep and extraordinary process of
11 transformation from a period of human history that can
12 best be described as immature or adolescent insofar as
13 the way in which we lived together and governed ourselves,
14 to a period of human history in which our race, the human
15 race, will finally become mature.

16 We are living through the pain and
17 confusion of the coming of age of the human race. Our
18 future will be marked by far wiser, far more just, more
19 equitable approaches to governance, to how human beings
20 manage themselves and provide for the well-being of their
21 communities.

22 This historical perspective provides
23 the necessary context to understanding what we are involved

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1 in here in Canada in the process which this Royal Commission
2 has set in motion.

3 We are also convinced -- and convinced
4 in what we can call a prophetic sense -- that the Aboriginal
5 peoples of this country has a mission and an opportunity
6 to make singular and impressive contributions that will
7 brighten and illuminate the path to humanity's future.
8 This Royal Commission, your Commission, and the actions
9 and initiatives which it generates can inspire and
10 accelerate that process.

11 The Aboriginal peoples of this country
12 can provide new models, new patterns and new processes
13 of governance. Given the very difficult and painful
14 context so evident in the lives of many Aboriginal
15 communities and families, new initiatives in
16 self-development, in community and family healing, in
17 self-sufficiency, in reworking the relations between
18 people, and in self-government can be very dramatic. They
19 can demonstrate the efficacy and practicality of certain
20 principles of governance from which the world as a whole,
21 and certainly the non-Aboriginal peoples of this country,
22 can learn.

23 Experiments in governance and in

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1 harmonizing and co-ordinating different levels and
2 jurisdictions in governments can be undertaken with a view
3 to learning how to create a different definition of what
4 co-operation, solidarity or unity amongst the diversity
5 of peoples living in the northern half of this continent
6 is all about.

7 **LOUISE PROFEIT-LEBLANC, Chairman,**
8 **Bahá'í Community of Canada:** I am responsible for taking
9 on the second half of this presentation, and I, too, would
10 like to say thank you to the Commissioners and all of their
11 staff who have been working for so long on this very
12 important task for the Canadian community.

13 I would also like to acknowledge the fact
14 that we have an Elder present here and several senior
15 citizens. That warms my heart. Thank you.

16 We have in our written submission noted
17 that some of the principles fundamental to real change
18 are in this field of governance. We are pleased to note
19 that a number of other presentations emphasized, as we
20 did, the significance of spiritual principles -- and this
21 is the root which the Bahá'í community is coming from.

22 We drew your attention to the
23 shortcomings of a philosophy of materialism and the kind

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1 We have no choice but to learn new ways of living and
2 working together across a diversity of cultures, countries
3 and ways of life. Whatever governance we establish, unity
4 and oneness of the entire human race, of all Canadians,
5 is not merely an idea. It is an essential principle for
6 the survival of each of us, whether Aboriginal or
7 non-Aboriginal.

8 But we also say that many of those new
9 ways of living and working together and much of the
10 spiritual resources are present in Aboriginal
11 understandings and outlook, behaviour and attitude, even
12 though those resources may be dormant or appear to be asleep
13 or may require encouragement in order to come to fruition
14 or into full life.

15 We pointed out, too, that
16 self-development or self-government is an essential
17 characteristic of human life. We must all have a say in
18 how our neighbourhood, our local community, our own
19 cultural group or band is organized.

20 Unity of the world as a whole, unity of
21 all of Canada's peoples, and the development at the same
22 time of diverse communities of people associated by
23 geography or culture at local, regional or national levels

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1 are not opposites. Standardization or conformism,
2 rigidity of governing approaches, are the result of the
3 kind of thinking grown out of either materialism of
4 immoderate nationalism.

5 In this presentation today we want to
6 emphasize, in addition to a more profound understanding
7 of this principle of unity, that perhaps the single most
8 important element or measuring stick for effective
9 governance is service. As a First Nation woman, I probably
10 have a greater understanding of this concept and also from
11 being a Bahá'í, in that traditionally the Chiefs who were
12 in those positions of leadership were those who in fact
13 served their community best. They were the best hunters,
14 and they provided the community not only with food and
15 resources but also with direction and helped them to be
16 secure in that community.

17 Governance is not about power.
18 Governance is not about dictatorial authority. It is not
19 about ambition or legal regulations. It is about service.

20 It is about what we can do for our fellow human beings
21 -- service to the people, service to the well-being and
22 progress of people. Service, we believe, is the highest
23 aspiration that a human being can have.

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1 Governance has more to do with
2 education, with an educative function, than it has to do
3 with regulation. Governance elevates a people. If
4 people are not elevated, then governance has gone wrong.

5 When ambition is considered a virtue and
6 service and humility are not, then we know that this
7 governance has gone wrong.

8 Throughout the world, in Canada and
9 other countries -- and we know that what has worked in
10 the past is certainly not capable of meeting the needs
11 of this day and age -- people are realizing that new
12 standards, new models of governance and leadership are
13 needed. Service is the key concept, we believe, in
14 creating those new models of governance. And service,
15 we want to emphasize, is not merely a pretty ideal --
16 although it is an ideal, and ideals are more important
17 to us than anything else. It is also a standard by which
18 we can think more clearly when we make decisions. It is
19 a yardstick by which we measure proposals. It is a quality
20 by which people can elevate their leaders and by which
21 leaders can evaluate those to whom they must delegate the
22 work of administering to a community or a country.

23 The present challenges in Canada and the

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1 initiative represented by the Royal Commission give to
2 us and to Canada's Aboriginal peoples a priceless, unique
3 opportunity to pioneer a new standard and model of
4 governance. As Canada works out new arrangements
5 acceptable to both Aboriginal and non-Aboriginal peoples,
6 Aboriginal initiatives can demonstrate a style of
7 governance and community leadership in which service --
8 service, rather than authority and power -- becomes its
9 defining characteristic.

10 Governance has to do -- and here I will
11 read something from the Constitution of the Universal House
12 of Justice which is the governing body for the world.
13 Governance has to do with initiating, directing and
14 co-ordinating human affairs. To do so, those directly
15 involved with governance must learn, first of all, to:
16 "win by every means in their power the confidence and
17 affection of those whom it is their
18 privilege to serve; to investigate
19 and acquaint themselves with the
20 considered views, the prevailing
21 sentiments and the personal
22 convictions of those whose welfare
23 it is their solemn obligation to

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1 promote; to purge their
2 deliberations and the general
3 conduct of their affairs of
4 self-contained aloofness, the
5 suspicion of secrecy, the stifling
6 atmosphere of dictatorial
7 assertiveness and of every word and
8 deed that may savour of partiality,
9 self-centredness and prejudice;
10 and while retaining the sacred duty
11 of final decision in their hands,
12 to invite discussion, ventilate
13 grievances, welcome advice and
14 foster the sense of
15 interdependence and
16 copartnership"
17 among the peoples they are responsible for.

18 Recent events in the world of politics
19 and government around the world indicate that such a high
20 standard of principle and morality is far more important
21 than expertise, charisma, the politics of power struggles,
22 and the reliance on old practices of partisanship and
23 divisive, factional political games.

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1 The working out of new forms of
2 governance is a concrete, case-by-case affair -- as was
3 indicated by the instances that the people prior to us
4 have spelled out -- in which those directly implicated
5 -- representatives of particular Aboriginal groups and
6 representatives of governments, federal, provincial and
7 municipal -- has to come together and work things through
8 co-operatively.

9 The Canadian Bahá'í Community cannot
10 comment on each and every case, nor on any particular case,
11 whether a particular geographically defined population,
12 whether a group joined by band affiliation. What we want
13 to stress is that the standard of service versus power
14 and selfish ambition become not just an infrequently
15 expressed desire but a standard to which we return again
16 and again as we evaluate our new forms of governance and
17 new forms of administering to the problems and healing
18 of society.

19 We had also in our submission referred
20 to a unity and, in fact, wrote at some length about it.

21 Despite its central importance, I won't speak about it
22 any more. However, of direct relevance to governance,
23 we also wrote about a process which Bahá'ís have a great

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1 deal o experience with. We call this process consultation
2 -- and it is not the type of consultation where you pay
3 somebody mega-bucks to determine your solutions for your
4 own problems, nothing of the sort.

5 Nothing in our community takes place
6 without relying on this process of consultation in which
7 people learn how to speak to one another to arrive at a
8 decision.

9 The principle of consultation lies at
10 the heart of the functioning of our community. Our
11 founder, Baha'u'llah, declared that, together,
12 consultation and compassion form the "law" of the age of
13 humanity's maturity. We cannot here describe in detail
14 the several principles of how our community consults nor
15 explain fully just how effective and far-reaching it is,
16 from the very grass roots level, from even a couple and
17 then a family and a community and then the region and the
18 provincial consultative processes.

19 We can't describe here in detail all
20 those different levels. However, some of these guiding
21 principles may be of immediate interest and possible use
22 to you:

23 - the prohibition of factionalism or

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1 partisanship;

2 - the provision of opportunities for all
3 to participate in the consultative process that would
4 eventually lead to decision-making;

5 - the encouragement to all to speak
6 freely on the basis of their own conscience;

7 - the responsibility for all
8 participating to exercise courtesy and moderation in the
9 expression of their views. So often people forget about
10 courtesy.

11 - the moral obligation to be detached
12 from one's own contribution so that the group or collective
13 itself can come to own that contribution. I recollect
14 from when I was a child and my grandmother explained to
15 me that they had Fire Councils in which opinions were
16 expressed and put into the centre, and it was as if the
17 fire owned it, so that everybody owned the consensus of
18 the idea.

19 - the interests of the group or community
20 override individual interests, even though the individual
21 freedom of expression is also absolutely safeguarded.

22 That is definitely something that you begin to understand,
23 that in this unity there is also a diversity of expression

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1 and opinion, and we encourage that. From this spark of
2 differing opinions comes the truth.

3 - a clear distinction between this broad
4 form of consultation and the deliberations of a
5 democratically elected body or governing council which
6 takes the responsibility for decisions.

7 - once a decision is taken, the
8 requirement that both the majority favouring it and those
9 originally opposed respect, support and carry out the
10 decision in unity. Even if after a vote, those who in
11 fact voted against it support it totally, what you have
12 is a consensus of opinion. Such unanimous and
13 community-wide support ensures decisions are not subverted
14 or sabotaged. Only through such support can a decision
15 be properly evaluated and changed if genuine deficiencies
16 in the decision itself are detected. Certainly, if you
17 have this unity of thought and unity of decision and
18 certainly the support, if the decision is wrong, it will
19 be made evident very quickly.

20 - the obligation of all decision-making
21 bodies to constantly evaluate their work along with ongoing
22 consultation with the wider community to assess and, if
23 necessary, revise their decisions. This is the beauty

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1 and the wonder of this process, that you are not so rigid
2 as to stick to one decision. If you see some weaknesses
3 or faults in the decision, then you will consult again
4 to revise that.

5 - the value of unity is emphasized.
6 Other essential values such as freedom of expression,
7 honesty and courage in stating one's own views, moderation
8 of expression, courtesy in listening to different views
9 are critical to community development and progress, but
10 unity is the most important value of all.

11 We recommend to the Commission that
12 projects be undertaken at the local level in which new
13 models and practices of community consultation and
14 executive decision-making are developed. The Canadian
15 Bahá'í Community would be pleased to participate in such
16 initiatives. We would like to invite the Commission and
17 others to meet with us to examine our own experience of
18 consultation and to consider both the challenges we have
19 encountered and the successes we have achieved.

20 We are happy, then, to discuss this with
21 you in the time remaining these issues. We wish to thank
22 you once again. Macheecho.

23 **MODERATOR KAREN COLLINS:** Thank you

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1 very much for your presentation. The Commissioners have
2 received both your notes and the presentation.

3 I believe our Commissioners have some
4 questions for you.

5 **COMMISSIONER PAUL CHARTRAND:** Let me
6 begin by thanking you for your presentation this morning,
7 not only you but the others who would have assisted you
8 in preparing it and the Elders in the audience who came
9 to lend you support as well.

10 We do need, I agree, a principled basis
11 for the recommendations that we are to make, so we must
12 welcome submissions like yours which urge particular
13 principles upon us to assist us in doing our work. It
14 is certainly apparent to me that we have to try to craft
15 some recommendations that will avoid some of the
16 difficulties that you have referred to, such as the power
17 of special short-term interests for example to prevail
18 over institutions or policies that ought to be based on
19 principles designed to assist the community in the long
20 term.

21 I noted with particular interest your
22 reference to the need to develop community-based
23 institutions of decision-making. I think that goes to

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1 the heart of a very important part of our mandate. It
2 is something we are going to have to deal with. We have
3 to examine closely whether such principles are supported
4 more at a rhetorical level than in practice at the community
5 level. It is certainly something we have to look at.

6 People use terms like "grass roots
7 people" or "bottom-up" forms of governance. Those are
8 very worthwhile principles, but it seems to me that
9 sometimes they are applied in some areas and not in other
10 areas. We certainly have to look at that with great care.

11 It would indeed be very tempting to
12 engage in a good discussion about the many important
13 principles that you have urged upon us. I very much would
14 like to do that. It is difficult in this forum. I noted
15 your invitation to meet with you and to discuss your
16 experience, and that will certainly be conveyed to the
17 Commission as a whole, and I will endeavour to bring it
18 to the attention of the group at our next meeting in
19 December in Ottawa.

20 I would like to ask one small question,
21 if I may. The previous presenters urged that we adopt
22 as one of our touchstones the idea of social justice.
23 I wonder if, in your view, you have a particular conception

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1 of justice that you might like to urge upon us, as well
2 as the other principles that you have here. I must say
3 I have not had the opportunity to read your full brief;
4 I did look at the summary that was provided to me in advance.

5 I don't recall any discussion of justice, which forms
6 an important part of the arguments for the development
7 of a good society on the part of many philosophers.

8 I just wondered if you had some
9 particular notions of justice you would like to urge upon
10 us and what importance you would ascribe to that.

11 **GERALD FILSON, Director, Public**

12 **Affairs, Bahá'í Community of Canada:** As you know,
13 particularly from your background and your work as a
14 professor at the university, justice in the western sense
15 has always been stressed as unto each his due. Justice
16 is to give each the rights of his case. In other words,
17 it is a stress on the individual.

18 In the Bahá'í concept of justice, the
19 measuring stick or the yardstick or the way we evaluate
20 that justice in fact exists is: Does it contribute to
21 unity? In other words, there is a new concept of justice,
22 we think, developing, and it is one that is not unfamiliar
23 to Aboriginal peoples and it is not unfamiliar in the

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1 context of the debate between collective rights and
2 individual rights.

3 Certainly, the western emphasis on "to
4 each his due" should be eclipsed by one where unity is
5 the yardstick of what justice is. If a community is not
6 united, if there is not unity on an economic perspective
7 and on the socio-political, then you know that injustice
8 is there.

9 In a case of a dispute in a family or
10 between two people quarrelling in a business dispute, if
11 the unity isn't the final outcome, then you know that you
12 have not yet reached justice.

13 This, I think, is a concept that affects
14 the way we think and would approach problems.

15 **REGINALD NEWKIRK:** I just want to add
16 that I am intrigued by your "small question," which has
17 perplexed human civilization since its inception probably.

18 When Gerald was responding, I was
19 thinking of another notion that seems to inform our concept
20 of justice, at least in the western world if not elsewhere,
21 and that is the argument in "Plato's Republic" where
22 Horatio Marcus says justice is in the interest of the
23 stronger. It seems to me that that is the nature of justice

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1 that we have here.

2 At a theological level, one of the Bahá'í
3 writings of Baha'u'llah, the founder of our faith, says
4 that we have to see justice with our own eyes, not through
5 the eyes of our neighbours, that we must know of our own
6 knowledge, not through the knowledge of our neighbours.

7 If you bring that from theology to the
8 practical level, we have to create an environment in our
9 communities, in society, where people are comfortable with
10 and permit everyone to express their views with respect
11 to a situation, as to whether or not they see a situation
12 as just.

13 As Gerald said, we believe that the
14 measuring stick as to whether or something is just or is
15 not is the degree to which it contributes to or detracts
16 from unity.

17 Another thought that struck me was that
18 another way of looking at justice is that, if you think
19 of the principle of love -- love as a force of attraction
20 brings people together, binds the universe together, that
21 principle of attraction -- then justice could be viewed
22 as the principle of love operating at a social level.

23 It is what binds the community together. The result of

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1 that is that it often provides a basis of unity of thought,
2 of vision, of action from which the community itself can
3 develop.

4 It is interesting that in our society
5 it seems that, when we talk about this, we tend to think
6 of unity as something to be achieved, and justice as
7 something to be achieved. But it has to become an integral
8 part of whatever processes of life we are engaged in at
9 a community level -- in our personal lives and in our family
10 lives as well.

11 **LOUISE PROFEIT-LEBLANC:** I would like
12 to add on to what my fellow presenters have indicated.

13 I often think about this element in our
14 society which everybody feels we lack, that there is a
15 lack of justice. I like to understand -- and it is through
16 spiritual teachings not only of my ancestors but certainly
17 the Bahá'í teachings -- that the way you can measure justice
18 is when you look and see that people have attained equality.

19 This equality then is not capable of coming to fruition
20 without opportunity, opportunity through education. That
21 is one of the fundamental principles of the Bahá'í faith,
22 this equal opportunity for education.

23 When I look at people who have not been

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1 able to attain their true potential in society, then I
2 can say that that is an injustice.

3 Those are some thoughts to add on to the
4 other elements that Reggie and Gerald have offered.

5 **COMMISSIONER PAUL CHARTRAND:** I thank
6 you for that, and I will stick to my statement that I want
7 to ask one question.

8 I would like to ask for a further
9 clarification, if I may, about Mr. Newkirk's discussion
10 of the notion of justice. I want to make sure I have it
11 right.

12 You were comparing, I think, western
13 notions of justice with your own community's notion of
14 justice. I am not sure that you said that you supported
15 this proposition, that we have to see justice through our
16 own eyes. It seems to me that is the western notion, which
17 is a self-centred one -- do unto others as you would have
18 them do unto you; it pays no regard to how others might
19 measure behaviour.

20 Is that what you said, or did you propose
21 something else? I missed that part; I was busy taking
22 notes. I wonder if you would elaborate on that one point.

23 **REGINALD NEWKIRK:** You are right about

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1 a number of things. One is that it was my view, not
2 necessarily representative of the Bahá'í faith's view.
3 It is my understanding.

4 What I was trying to say is that
5 Baha'u'llah tells us that the greatest gift to the human
6 being is a rational soul, the capacity to think, to
7 understand and to know. The individual has to exercise
8 that capacity in an analysis of their own situation, the
9 situation of their community, the situation of the society
10 in which they live and the world in which we live. So
11 it is not an atomistic, selfish process that we are really
12 talking about. It involves both the individual and the
13 collective centre or community within which that
14 individual functions, operates, lives and so forth. They
15 are part of that whole.

16 So it is not the notion of the
17 traditional view of the individualism that is implicit
18 in the concept of justice in western society that we are
19 speaking of.

20 I think what we say is that that which
21 legitimizes the individual's participation is
22 consultation with others through which decisions are
23 arrived at, as Louise was earlier describing. So it is

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1 a participatory concept as well.

2 We can come to learn and to know things
3 through the contributions that other people make, but it
4 is also important for the individual to have ideas and
5 to have thoughts. They should also know -- and this is
6 also in the Bahá'í writings -- that no one individual's
7 idea is more important than the consensus that is arrived
8 at through consultation. In fact, you might say that the
9 notion of justice at its embryonic or immature stage which
10 we have in society now has produced a very curious entity.

11 That entity is that it has raised the individual to the
12 point of almost becoming an anti-social creature.

13 My view, at least, of the principles and
14 guidance in the Bahá'í writings is that the principles
15 of justice, et cetera, and the processes and the discipline
16 of consultation would moderate any notion of individuals
17 rising who become anti-social human beings.

18 **COMMISSIONER PAUL CHARTRAND:** Thank you
19 very much for your further elaboration.

20 **CO-CHAIR GEORGES ERASMUS:** I find
21 reading your document very interesting. I couldn't
22 separate the difference between where the Bahá'í were
23 coming from and where I always thought the Aboriginal

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1 people were in their approach to the world, the way I
2 understood it amongst the Dene.

3 Your proposal seems to talk about unity
4 in a way in which it is actually a prerequisite or an
5 absolute necessity for diversity. Probably some people
6 would think that is a contradiction, because most people
7 view unity as being a monolithic, one value, one view,
8 sameness.

9 I find this very interesting. You
10 virtually are saying that it is an absolute necessity,
11 that you have to have unity to have true diversity. I
12 wouldn't mind somebody telling me a bit more about that.

13 I believe I understand what you are saying, but I think
14 it is worthwhile putting it on the record.

15 **GERALD FILSON:** The example I like to
16 use is marriage. A marriage is more successful to the
17 degree to which both partners let each other become
18 themselves within the marriage. That is, you let your
19 spouse be who she is or he is. What happens then is that
20 the character and the personality of that person develops
21 and matures. They don't become more similar. They become
22 more united, but in many ways they become more different
23 and they can bring that back into the marriage

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1 relationship.

2 What we have today, unfortunately, in
3 our society at large is a domination of a particular culture
4 or two or three cultures that are more aggressive. If
5 you don't have unity, you have domination of one, of usually
6 a more aggressive, more intrusive one, whether it is a
7 personality in a group or whether it is a culture on a
8 continent or in the world. Whereas, when you see more
9 diversity being expressed, then you know that cultures
10 or personalities or temperaments which are less intrusive
11 or less aggressive are in fact having their say, having
12 their place in the society. That is what unity allows.
13 Otherwise, what you have is power and domination.

14 I can talk more, but the marriage example
15 and the family is the best example of me of living and
16 letting live, but by that method you come together and
17 you let the other person express their uniqueness. The
18 same is true of cultures.

19 Our continent has witnessed what a lack
20 of unity has resulted in, that certain cultures that have
21 a particular style have had more play than others. It
22 hasn't been a condition of unity.

23 **LOUISE PROFEIT-LEBLANC:** This

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1 principle was one that certainly fascinated me when I began
2 to investigate the Bahá'í faith. At that time I was coming
3 from a point and stand that, because there was this unity
4 amongst my own people, that was sufficient.

5 As I started to look outward from my
6 small village and realized that I was part of the planet,
7 in order to achieve unity within myself -- because that
8 is where unity begins -- I also had to include the rest
9 of civilization, the rest of people, and start to really
10 understand the oneness of humanity, understanding the
11 oneness of creation.

12 Even in a family -- I am from a family
13 of 11, and that's a pretty diverse group of people. But
14 we have a common unity because we are a family.

15 This diversity is encouraged to enrich
16 that unity, so it does not become sameness, so it does
17 not become boring and humdrum.

18 These are just some of my own personal
19 reflections on it. As I have travelled over the world,
20 I have really seen the necessity for this principle. If
21 you travel into a country whose culture is so different,
22 so diverse, from what you are used to, you will be forever
23 uncomfortable. You will be forever making judgments.

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1 You will be forever disappointed if you cannot respect
2 and learn to appreciate and cherish this diversity.

3 **REGINALD NEWKIRK:** I would just like to
4 add one word or two, if I may.

5 First of all, let me give you a
6 disclaimer, and that is that I wouldn't want anyone to
7 suppose, especially the Commission, that we Bahá'ís think
8 we have the perfect community situation -- there is unity
9 and diversity, there is no sexism and no racism, and all
10 that sort of thing. Nothing would be farther from the
11 truth.

12 That is the reason that in our opening
13 comments we made it very clear that the Bahá'í community
14 is a laboratory, an experiment, where these principles,
15 to the extent that we were even able to understand them
16 -- and many of them will require, I believe, a much greater
17 representation of the diversity of the peoples of Canada,
18 not just racial or ethnic, but disability, temperament,
19 intellectual and other kinds of persuasions, in order for
20 us to really have a sense of this notion of unity and
21 diversity.

22 When I was studying the Bahá'í
23 teachings, this one struck me in the sixties. I, too,

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1 have often heard people talk about unity. I was born in
2 the United States, and we had that melting pot thing there.

3 It is very interesting about the melting pot in the United
4 States; you put everybody in there, and they all come out
5 -- and I don't want to denigrate any particular group.
6 We all come out sounding and looking and talking like white
7 men. Then they say, "See, we're unified." No, not at
8 all. That is uniformity which is a result of power
9 structures that exist, that control, dominate, formulate
10 the vision of what is human.

11 This principle allows us, it frees us,
12 it is liberating, so that we can see that in the diversity
13 of the human family, however we want to characterize that
14 diversity -- we are one from a physiological point of view;
15 we all need to be fed and that sort of thing. The process
16 through which we achieve notions of unity or scale the
17 heights of greater unity of feeling between us we describe
18 as unity, and it is difficult. It is very difficult.
19 Sometimes it is darn right painful.

20 When somebody doesn't like my idea, I
21 don't care who they are, it's like slapping my kids, and
22 I don't feel too unified. But then I have to look at myself
23 and say: What is going on inside of me? What are the

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1 processes of my own upbringing, and what have you, that
2 makes me view that comment vis-à-vis my idea or thought
3 as a threat? So Reggie Newkirk has to deal with his own
4 issues in order to be able to clearly understand what other
5 people are saying.

6 This is the part of justice I was talking
7 about at the personal level that has to exist. This is
8 justice to me and my colleagues and my family and other
9 human beings.

10 What it does is it says that dominance
11 of one group over other groups is no longer permissible.

12 Excessive aggression and so forth of one group over other
13 groups or a number of groups is no longer acceptable.

14 We are all equal in the sight of God and amongst ourselves,

15 and we come to the table for whatever purpose with a voice

16 that is equal, and not feigning it. That goes on. We

17 fake equality -- and I don't want to point fingers. I

18 have seen films and TV programs of discussions between

19 various people. Some of them use Pipe Ceremonies before

20 they speak, and others don't; they smoke cigarettes or

21 other things. But, by golly, across that table there was

22 a sense that those folks were not consulting as equals.

23 They were not consulting as equals.

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1 One of the problems that the unions have
2 struggled for is to be able to consult as equals with the
3 employers they deal with, and that doesn't happen.

4 Another thing is that, when this
5 happens, when we move toward a greater understanding of
6 unity and diversity and all its implications -- sorry,
7 I just reminded myself that I said I was going to say a
8 few words -- is that it requires all of us to struggle
9 together to gain a greater understanding of the
10 implications and, thereby, applying it. It is in the
11 applying of these principles in the light of experience
12 that we gain a better understanding of how significant
13 they are and even how better to apply them in future.
14 That is why it is an experiment. That is why we say we
15 are involved in a laboratory.

16 I am sorry for going on so long.

17 **CO-CHAIR GEORGES ERASMUS:** That's fine.
18 You are right; we are getting a little behind in our
19 agenda.

20 I just want to end by saying that your
21 description of governance and the role of leaders, plus
22 the consultation, I certainly personally take to heart.
23 I find it very interesting. It reflects my view of what

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1 I was taught traditionally amongst the Dene.

2 Some time ago, when we were developing
3 models in Denende for the Western Arctic, one of the models
4 that we put forth reflected some of those things. We were
5 looking at model of government that would replace the
6 typical Westminster model that was governing the Northwest
7 Territories. The role of people primarily was to vote
8 once every four or five years, and that was it, and then
9 your members come back in four or five years and ask to
10 be elected again.

11 Because we had a society mix of
12 Aboriginal and non-Aboriginal, we were looking at dividing
13 the north, Inuit in the Eastern and High Arctic going their
14 way and creating their own territory. We were at the table
15 talking about Aboriginal governance. We were trying to
16 find a government system that would work for both
17 Aboriginal and non-Aboriginal, and I was trying to find
18 a model that would take some of the Westminster principles
19 and the principles of the way the Dene used to govern
20 themselves, plus set up a system that would bring
21 Aboriginal and non-Aboriginal people closer together,
22 because we had experienced many polarizing experiences.

23 A mega project comes along, and Aboriginal people find

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1 it threatening to their lifestyle, and inevitably the
2 non-Aboriginal business people find that it to be a golden
3 calf. Here is where they are going to make riches. It
4 continued to polarize the community.

5 I thought, if we created a system of
6 government up there that would actually allow people to
7 ventilate, to talk together, it would actually work. One
8 of the way I thought we could bring in some of the Dene
9 traditions was to change the authority of people they
10 elected, that by themselves they didn't have authority
11 to make all the decisions, that they would have to, at
12 the community level, share power with their community.
13 So there would be regular community assemblies; there would
14 have to be debate. Within the debate, you would to try
15 to create this kind of consultation process between the
16 leaders and the community and within the community.

17 When I grew up, I never had a vision of
18 government sitting over there by themselves. Because I
19 was lucky enough to grow up with the traditions of the
20 Dene still alive, I always assumed that was part of
21 government because we would have community assemblies.
22 It was very alien for me to think of government over there
23 sitting by themselves.

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1 Typically, we would have community
2 meetings. Of course, I didn't speak for a long time; I
3 didn't have a lot to say. I didn't really know what was
4 going on, but I was listening. There was a lot of learning
5 going on while I was doing that.

6 The other thing is that there was such
7 a big difference and lack of respect and lack of awareness
8 of each other that we didn't really know each other. Even
9 though we lived side by side, the Dene really didn't know
10 the non-Dene and the non-Dene certainly didn't know the
11 Dene, because there was so little communication and open
12 honest dialogue.

13 I thought, if we created a government
14 system that always included the community, what would
15 happen would be that the non-Dene would become more like
16 the Dene, the Dene would be able to regularly understand
17 the viewpoints on the other side. As this says, we would
18 still be different, but there would be greater respect.

19

20 I thought that, over a period of time,
21 we would create probably a new culture. If this operated
22 for 10 or 20 years, it would only begin to have effect,
23 but over 100 years or 200 the institutions would reflect

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1 the values and help create the values, and I was sure we
2 were going to create a new people, even if they were coming
3 from both Aboriginal and non-Aboriginal sources.

4 The other thing I thought at the
5 territorial level, or at the provincial level if you will,
6 was that the people in power should not by themselves have
7 all of the power, that they should use referendums, that
8 they should have regular consultations. We built in
9 things that money would have to be there for organizations,
10 for people to be able to thoroughly debate and so forth.

11 Interestingly enough, most of the
12 principles that you have enunciated here we tried to build
13 into the proposal. It is still a possibility. The
14 evolution of the government up there is still occurring.

15

16 You say here that you have had a lot of
17 experience internally and you are prepared to share it
18 with us. We could probably benefit from that. If you
19 have anything written at all, we would love to have it.

20 If, in fact, we have the time to sit down with you further,
21 we could do that.

22 Our time for this kind of consultation
23 is running very short. This is our fourth round; we have

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1 been doing this for two years. We now are at the stage
2 where we really must sit down and start looking at policies.

3 As much as I personally would love to continue doing this,
4 we really don't have a lot more time to do this kind of
5 stuff.

6 I just want to end by saying that I found
7 your presentation very, very interesting. I notice the
8 quote you have there in relation to the special place
9 Aboriginal people might have in the evolution of the human
10 race, which I heard sometime in my teens. I ran into some
11 Bahá'í people, and I was instructed on this some time back.

12 **LOUISE PROFEIT-LEBLANC:** Not that we
13 might have, that we do have.

14 **CO-CHAIR GEORGES ERASMUS:** Yes. I
15 think that was probably the way it was told.

16 **LOUISE PROFEIT-LEBLANC:** Thank you very
17 much.

18 **MODERATOR KAREN COLLINS:** I would like
19 to invite our next presenters to the table, the
20 representatives from the Canadian Auto Workers.

21 I will leave it to you to introduce
22 yourselves.

23 **HASSAN YUSSUFF, Canadian Auto Workers:**

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1 I will start out by saying good afternoon. I want to
2 thank the Royal Commission on Aboriginal Peoples for giving
3 us this opportunity to present a brief on behalf of the
4 Canadian Auto Workers.

5 We come here to express our solidarity
6 and our support and our concerns about government inaction
7 to resolve the Aboriginal issues that have been plaguing
8 our country for such a long time.

9 My name is Hassan Yussuff. I am the
10 National Human Rights Co-ordinator for the CAW. I work
11 at the national office in Toronto.

12 In addition to myself, there is Lorna
13 Moses, the national representative from the office in
14 Toronto. Beside Lorna is Debbie Luce, member of Local
15 1859. She is a member of the National CAW Human Rights
16 Committee. She is also a recent graduate of the Workers
17 of Colour Program which we run in Port Elgin. In addition,
18 we have Tony Wohlearth who is Director of the Social Justice
19 Fund of the CAW National Office.

20 Debbie Luce will present the brief on
21 behalf of the CAW.

22 **DEBBIE LUCE, Member, CAW Human Rights**
23 **Committee, Canadian Auto Workers:** The CAW-Canada

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1 welcomes this opportunity to present our views to the Royal
2 Commission on Aboriginal Peoples.

3 The CAW-Canada is a diverse union with
4 170,000 members in auto assembly, independent parts,
5 aerospace, communications and electronics, airline, rail,
6 mining, fishing, heavy equipment and food and beverage
7 sectors across Canada. We hold certifications in both
8 federal and provincial jurisdictions.

9 We wish to begin by reiterating our
10 union's support for the inherent rights of Canada's
11 Aboriginal peoples to self-determination, including the
12 right of self-government and jurisdiction over lands and
13 resources.

14 The CAW-Canada has in our education,
15 advocacy and other programs been involved in building links
16 with and supporting Aboriginal peoples with a particular
17 emphasis on hunting and fishing rights. Aboriginal rights
18 have also been part of our ongoing anti-racism and worker
19 of colour training programs.

20 We believe, along with the Canadian
21 Labour Congress, that the creation of this Commission has
22 led us to focus on the practical issues which we now believe
23 must be addressed as part of the process of creating a

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1 new relationship between Aboriginal and non-Aboriginal
2 people in Canada.

3 While we have been expressing support
4 for Aboriginal rights for a long time, Aboriginal issues
5 have not been a priority until more recently. This is
6 because of the small number of Aboriginal people who are
7 members of our union, their very limited representation
8 in union leadership, and our tendency to see Aboriginal
9 rights as a cause for us to support, but not an issue for
10 direct involvement.

11 Workers have fought against racism and
12 other forms of discrimination. But here, too, workers
13 have had to struggle to have their workplaces, their
14 unions, and Canada understand the need for democratic
15 advances. Workers of colour and Aboriginal workers have
16 often had to face acts of hate, racism and hate propaganda
17 head-on.

18 The case of the CAW Workers of Colour
19 Caucus is a good example of the struggle born out of the
20 fight against racism. Workers of colour have had to fight
21 for equity and democracy in their workplaces and within
22 their own union, with their brothers and sisters. Workers
23 of colour have always been a part of CAW's history. But,

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1 they have also lived with contradictions within their
2 union. Unions are based on the brotherhood and sisterhood
3 of all workers; yet, they were often not treated equally.
4 Workers of colour were sometimes subject to racist
5 graffiti, slurs and abuse in the workplace, and to
6 discrimination in advancement both at the workplace and
7 within the union.

8 Aboriginal workers are important
9 members of the worker of colour caucus. Workers of colour
10 and Aboriginal workers in the CAW were determined that
11 the way to fight racism was to break down the barriers
12 and demand equality, full participation and network
13 building within the union. They formed a Visible Minority
14 Caucus and through this caucus they began to demand change
15 through a collective voice.

16 At the CAW 1991 National Convention in
17 Halifax an affirmative action policy was unanimously
18 adopted. Out of this policy a Worker of Colour Leadership
19 Program was created that enables workers of colour to get
20 access to the skills and gain experience necessary to take
21 leadership roles in the union and overcome barriers. With
22 the creation of the leadership program, these workers will
23 find a new way to struggle against racism on the shop floor

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1 and for real and meaningful equality in their union.

2 In 1993 CAW's Human Rights Conference,
3 attended by 180 delegates, focused on Aboriginal peoples'
4 struggles and union solidarity.

5 But the benefits of this struggle by
6 workers of colour, like other workers' struggles before,
7 now reach beyond the workplace, to employment equity
8 legislation for the entire province and for a zero
9 tolerance for hate and racism in all our communities.

10 The struggle of Aboriginal peoples'
11 issues has been agreed to in principle by our union for
12 a very long time. The actual working with and
13 understanding of these issues has been coming together,
14 when we began on the ground with union rank and file members
15 and peoples in the Aboriginal community. The anti-racism
16 work we have done has also been a catalyst in discussing
17 issues of the Aboriginal peoples.

18 We would like to share this example of
19 union and First Nations solidarity:

20 The CAW-Canada's Family Education
21 Centre is situated on the shores of Lake Huron at Port
22 Elgin, not far from the two Saugeen Ojibway First Nations
23 reserve. The centre is used year-round to educate workers

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1 on trade union history, collective bargaining, economics,
2 human rights training and, above all, solidarity.

3 Over the past few years, the union has
4 developed a regular exchange with the Saugeen Ojibway at
5 Port Elgin, with an emphasis on culture and education.

6 As a Great Lakes Nation, the Saugeen have
7 traditionally relied on the fishery for a large part of
8 their economic viability as a community. In recent years,
9 however, they have ben prevented from exercising this right
10 by the Ministry of Natural Resources of the Ontario
11 government. Indeed, at one point the MNR restricted the
12 right of the Saugeen-Ojibway fishers to sell their fish
13 commercially to non-Aboriginal peoples.

14 The CAW-Canada's response was to make
15 a symbolic and highly public purchase of fish from the
16 Saugeen-Ojibway. This action was taken after Aboriginal
17 fishers had already been charged with fishing in excess
18 of MNR quotas. The whole process and response of the MNR
19 was to further threaten the Saugeen-Ojibway and reinforce
20 their refusal to negotiate.

21 The Saugeen-Ojibway used the only
22 vehicle they had, the court system. In a landmark decision
23 by the Ontario Court (Provincial Division) the court struck

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1 down the MNR's restrictions on Aboriginal commercial
2 fishing rights and sales.

3 The ruling reaffirmed that the Saugeen
4 and Cape Croker Ojibway communities near Owen Sound in
5 central Ontario have had their historic rights over
6 commercial fishing in Lake Huron and Georgian Bay upheld
7 by the Canadian legal system --a major victory along the
8 way to Aboriginal self-determination.

9 Today, the Ontario government and the
10 Saugeen-Ojibway must work out a joint management agreement
11 of the fishery.

12 As a result of our support of this case,
13 the CAW-Canada was publicly attacked by the Ontario
14 Federation of Anglers and Hunters. They claimed that
15 Native fishing was destroying the Great Lakes fishery.
16 But these claims, ludicrous as they are, point directly
17 to the widespread "myths" on Aboriginal rights to
18 self-government and on natural resource rights by First
19 Nation peoples. More often than not the ignorance and
20 racism expressed by non-Aboriginal peoples lead not to
21 solidarity but to division between many sectors of Canadian
22 society respecting the rights of First Nations peoples.

23 Many CAW workplaces are in cities near

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1 Aboriginal communities, unfortunately referred to as
2 "reserves." Some of these centres are Brantford, Windsor,
3 Belleville, Winnipeg, Glace Bay and Vancouver.

4 As the CLC presentation to this Royal
5 Commission clearly delineates, Aboriginal people are
6 under-represented in workplaces.

7 The reality in CAW represented
8 workplaces reflects the same low numbers of Aboriginal
9 workers. Why is this?

10 One reason is systemic discrimination.
11 Most companies now require high school completion or
12 greater, and scores from an aptitude test just to get an
13 interview. These tests have yet to be scrutinized for
14 cultural bias.

15 In 1987 the CAW-Canada began to
16 challenge some of these systemic barriers by negotiating
17 Employment Equity programs in collective agreements.
18 These programs were an attempt to overcome employment
19 barriers facing target groups via education and outreach
20 activities, along with sensitization for the current work
21 force. The target groups identified are women, visible
22 minorities, people with disabilities and Aboriginal
23 peoples.

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1 Six years later, the limitations on this
2 voluntary approach are evident. Employment equity was
3 successful in opening up the debate within the employer
4 community and the union movement, but employers have not
5 done a commendable job in hiring within the targeted
6 groups, and the statistics confirm this.

7 Reports filed under the federal
8 employment equity law show that Aboriginal workers made
9 up 2.1 per cent of the labour force in 1986, but only 0.7
10 per cent of the workers employed by companies reporting
11 under this law. That share had risen, but was still under
12 1 per cent in 1991.

13 In 1990 CAW-Canada attempted to include
14 hiring targets as part of the employment equity program.
15 Ironically, our best arguments came from reports by
16 employers required to file as federal contractors under
17 the employment equity act. While this legislation lacked
18 any enforcement mechanisms, it did provide useful
19 information.

20 Our experience has shown that no real
21 progress will be made until legislation is adopted. That
22 is why the CAW-Canada supported, in principle, mandatory
23 employment equity legislation. Unfortunately, the actual

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1 legislation in Ontario became compromised in the
2 legislation drafting stage. The result was not the
3 principle which we supported, namely mandatory employment
4 equity legislation.

5 There is a lengthy list of problems and
6 obstacles to be addressed before Aboriginal people in
7 Canada gain equitable access to secure, well-paying jobs.

8 Identifiable issues are: lack of commitment of
9 employers, beginning with top management; weak
10 administration and enforcement of employment equity
11 programs; bias and racism directed at Aboriginal workers;
12 hiring procedures that discriminate; unreasonable demands
13 for qualifications; and work arrangements that affect the
14 ability of Aboriginal workers to settle into a job and
15 retain it.

16 These issues must be discussed between
17 the labour movement employers and the Aboriginal people
18 of Canada to ensure a solution.

19 The CAW-Canada's primary concern is to
20 maintain and to communicate its support for Aboriginal
21 rights, to increase awareness and understanding of the
22 Aboriginal issues within our own ranks, and to fight for
23 employment equity for Aboriginal people.

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1 CAW members understand the importance
2 in these struggles and how it has been successful in the
3 area of women's rights, as an example.

4 In the early 1970s the Ontario
5 government introduced the first human rights legislation.
6 The original legislation failed to include gender as a
7 prohibited ground of discrimination. That changed when
8 working women in the union, specifically women from CAW
9 Local 222, made it an issue.

10 Many Aboriginal women now live in urban
11 areas where poverty, inadequate child care, poor housing
12 and unemployment are common experiences.

13 The question of women within the
14 Aboriginal communities is an important one to address,
15 respecting the issue of self-government.

16 The action on abuse, family violence,
17 or gender equality must all be addressed in the recognition
18 of Aboriginal self-government. We do have concerns about
19 these issues and we do support women's equality rights
20 within the Aboriginal nations, as well as elsewhere in
21 Canada and Quebec and in other countries.

22 In this regard, as with other issues,
23 we recognize that there needs to be greater co-operation

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1 and dialogue between our union and the Aboriginal community
2 at all levels.

3 In conclusion, the reports to this Royal
4 Commission could provide a blueprint for action by
5 government, and we urge you to make government see these
6 issues as a priority.

7 The daily reality of First Peoples of
8 Canada is one of inequality, injustice, and poverty.
9 Since being colonized, Canada's Aboriginal communities
10 and people have been under attack. Aboriginal culture
11 and language have been attacked. Aboriginal social and
12 political institutions have been suppressed.

13 The CAW-Canada is cognizant that the
14 historic injustices between our peoples will only be
15 overturned when there is a new relationship between
16 Aboriginal and non-Aboriginal peoples and their respective
17 governments. This relationship must be based on mutual
18 respect and good faith and founded on the inherent rights
19 of Aboriginal people, including recognition of past
20 treaties and their present-day right to self-determination
21 and self-government.

22 The CAW-Canada remains optimistic about
23 the prospects for building effective solidarity between

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1 us as peoples and as nations. In our solidarity work with
2 Aboriginal peoples we know that there are solutions when
3 people work together for the same goal.

4 The CAW-Canada welcomes the challenge
5 in the process of transition to Aboriginal self-government
6 and self-determination.

7 Thank you for the opportunity to make
8 this presentation.

9 **MODERATOR KAREN COLLINS:** Thank you
10 very much for your presentation. I believe our
11 Commissioners will have some questions.

12 Commissioner Chartrand, please.

13 **COMMISSIONER PAUL CHARTRAND:** Thank you
14 very much, all of you, for assisting us here with this
15 submission.

16 I also look forward to having the
17 opportunity to read the CLC's submission which you refer
18 to. I have not looked at it yet; I suppose it is in the
19 mountain of documents that I still have to examine. I
20 have some familiarity with some of the work of the CLC
21 in support of indigenous peoples and its participation
22 with the ILO, for example, at the United Nations.

23 I noted with particular interest your

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1 emphasis on the significance of getting people
2 decent-paying jobs, coupled with education. Many people
3 have urged on us that that is the meaning of real liberty.

4 We have heard quite a lot about the
5 problems of the high educational levels required for entry
6 into particular jobs by large corporations. I am quite
7 familiar with many of these issues because they have been
8 urged upon us in a number of forums.

9 I would just like to ask you to comment
10 on one thing. I noticed that one of your sections in the
11 submission is headed "Social Justice." We have heard a
12 similar submission from the previous union this morning.

13 In your conclusions on page 6 you also refer to the
14 injustice.

15 This Commission has tentatively put out
16 a number of touchstones to guide us toward making
17 recommendations. I wonder if you would urge us to include
18 a call for justice in those touchstones as well. Do you
19 think that the idea of justice and striving for justice
20 is important enough that we ought to keep it high on our
21 list of principles in developing our recommendations?

22 **HASSAN YUSSUFF:** I think it has been
23 recognized within our union that the injustices the

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1 Aboriginal people have suffered for the centuries since
2 colonization have to be recognized. Justice has to
3 prevail in the near future. The injustice that has
4 continued to be perpetuated against Aboriginal people is
5 one that we have to address.

6 We also said in our brief that we also
7 have an important job to do with regard to addressing this
8 issue in areas where we have some jurisdiction, and that
9 is the question of employment, and push for government
10 legislation to correct the injustice with regard
11 specifically to unemployment and other areas. We as a
12 union could participate and play an important role.

13 **COMMISSIONER PAUL CHARTRAND:** Thank you
14 very much.

15 **LORNA MOSES, National Representative,**
16 **Canadian Auto Workers:** I would like to add that, when
17 we talk about a justice system, I think we have to talk
18 about a justice system that defines the Native perspective
19 of justice rather than the justice system that is in place
20 presently. Many of the individuals on the reserve that
21 I live on have a very bad notion of the system of justice
22 which is in place now.

23 I think in any community, while we have

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1 to agree and abide by the laws of the land, there is another
2 way to get justice within the Native system. There have
3 been some steps taken in that process already, but I think
4 it has to go farther than where it is presently.

5 **COMMISSIONER PAUL CHARTRAND:** Thank you
6 for emphasizing that. I know many urge reforms to what
7 is called the justice system, and I think what you have
8 in mind there and what others have in mind is the focus
9 on the part of the legal system, the law and the system,
10 that deals with criminal offences and puts people in jail
11 -- that sort of thing. They refer to that as justice.

12 But that is still a very narrow concept
13 of justice. I had in mind also a much broader notion of
14 justice, perhaps getting more access to the health and
15 wealth in Canada on the part of Aboriginal peoples. But
16 thank you for emphasizing that particular aspect of it.

17 **CO-CHAIR GEORGES ERASMUS:** I have two
18 questions which are quite closely related.

19 The old employment equity lacked an
20 enforcement mechanism, but it did provide useful
21 information you say. You don't mention what it is, and
22 I wouldn't mind knowing what it is.

23 The other is the mandatory employment

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1 equity. What would that look like? How would you be able
2 to enforce something like mandatory employment equity?

3 **TONY WOHLEARTH, CAW Social Justice Fund,**
4 **Canadian Auto Workers:** Georges, I will deal with the first
5 question, and then I will ask Hassan to deal with the second
6 question.

7 As you are aware, under the federal
8 employment equity legislation federal government
9 contractors, which include corporations like General
10 Motors, are required to prepare reports which are a
11 snapshot or a survey of their work force at a point in
12 time insofar as representation of the four target groups
13 are concerned.

14 When we started demanding to see those
15 reports after 1987, a pattern quickly became evident.
16 The pattern was that women, Aboriginal peoples and visible
17 minorities were under-represented. In other words, if
18 you looked at the community in which the hiring was
19 occurring, in the area that the corporation operated in,
20 those three groups were under-represented in the work
21 forces.

22 As to our point about it being
23 non-enforceable, basically all that is is information.

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1 The point is what you do with the information following
2 that.

3 The only group that was over-represented
4 was the disabled. You might find that a bit of a paradox,
5 and I will explain to you why it was. The definition of
6 "disabled" under the Employment Equity Act includes what
7 I would call the walking wounded -- in other words, people
8 who have been disabled at their place of work. We have
9 many members of our union who have become disabled at their
10 place of work and, therefore, they are included in the
11 statistics and they are shown as being over-represented.

12 The only usefulness of the legislation
13 that Flora MacDonald introduced was to provide information
14 that we could then show that employment equity wasn't
15 working.

16 **HASSAN YUSSUFF:** I will respond to the
17 second part of your question about mandatory employment
18 equity legislation and how you would enforce it.

19 I think it is absolutely clear that there
20 has to be strong fines against corporations who refuse
21 to hire from the community. Many of the questions we get
22 are that there are not enough qualified people within the
23 community to take these jobs, which we find to be quite

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1 a ludicrous question. When you look at the history of
2 employers with regard to recruiting certain groups of
3 people which they believe to be desirable to do certain
4 kinds of work -- and I will give you an example.

5 In the 1930s, when General Motors was
6 building a foundry in St. Catharines, they had made a
7 decision for some strange reason that black people were
8 suited to work in the foundry. There was one major
9 problem. There weren't very many black people living in
10 St. Catharines. There wasn't a very large population of
11 black people. But, with regard to filling this area of
12 employment with black people, they went throughout the
13 country and found black people and gave them employment
14 in the foundry because they thought it was desirable.

15 The question about qualifications, the
16 question about whether Aboriginal people belong to the
17 community -- I think these are questions that we can
18 resolve. We know for a fact that no one will refuse a
19 job if they are being asked to work for \$20 an hour as
20 opposed to minimum wage.

21 There is a number of things that have
22 to be examined in regard to qualifications, whether
23 Aboriginal people are qualified to work in these auto

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1 plants. We think they are qualified. There may be some
2 training required to get them into the job; there may be
3 a lowering of standards which have been set, which are
4 false standards to keep people out, not to let them in.
5 Those are things we have to examine.

6 Once you have gone through this process
7 of examining the present hiring practices and the
8 educational criteria, when we resolve that these now meet
9 the standards, and when we also look at the culture of
10 the communities which people are coming from, then we have
11 to insist that only fines will deter corporations from
12 not fulfilling their obligations. We know mandatory
13 methods do not work.

14 If the Ontario government were to
15 propose the kind of legislation which has been supported,
16 the employer must report as to who they have hired over
17 a period of time. When they are not hiring these different
18 groups, we should ask the question: Who are they hiring?

19 We know from our experience that it is
20 certainly not from the community or the Aboriginal
21 community or the workers of colour community or the
22 disabled community that are part of that community in which
23 the employer is located. That has never been the case.

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1 It is a clear question that they have
2 made a decision that they are not going to hire certain
3 groups.

4 We saw in 1942, when the Ford Motor
5 Company lost a major fight with our union on the question
6 of equal pay for equal work, from 1942 to 1970 not a single
7 woman was hired by that employer.

8 **CO-CHAIR GEORGES ERASMUS:** Not one?

9 **HASSAN YUSSUFF:** Not one.

10 In 1970, when the government finally
11 amended legislation to include gender, the Ford Motor
12 Company started doing some hiring. Today the
13 representation of women in the Ford Motor Company is
14 totally inadequate -- not because they choose not to work
15 there, but because the employer decided to punish the
16 workers for fighting this important fight. They were not
17 going to hire women until they were actually compelled
18 to because of legislation which said that they could not
19 exclude them any more.

20 **CO-CHAIR GEORGES ERASMUS:** I understand
21 what you are saying. What I was interested in is how do
22 you enforce it. How do you make it compulsory? That's
23 what I don't understand.

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1 **HASSAN YUSSUFF:** We have suggested a
2 model where you would measure the representation in the
3 community -- Aboriginal, women, people with disabilities,
4 workers of colour -- and we have said the workplace should
5 reflect that community in which they are operating. If
6 10 per cent of the community is Aboriginal, then the
7 workplace should have at least 10 per cent of the work
8 force from the Aboriginal community, and similarly for
9 workers of colour, for women, and for people with
10 disabilities.

11 That is one of the things that I don't
12 think the Ontario legislation which has been so far the
13 most advanced with regard to employment equity in this
14 country, has not gone that step. It might be a question
15 of revolution; there might be some more struggles that
16 will be fought to amend the legislation to include that
17 kind of provision.

18 We are not simply talking about
19 employers. The union also is an employer, and we also
20 have to do our part with regard to the employment of
21 Aboriginal people both on our staff and on our support
22 staff as an organization.

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

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1 for coming forth.

2 **MODERATOR KAREN COLLINS:** Thank you
3 very much for your presentation.

4 **CO-CHAIR GEORGES ERASMUS:** We will
5 resume at 1:30.

6 --- Luncheon Recess at 12:35 p.m.

7 --- Upon resuming at 1:39 p.m.

8 **MODERATOR KAREN COLLINS:** I invite our
9 next presenters to the table, the representatives for the
10 Ontario Federation of Home and School Associations, Inc.

11 **NORMA INCH, Member, The Ontario**
12 **Federation of Home and School Associations, Inc.:** Members
13 of the Royal Commission on Aboriginal Peoples, I intend
14 to read the whole of our brief as it is a comparatively
15 short one.

16 The Ontario Federation of Home and
17 School Associations thanks you for the opportunity to make
18 a presentation to this Commission.

19 The Ontario Federation of Home and
20 School Associations is a volunteer organization,
21 representing 18,000 parent families throughout Ontario.
22 We were originally formed 77 years ago and have been in
23 continuous operation ever since.

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1 The Ontario Federation of Home and
2 School Associations' motto is "The best for each student."

3 We also have eight objectives, basic to what Home and
4 School is all about. Since we feel they are relevant to
5 our presentation today, we would like to take a minute
6 to read them to you:

7 - to promote the welfare of children and
8 youth;

9 - to raise the standards of home life;
10 - to foster co-operation between parents
11 and teachers in the training and guidance of children and
12 youth, both during and after the school period;

13 - to obtain the best for each child
14 according to his physical, mental, social and spiritual
15 needs;

16 - to give parents an understanding of
17 the school and its work, and to assist in interpreting
18 the school in all its aspects to the public;

19 - to confer and to co-operate with
20 organizations other than schools which concern themselves
21 with the care and training of children and youth in the
22 home, the school and the community, and with the education
23 of adults to meet these responsibilities; and

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1 - to foster high ideals of citizenship
2 and to promote through educational means international
3 goodwill and peace.

4 Certainly, where Native students are
5 concerned, neither our motto nor our objectives have been
6 met.

7 In 1991 resolutions on improving the
8 education system for Native students and improving the
9 education system about Native peoples were brought to our
10 annual conference. Some soul-searching went into the
11 correct manner of address for Canada's First Peoples, since
12 many different terms are used -- Aboriginal, Native,
13 Indian, First Nations, et cetera. However, since at that
14 time the Ontario government used the term "Native," this
15 is the one we chose, and we hope that it will be acceptable,
16 for the sake of convenience, to use the same term here.

17 During that conference a workshop on
18 Native education was convened. The panel consisted of
19 a representative from the Ontario Ministry of Education;
20 a representative from the Ontario Native Secretariat;
21 Sylvia Maracle, Director of the Indian Federation of
22 Friendship Centres; and Chief Gordon Peters, Ontario Grand
23 Chief.

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1 students. The Ontario Federation of Home and School
2 Associations totally supports these aspirations. Native
3 people need to have that control, not only over their
4 children's curriculum and teaching staff, but also, where
5 applicable, over school equipment and school buildings,
6 many of which on reserves are far inferior to non-reserve
7 schools.

8 It must be recognized that Native
9 peoples are as different and varied in their needs and
10 desires as are, for instance, Europeans. On-reserve and
11 urban Natives have different agendas, as do the Métis,
12 and all these needs and desires must be fully recognized.

13 We think it is important to point out
14 at this stage that all our resolutions had the added
15 proviso, "in consultation with Ontario's Native peoples."

16 We, as non-Natives, seek only to support the educational
17 needs and desires of Native peoples. For far too long
18 non-Natives have presented themselves as the all-powerful,
19 all-knowledgeable group, and the results of this policy
20 are there, in the statistics we referred to previously,
21 for all to see.

22 The right of Native people to take
23 control of their children's education and to educate them

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1 in traditional skills and culture, as well as non-Native
2 skills, if they so wish, is beyond dispute.

3 History shows that to take away a
4 people's language, history and culture is to destroy them.

5 For 400 years this is what has been done to Canada's Native
6 peoples. The time to change that is now. The shame of
7 what was done to generations of Native children in
8 residential schools is something that every non-Native
9 Canadian has to face, along with the continuing inequality
10 of the Indian Act and the need for a special department
11 to look after "Indian affairs," as if that department were
12 dealing with a group of under-age children.

13 The legacy of the residential schools
14 continues, and there is an ongoing need to deal with the
15 terrible mental and physical scars caused by these schools.

16 These scars, as we all know too well, still continue to
17 affect family relationships and Native attitudes toward
18 education in a non-Native environment.

19 Although the Ontario Federation of Home
20 and School Associations has many local associations in
21 public schools located in areas with a high Native
22 population, we have very few Native members. We are
23 working on this, and we do have an active Home and School

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1 Association in Forest serving the First Nation school at
2 Kettle-Stony Point Reserve. Sadly, we have no Native
3 representation at all at the executive level. Native
4 parents, due to their own awful memories of the educational
5 system, are frequently not comfortable, as Home and
6 Schoolers are, either in their children's schools or with
7 their children's teachers and principals.

8 One of the Native education resolutions
9 called for our local associations to encourage bridging
10 programs between their local boards and Band Councils
11 running schools on reserves. It is so important that,
12 when Native children leave their own warm and caring
13 environment, they come to another that is equally warm
14 and caring and attuned to their needs. However, it must
15 also be recognized that it is the right of Native peoples
16 to educate their children in their own schools rather than
17 the public system, should they so choose, in the same way
18 that other groups have opted to educate their children
19 outside the public system.

20 There are not enough role models in the
21 school system for Native students. Many more Native
22 teachers are needed, both on and off the reserve, and these
23 teachers should be everywhere in the school system, not

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1 only in Native-as-a-second-language courses.

2 It should be pointed out that a whole
3 Native resource is, in the main, going unrecognized.
4 Elders and experts in traditional skills need to be
5 recognized as bona fide teachers in their areas of
6 expertise. Again, we would stress the advantages of
7 having access to this wealth of knowledge, for Native and
8 non-Native students alike.

9 This is a matter of much urgency.
10 Elders and experts in traditional skills are a
11 non-renewable resource. Many of them are elderly men and
12 women. If their skills die with them, before they have
13 a chance to pass their knowledge on, all students, both
14 Native and non-Native, will be the poorer for it.

15 Native as a second language is, of
16 course, of paramount importance. This was another concern
17 that we brought to the Ontario Ministry of Education.
18 Figures for the 1992-93 school year show that there were
19 4,544 students -- 3,588 at the elementary level and 956
20 at the secondary level -- registered in the
21 Native-as-a-second-language program throughout Ontario.

22 The number of students enrolled in this program shows
23 a consistent increase every year. We would also like to

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1 see more availability for learning Native languages for
2 non-Native students. If it is acceptable and advantageous
3 to learn French, German, Russian, Japanese, et cetera,
4 why not Ojibway and Cree?

5 To refer again to the Forest Public
6 School's Home and School Association, their Native
7 language courses are offered to Native and non-Native
8 children alike. The Ontario Federation of Home and School
9 Associations would like to see this option offered by
10 school boards throughout Ontario.

11 Racism comes from ignorance, and for too
12 long the educational curriculum has fostered racism toward
13 Native peoples. There is a real need for Native input
14 into the school curriculum, to make sure that stereotyping
15 is erased from school textbooks and replaced with positive
16 history and culture, et cetera, about Native peoples.

17 Again, the Ontario Federation of Home
18 and School Associations has called for curriculum and
19 materials in all Ontario schools to reflect the proud
20 heritage of Canada's Native peoples and to ensure that
21 Native studies is a mandatory component in all related
22 aspects of the curriculum throughout all the school years.

23 Starting Native Studies in Grade 7 is too little too late

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1 and does a disservice to all students in the educational
2 system.

3 The Ontario Federation of Home and
4 School Associations also addressed the need for many more
5 Native counsellors in the schools. Too many Native
6 children are being shunted into Special Education or
7 dead-end courses, due to administrators' lack of
8 understanding of their unique cultural and lifestyle
9 differences. In the case of students from remote areas,
10 a lack of facility in the English or French language has
11 led to them being unfairly labelled and placed in Special
12 Education classes. Not only would a Native student feel
13 comfortable discussing problems and concerns with a Native
14 counsellor, but that counsellor would be an advocate for
15 the Native student's needs. Why, for that matter, should
16 Native counsellors be limited to counselling only Native
17 students? As with teachers, there is a place for Native
18 counsellors in all our public schools.

19 "Flying-in" of students, some as young
20 as 11 years old, from remote areas to schools in urban
21 areas, sometimes thousands of miles away, has been a
22 failure. There must be a better way. Non-Native parents
23 are not put in the position of sending their children away

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1 to school unless they choose to do so. Why should Native
2 parents be forced to do so?

3 The Ontario Federation of Home and
4 School Associations has petitioned the Ministry of
5 Education to look for a better and more humane way of
6 educating Native students in remote areas. We are aware
7 of the despair, alienation and isolation felt by students
8 "flown-in" to school and the unacceptably high dropout
9 rate. That is the problem, but what are the solutions?

10 Should schooling in remote areas be
11 extended to include secondary school, so that young Native
12 people only have to leave home for post-secondary
13 education, at a time when, hopefully, they will have the
14 maturity to deal with leaving home for the rest of their
15 education?

16 Should education by computer course be
17 extended?

18 Where "flying-in" is unavoidable, there
19 must be Native staff on site to ease students' isolation.

20 At schools where Native students still
21 need to be "flown in," should boarding-home staff, teachers
22 and counsellors be given in-service training, and should
23 anti-racist education become a component in these schools?

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1 Let's face it; when two totally different cultures
2 collide, racism rears its ugly head.

3 Our resolutions did not specifically
4 deal with post-secondary education and job training,
5 except in the areas of teaching and counselling. However,
6 it is obvious that the best education in the world is
7 worthless if there are no jobs available when students
8 complete school. Jobs available in areas with high Native
9 populations must, wherever feasible, be filled by
10 qualified Natives. This is not so at present. Job
11 training is another part of education and must be
12 addressed.

13 At our conference workshop, which we
14 referred to at the beginning of this presentation, Chief
15 Peters said that in Native peoples' march up the hill,
16 they did not need people at the bottom cheering them on
17 or people at the top urging them up. What they needed
18 was people marching up the hill shoulder to shoulder with
19 them.

20 Today we wish to affirm that the Ontario
21 Federation of Home and School Associations is marching
22 up that hill shoulder to shoulder with Native peoples.

23 Thank you.

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1 **MODERATOR KAREN COLLINS:** Thank you
2 very much for your presentation. The Commissioners will
3 have some questions for you.

4 **COMMISSIONER PAUL CHARTRAND:** I will
5 begin by thanking both of you for assisting us by making
6 a presentation today, and I thank, of course, the members
7 of your association who have assisted you and supported
8 you in crafting these recommendations.

9 Your brief includes quite a variety of
10 interesting, challenging and creative recommendations,
11 many of which I have some familiarity with, some quite
12 a bit of familiarity and some others less, and some of
13 which I agree with wholeheartedly. I would love to have
14 the opportunity to debate them at length, but we don't
15 have that at the moment.

16 I would like to make a very few comments
17 and to ask your view on one particular issue.

18 When you mention the requirement
19 referred to you by Chief Peters of marching shoulder to
20 shoulder up the hill, and when I hear your commitment to
21 do just that or, rather, your statement that you are doing
22 just that, it reminds me of a perplexing issue that has
23 been placed before us. That is: How do people in this

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1 country organize themselves so that whatever decent
2 recommendations we might make might be put into place?
3 It is a challenging idea.

4 We are just ordinary citizens drawn from
5 different parts of the country to assist in making these
6 recommendations and, as soon as we have done that, we go
7 back home. So who is to pick up the march?

8 I think organizations like yours have
9 a very important role to play in bringing these matters
10 to the attention of the public. I wanted to mention that
11 because I wanted to emphasize the significance of the role
12 of institutions like yours. I know that sometimes we tend
13 to fail to see the significance of what we might be involved
14 in, so I just wanted to stress the significance of your
15 doing that.

16 Also you make a very important point
17 referring to the rights of other distinct groups in the
18 field of education, the rights to separate schools funded
19 by the public purse. It had to occur to me that, if there
20 is any substantive meaning to Aboriginal rights, it must
21 include that at a minimum.

22 I urge, by way of making these remarks,
23 our Commission's own policy team on education, which is

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1 now working on analysis to provide us with advice, to
2 examine this matter carefully. I will use my own efforts
3 to follow this up. I think it is a very important point,
4 and I want to make sure it doesn't escape our notice.

5 I noticed also that you ask intriguing
6 questions as well as making positive recommendations.
7 We will have to get advice on that, too -- for example,
8 questioning the use of computer technology in expanding
9 educational services to Aboriginal peoples.

10 The question I am going to ask your
11 advice about -- and you may not be able to provide an answer,
12 but I have a chance to ask somebody who might just be able
13 to help. It refers to the problem of the students in
14 isolated communities. You refer to that here, so you are
15 familiar with the difficulties, and you make some helpful
16 recommendations.

17 One issue that has been put before us
18 is that of establishing high schools. There are certain
19 economies of scale. I have heard people in communities
20 of 200 say, "We want our own high school." Frankly, I
21 don't think they can have their own high school. It's
22 impossible; we can't afford to do that. We might have
23 good intentions, but it takes a lot of bricks and you need

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1 a certain number of students to set up a high school.
2 You have to bring enough people together to form a high
3 school, so it presents the obvious problem for students
4 in small communities.

5 Because of the cultural differences that
6 you are so aware of and that you refer to on page 8, what
7 is the best way to make that transition, where people have
8 to get out of their isolated, distinct communities -- say,
9 Cree communities in northern Ontario -- and to go into
10 a different place to go to high school?

11 There are those who say, "There are a
12 lot of traumas associated with that transition to a
13 non-Cree community," so we ought to have the kinds of
14 supports that you are mentioning here. Fine. They ought
15 to go perhaps to Sioux Lookout or Toronto or wherever and
16 have these local supports there. They say that is the
17 best thing to do on the assumption that these Cree students
18 will be perhaps having a significant association with
19 non-Cree people in their adult lives, so they had better
20 get that acculturation or association with the other
21 culture early on.

22 Others prefer a different solution.
23 They prefer to work with the establishment of regional

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1 high schools in Cree communities, saying that will dull
2 the cultural shock, as it were, and give the students more
3 time to adjust to non-Cree ways.

4 I was wondering, in the work of your
5 constituents which I understand cover the province of
6 Ontario -- and you have some familiarity with people both
7 in small places, isolated places, bigger places and
8 middle-sized places -- if you had any experience which
9 would help us. What do ordinary folk think about these
10 kinds of issues? What would be the best solution? Do
11 you think we should recommend -- and all we can do is
12 recommend -- the establishment of regional high schools
13 in Cree communities or should we look at the transition
14 to larger centres?

15 **NORMA McGUIRE, Immediate**
16 **Past-President, Ontario Federation of Home and School**
17 **Associations, Inc.:** That is a very complex question; I
18 don't think there is any simple answer.

19 I think, for some students, they would
20 probably be more comfortable within their own community,
21 even through high school; whereas, there may be other
22 communities and other students who have reached the level
23 of maturity where they could make the adjustment.

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1 I think where the adjustment is being
2 made it has to be worked on at the level of the high school
3 that they are coming into. As we say in the brief, maybe
4 there should be some in-service training for staff at the
5 high schools. I think in a lot of high schools there are
6 a lot of teachers who have had very little contact with
7 Native students and, therefore, unintentionally, problems
8 arise. I don't think all the problems that arise at high
9 school are deliberate on either side. I think a lot of
10 it is unintentional. Maybe educating the educators might
11 be a start.

12 Whether it is better to bring the
13 students into high schools or to bring the high schools
14 to the students, as a Home and School Association, I don't
15 know that we are qualified to say that.

16 **COMMISSIONER PAUL CHARTRAND:** That is
17 an absolutely fair answer. We are trying to seek the
18 advice from as broad a constituency as possible to get
19 views from different perspectives.

20 Again, there are too many issues. We
21 have been briefed by a lot of people on many of them, and
22 we are working hard on trying to make the best
23 recommendations we can in this area. As you have stated,

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1 it is such a very important area and it must be emphasized
2 by us. It certainly has been emphasized by Aboriginal
3 peoples right across the country. They put great weight
4 on education, very much so. It's a very important area.

5 I want to thank you again for making some
6 very helpful recommendations. I want to make sure that
7 your submission is immediately brought to the attention
8 of our education policy team working for us now in Ottawa.

9 Thank you very much.

10 **CO-CHAIR GEORGES ERASMUS:** I want to
11 thank you for your document. It is well put together.

12 There is just one area I wanted to direct
13 your attention to. You don't have any specific content
14 dealing with urban situations. You are situated here in
15 Toronto, which is the biggest city in Canada. Some people
16 refer to the Aboriginal people here as living in the biggest
17 reserve in Canada. There may be as many as 85,000 or more
18 Aboriginal people living here in Toronto.

19 We are getting a pretty reasonable
20 handle on what we are going to be doing for Aboriginal
21 people who are in isolated communities. The most complex
22 area, of course, to do some work in is in the urban areas.

23 In education, there are starting to be

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1 some models developed in different parts of the country.
2 Winnipeg has an interesting all-Aboriginal high school;
3 it is called Children of the Earth. It has only been around
4 for a few years, but it is already doing very, very
5 interesting work. When you go to a school where young
6 Aboriginal people want to be in high school, it is really
7 very interesting.

8 The challenges for the Aboriginal
9 society living in urban centres is quite unique. Since
10 I notice you are actually based in Toronto, even though
11 you are representing all of Ontario, you might be
12 interested in doing some additional work with the
13 Aboriginal community here in Toronto in the area of
14 education. The reality is that there is quite a few
15 fledgling institutions emerging for Aboriginal people in
16 the urban area, but the future is not quite clear yet.

17 One of the options that people are
18 looking at is for more control over their lives in the
19 urban areas, controlling institutions like schools,
20 hospitals and so forth. I know that part of the struggle
21 in Winnipeg was to get around the existing school boards
22 just so they could get control of their own school and
23 do their own thing.

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1 The structure that is already set up has
2 to accommodate if Aboriginal people are really going to
3 be successful. If you are interested in doing more work,
4 that is one area where I would obviously suggest -- it
5 is very close to home here -- you would be able to do some
6 interesting work.

7 Those things are still, as I said,
8 uncharted and they can still go in a number of ways.
9 Private schools are one possibility; finding accommodation
10 within existing school boards is another. There are quite
11 a few exciting models.

12 It is obvious that, when Aboriginal
13 people do take control of their own institutions, they
14 are more successful at it, even if they just take the
15 existing institution and modify it.

16 I want to thank you for your
17 presentation. I don't really have any questions on it.
18 It is self-apparent.

19 **MODERATOR KAREN COLLINS:** I would
20 invite our next presenters to join us at the table, the
21 representatives of the Leonard Peltier Defense Committee
22 Canada. Joining us will be Art Solomon, Anne Dreaver,
23 Lew Gurwitz and Barbra Nahwegahbow.

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1 **ANNE DREAYER, Leonard Peltier Defense**
2 **Committee Canada:** I am Anne Dreayer. On behalf of my
3 husband, I am honoured to be here to present the case of
4 Leonard Peltier and to present to you also what it has
5 taken in the past 17 years to bring this forward to people's
6 attention, to bring this forward to the Canadian
7 government, to bring this forward to peoples world-wide
8 in order to remedy an injustice that is so serious.

9 I would like to read you a submission,
10 and then I would like to introduce this material here for
11 you. Really, what this is is a synthesis of almost 17
12 years of documentation, world-wide supported.

13 To the Chairpeople, Georges Erasmus and
14 Mr. René Dussault and to all members of the Royal
15 Commission, we would like to thank you for the opportunity
16 to present this historic injustice against the indigenous
17 peoples as well as the great courage, we would like to
18 think, of the people who, against tremendous odds, have
19 fought for recognition, respect and true justice for their
20 nations.

21 One such individual is Leonard Peltier,
22 a Lakota/Anishnawbe, who is almost 18 years in Leavenworth
23 federal prison in Kansas for the alleged murders of two

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1 FBI agents and subsequently serving two consecutive life
2 sentences. Mr. Peltier is worldly recognized today as
3 North America's foremost Aboriginal political prisoner
4 and honoured globally for his defence of the ancestral
5 rights and homelands of all Indian peoples.

6 We are here today to present this case
7 and for the Commission to join the millions of concerned
8 peoples world-wide to demand that the Government of Canada
9 acknowledge that Leonard Peltier's extradition from Canada
10 to the United States in 1976 was made possible only because
11 U.S. Justice officials and the FBI deliberately presented
12 false evidence to Canadian courts.

13 We are here today because these
14 violations remain so serious, that so many years later
15 world-wide demand has escalated, including an appeal from
16 Nobel Peace Prize winner for 1992, Rigoberta Menchu, and
17 continues today to escalate for both Canadian and American
18 governments to free Mr. Peltier.

19 We are here today because Leonard
20 Peltier is a political prisoner, an innocent man, framed
21 for murder of the two agents only because he and others
22 of his time were part of a broad Aboriginal rights movement
23 that started to organize in the late 1960s as a result

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1 extradite Leonard, the fact that they needed to frame him
2 for the deaths of the two agents in order to stopgap and
3 stop the movement of the people at the time who were
4 attempting to bring together their rightful jurisdiction
5 and rights to their original identities and homelands.

6 This has been so serious -- just the
7 international treaty fraud itself -- that 55 Canadian
8 parliamentarians got together. We lobbied them, told them
9 about the injustice, and they saw its value as just so
10 serious that they filed legal proceedings. In United
11 States courts they were granted intervention status; it
12 is unprecedented in the histories of American and Canadian
13 judicial systems that they were granted this. They put
14 forward their objections to the extradition, the falsified
15 extradition of Leonard Peltier, and it was filed in U.S.
16 courts.

17 Despite this intervention, the Eighth
18 Circuit Court of Appeals on July 7, 1993 dismissed the
19 appeal, denying Leonard Peltier the justice he deserves.

20 The fate of Leonard Peltier will be before the United
21 States President for his decision to grant executive
22 clemency sometime in 1994. His legal avenues are
23 presently exhausted.

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1 We would like to put forward the
2 following recommendations for the Commission to adopt and
3 to subsequently put forward as a matter of great urgency
4 for the Canadian government to adopt and put into practice.

5 What we are asking is:

6 1. That the Government of Canada
7 acknowledge that all evidence submitted during Mr.
8 Peltier's extradition proceedings was either falsified
9 or could not have warranted his extradition and that, in
10 fact, if they had been telling the truth to begin with,
11 Leonard Pelter would never have been extradited and he
12 would have been allowed to remain here under political
13 asylum;

14 That the federal government authorize
15 a new and proper inquiry which would examine the many
16 serious concerns and questions raised as a result of the
17 submission of falsified evidence by the FBI during the
18 extradition hearings.

19 2. That the federal government seek the
20 return of Leonard Peltier to Canada for new extradition
21 proceedings; and

22 3. That the federal government join the
23 world-wide support and demand U.S. President Bill Clinton

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1 to grant Mr. Peltier his immediate freedom through
2 executive clemency.

3 I should mention, before turning this
4 over to Lew Gurwitz, that we are now considering new legal
5 initiatives in the form of putting together a legal brief
6 and presenting that to the new Minister of Justice to review
7 the extradition evidence, in the hope that the truth will
8 speak for itself and that the Canadian government will
9 take an active position and take steps to seek Leonard
10 Peltier's return to Canada, and to authorize a government
11 inquiry into the extradition.

12 Because of the extreme urgency in this
13 -- this will be going before the U.S. President in 1994
14 at some point, and I understand that the Commission will
15 be releasing its findings perhaps in late 1994 or early
16 1995. Because of the urgency of the situation, Leonard
17 Peltier's appeal is presently exhausted. The legal
18 avenues are exhausted.

19 What we are asking is that the Commission
20 look closely at all this documentation and adopt these
21 recommendations and put forward a policy statement prior
22 to the release of its final report so that we can make
23 best use of these recommendations in support of Leonard

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1 Peltier, so that we can make these resolutions have an
2 impact, together with the new initiatives that are
3 unfolding for us here in Canada -- the fact that we are
4 going to take it formally to the new Justice Minister and
5 we are going to put a formal recommendation and request
6 to the Canadian government to now finally, after 18 years,
7 take an active role in putting forward some initiatives
8 that are going to bring this man back to Canada, to put
9 forth a good faith position on behalf of an injustice that
10 speaks for itself.

11 Just quickly, before I pass this along
12 to Lew Gurwitz, I would just like to let you know a little
13 bit as to what kind of information we have here. I
14 understand that you will be getting this documentation.
15 It will speak for itself.

16 We have legal briefs -- you can imagine,
17 we have 18 years of legal briefs. This has been in and
18 out of the court system in both Canada and the United
19 States. In Canada specifically, because we are dealing
20 with the Canadian government, we are talking about legal
21 briefs in 1989 to the Canadian Supreme Court; we are talking
22 about the Amicus brief of the 55 Canadian parliamentarians;
23 we are talking about the Standing Committee for External

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1 Affairs hearings. The Canadian government has taken this
2 so seriously that in 1992 it put forward its own hearings
3 and informally discussed the whole case of extradition
4 proceedings and the violation to Leonard Peltier. All
5 this is contained in this legal documentation.

6 In addition to that, we have an analysis,
7 an examination, of all the evidence that has come forward,
8 not only to the Supreme Court of Canada which, I might
9 add, dismissed the appeal, but they acknowledged that a
10 fraud had been committed and recommended that redress was
11 only through political lines.

12 We have an examination from Canadian
13 attorney, Diane Martin, who also did a close examination
14 of the evidence that we have accessed under the Canadian
15 Freedom of Information Act, primarily through the
16 assistance of some of our political allies -- Jim Fulton,
17 Warren Allmand -- which shows without a doubt the Canadian
18 government complicity and a continuing cover-up of not
19 recognizing that the extradition was falsified, not
20 recognizing the political basis for which Leonard Peltier
21 came to this country, because he was being persecuted,
22 because it was on behalf of the people that were being
23 killed down there in the United States at the time. There

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1 are over 60 uninvestigated deaths and Lew will give you
2 a bit more of an understanding. We all know what Wounded
3 Knee was, the depth of all that. Lew will describe that
4 and also talk a bit more about the Canadian government's
5 position, the affidavits that were put forward to the
6 extradition proceedings.

7 Once again, just quickly, we have here
8 Rigoberta Menchu declaring her solidarity with Leonard
9 Peltier. She was awarded the Nobel Peace Prize. This
10 is a recent release from the California office on behalf
11 of support for Leonard Peltier, in the hopes that he can
12 be released. We have an updated position of Amnesty
13 International in the Peltier case -- again, serious
14 concerns raised and full recognition of the extradition
15 injustice. They have adopted him, by the way, as a
16 political prisoner -- the first person in North America
17 to be adopted as a political prisoner.

18 International solidarity for Mr.
19 Peltier's freedom -- and, mind you, these are just samples.
20 We have some United Nations representations. This case
21 has been presented before the United Nations Human Rights
22 Subcommittee successively since 1977.

23 The Defense Committee in Canada has made

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1 presentations to subcommittees. As a matter of fact, we
2 will be putting forward -- one avenue is to present this
3 case to the United Nations Human Rights Commission under
4 the Covenant of Civil and Political Rights Violations.

5 Again, the legitimacy of this case
6 world-wide is astounding. Yet, when we go on our
7 international tours -- and Lew and Frank have been all
8 over the world and have lobbied presidents of provinces
9 and mayors of cities and human rights commissions of
10 different countries. We come here to North America, and
11 we have to sometimes make the effort to divert people's
12 attention to what this case is all about because people
13 just aren't aware of it. They should be.

14 The material goes on: Canadian
15 political statements, endorsements, correspondence;
16 United States political statements, endorsements,
17 correspondence in support of Mr. Peltier. We have an
18 Eighth Circuit Court of Appeals senior Circuit Court Judge,
19 Gerald Heney, coming forward in 1992 stating in a letter
20 to Senator Daniel Inouye: "Please, it's up to you, but
21 you can put this letter forward to the U.S. President.
22 I encourage you to do so." In his five or six points,
23 basically stating that Leonard Peltier could not have been

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1 to blame solely for the deaths of the agents, that this
2 was also a war that took place, and they also condemned
3 the international extradition injustice. This is a United
4 States senior court judge. His letter is here.

5 We have further credits including the
6 CLC endorsement, and it is enshrined in labour human
7 rights policies all over the country.

8 That is it in a nutshell. We let the
9 evidence speak for itself and the documentation speak for
10 itself. I will now pass you over to Lew Gurwitz, who has
11 been with us from the beginning. He was one of Leonard's
12 original defence attorneys and is an activist in his own
13 right.

14 **LEW GURWITZ, U.S. Civil Rights Attorney,**
15 **Leonard Peltier Defense Committee Canada:** Good
16 afternoon. I appreciate the opportunity to be here and
17 to testify in front of this Commission.

18 I think it is an exciting opportunity
19 that you have to comment on things. I know that Georges
20 in particular, who is the one I have known in the past,
21 has worked on many of these same problems from different
22 perspectives. I think you have a rare and good
23 opportunity, and I hope they will allow you to take full

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1 advantage of it and follow some of your recommendations.

2 I think your recommendations in this
3 instance, as Anne has indicated, can be very, very helpful
4 and very pointed. We have been informed by some of the
5 people who support us up here in government that
6 recommendations from this Commission would be something
7 that would be beneficial to them in the work they are going
8 to try to do to get the government to take the actions
9 necessary to see that Leonard is freed.

10 The documentation is voluminous, and I
11 think it requires some attention. I know, Georges, that
12 you and perhaps others on the Commission are familiar
13 already with the situation in Leonard's case. You have
14 heard me and others speak about it many, many times.

15 Canada and Canadian Native people have
16 been involved in this from the very beginning. Leonard,
17 whose people are from Canada as well as the United States
18 -- he lived right on the North Dakota line -- came to Canada
19 seeking refuge because he was concerned -- and it turned
20 out to be justifiably -- that he was going to be killed
21 on sight if the FBI got their hands on him and that, if
22 he wasn't killed on sight, he had no opportunity for a
23 fair trial in America. So he came and he went to the camp

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1 of some friends, the Small Boys, in Alberta.

2 He was in their camp, under their
3 jurisdiction, under their protection, and without
4 negotiations and without any kind of formal recognition
5 of that protection, of that hospitality, of that
6 responsibility, of that sovereignty, the RCMP came right
7 in and grabbed him and took him to Vancouver where he was
8 afforded the opportunity to fight extradition.

9 As he was fighting his extradition in
10 Canada, relying upon international law, a Treaty of
11 Extradition between Canada and the United States, in which
12 Canada said it would not send people back to a country
13 in which those people could not receive a fair trial --
14 defending himself under that treaty between Canada and
15 the United States, Leonard denied himself the opportunity
16 to participate in the trial of his co-defendants, Bob
17 Robidoux and Dino Butler.

18 As it turns out, that was a terrible
19 strategic mistake. Had he gone back to Iowa and been on
20 trial with Bob Robidoux and Dino Butler, he, along with
21 them, would have been acquitted. They were acquitted on
22 the very same evidence that they had against Leonard
23 Peltier, until the FBI, losing that case in Cedar Rapids,

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1 Iowa, wrote a document, "How we lost the trial in Cedar
2 Rapids," a laundry list of things that had gone wrong in
3 their attempt to prosecute Leonard's co-defendants, Bob
4 Robidoux and Dino Butler.

5 The first was: change the venue. The
6 second was: get rid of the judge. The third was: wipe
7 out the defence of self-defence, which had been the defence
8 with which we prevailed in Cedar Rapids. People being
9 attacked in their homes have the right to protect
10 themselves. Even the then FBI Director, Clarence Kelly,
11 on the witness stand admitted that that was the case.

12 That is what happened with Leonard
13 Peltier. They were attacked in their homes, and they
14 protected themselves, in a situation where, as Anne
15 mentioned, there are not just 60 but 300 uninvestigated
16 deaths of people who were sympathetic or involved with
17 the American Indian movement. That is why Leonard was
18 there. That is why there were guns in his house, in his
19 tent. That is why people were returned to return fire
20 if they were fired upon. It was a hell zone. It was a
21 war zone. There were goons being paid to harass friends
22 of the American Indian movement.

23 So the Small Boys' sovereignty was

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1 violated. While Leonard was being held in prison in
2 Vancouver, Native people there, concerned about Leonard
3 himself, about the abuses being visited upon Leonard's
4 Indian people with his prosecution, adopted Leonard into
5 the tribe, made him a member of their tribe.

6 Given that Canadian is applicable here,
7 that he has already got that kind of citizenship in that
8 he is a border Indian -- he is right on the border, so
9 he has that. He is now adopted here. He has been taken
10 in under the protection of the Crees of the Small Boy camp.
11 All of these things are completely disregarded.

12 A letter is sent by the crown prosecutor
13 representing the interests of the United States to the
14 FBI saying, "We do not have enough evidence to extradite
15 Peltier." Within three days or four days, that
16 prosecutor, Mr. Halperin, receives affidavits from an
17 Indian woman who claims to have been Leonard Peltier's
18 girlfriend in one, and wife in the other, and that she
19 stood beside him as he laughingly fired the weapons into
20 the faces of these agents, on their hands and knees, arms
21 in the air, pleading for their lives, screaming about their
22 children, and Leonard laughingly fired weapons into their
23 faces.

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1 Of course, with evidence like that he
2 was extradited. By the time he got to the United States,
3 we were able to prove that those affidavits were false,
4 that this woman never met Leonard Peltier or didn't know
5 Leonard Pelter, had not been on the reservation that day,
6 had no evidence of what had taken place, didn't even know
7 the situation had occurred until the FBI locked her up
8 in a hotel room and kept her there, away from her children,
9 until she agreed to sign these affidavits -- a woman,
10 agreed, of marginal intelligence; a woman subject to this
11 kind of intimidation. She signed these affidavits.

12 When we tried to put her on the witness
13 stand in the United States, the judge said, "She's crazy."
14 We said, "Judge, that's what we said when we tried to
15 get you to keep her off the witness stand when the
16 prosecution was putting her forward." He said, "She's
17 not going on the witness stand."

18 The trial has been changed from Cedar
19 Rapids to Fargo, North Dakota, with no explanation --
20 administratively changed by the Circuit Court. Judge
21 McManus, who still intended to try Leonard, all of a sudden
22 one day gets a notice that he no longer has jurisdiction,
23 that the case has been transferred to Iowa. Since the

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1 case was transferred to Iowa, he is no longer on the case
2 now, and there is a new judge. This new judge, at this
3 time, had recently been cited for making anti-Indian racial
4 remarks at some Bar Association -- joked about Uncle
5 Tomahawk or some kind of racist joke. This is the man that
6 is now the judge to try Leonard Peltier's case.

7 On the first day of the trial -- and
8 remember the three things that I said: change the venue;
9 get rid of the judge; wipe out the evidence of self-defence.

10 On the first day of the trial, the judge says to the defence
11 attorneys, "Now, just one minute. Mr. Peltier is on trial
12 here, not the FBI. We will have no charges against the
13 FBI in my court" -- wiping out the evidence of self-defence.

14 He refuses to allow the Tribal judge to get on and talk
15 about the 300 unsolved deaths, about the children crying
16 in the night as gunfire comes through their homes, about
17 our people in the Wounded Knee Legal Defense Committee
18 sitting there at two o'clock in the morning with some
19 six-year-old boy on the other end of the line saying,
20 "They're shootin'. The goons are shootin' at my mom and
21 dad." We are 60 miles away, and what the hell could we
22 do about it if we weren't 60 miles away? We are lawyers
23 and legal workers.

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1 government --. We finally get 15,000 out of 30,000 pages
 2 of documentation that they never did turn over to us.
 3 This is five years after the trial -- 15,000 out of 30,000.
 4 The other 15,000 we don't get is because of national
 5 security. How is national security involved in a gun fight
 6 between Indians and FBI agents in the middle of South
 7 Dakota? But national security keeps that 15,000 from us.

8 The 15,000 we do get, however, is
 9 terrific; it's wonderful. It has this list of how we lost
 10 the case in Cedar Rapids. It has evidence saying, "Drop
 11 all ongoing investigations and develop a case against
 12 Peltier." It has all kinds of stuff that shows the
 13 manipulation, the creation of this prosecution out of lies.
 14 We have all this evidence and we say, "We're home; we're
 15 golden."

16 We go and file a motion for a new trial.
 17 We have to go right back in front of that same racist
 18 judge. He gives the same racist decisions. We are back
 19 in front of the Court of Appeals, and the Court of Appeals
 20 again is beating its chest -- mea culpa again: "This
 21 evidence should have been turned over. Under our law it
 22 should have been turned over to the defence. If it had
 23 been turned over to the defence, it is possible it could

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1 have resulted in a different verdict. But, that
2 possibility does not give rise to a probability."

3 What the hell is that supposed to mean?
4 How does any lawyer advise his or her client about which
5 possibilities and probabilities, in terms of a man on whose
6 behalf 50 million petitions have been signed, 10 million
7 Russians have written letters, 55 Congressmen from the
8 United States filed an Amicus brief for the first time
9 in history, 55 parliamentarians filed an Amicus brief --
10 and it was accepted in the Court of Appeals; Diane Martin
11 argued it -- in a case where Bishop Tutu, with Leonard
12 as humanitarian of the year in Spain in 1987 -- how can
13 they talk about the difference between a possibility and
14 a probability? Just another violation; just another
15 disregard.

16 Here is a chance to do something about
17 it. We have a new government in Canada; we have some
18 friends in this new government. There are people who are
19 interested in trying to help bring some justice to the
20 case of Leonard Peltier.

21 Anne has asked that there be three
22 points, and I would just add to those points that we don't
23 want to demand simply that he be pardoned or freed through

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1 executive clemency or paroled -- or whatever way the
2 government decides to do it. We don't want to limit them
3 to one thing, but that Clinton be urged to free Leonard
4 Peltier through pardon or whatever other way the law
5 provides. I would add that we not just say by presidential
6 pardon, but expand the language a bit.

7 What I would really urge, on Anne's
8 urging, is that something be done soon. Leonard is an
9 incredible human being. He has shown great courage and
10 great strength in all these years he has been in prison,
11 but he has lived all those years -- I always say he has
12 done the hardest time of anybody I know because he knew
13 he didn't do it and he always expected, in some way or
14 other, that the fact that he didn't do it would open the
15 door.

16 So all of us -- I have been working on
17 this since the day it happened, and thousands and thousands
18 of people all across the world -- people like Anne and
19 Frank, wonderful people everywhere -- have been working
20 on this case all of these years. Instead of just sitting
21 back and saying, "Well, dammit, man, I am here for 50 years;
22 I do my painting and I do whatever else I do," and settling
23 in, as you have to do when you have a long stretch in front

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1 of you, Leonard has always been on the edge of coming back
2 into the world and trying to do his work, because of all
3 the support and because of his innocence.

4 Now, after all these years, after all
5 these possible but not probables and things like that,
6 it is really starting to wear. He has been in jail for
7 18 years now for doing nothing but defending himself when
8 someone fired at him. He didn't even shoot anybody, not
9 even by accident. All these years he has been there.

10 I think we have reached enough people.
11 When Frank Dreaver and I were over in Europe, it was clear
12 to me that Leonard was known everywhere in the world --
13 not in every single place in the world but in every area
14 in the world. When I was in Washington about a year ago,
15 one of the people there told me that a delegation from
16 Tibet had come through his office discussing their problems
17 with China and the help they needed from the United States
18 and, as the delegation was leaving, one of them turned
19 to him and said, "By the way, what is happening with
20 Leonard Peltier? We are very concerned about what is
21 taking place in his case."

22 So all around the world there is a
23 recognition. If we can have some leadership from Canada,

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1 if you can get your recommendations out, if that can spur
2 some leadership from Canada, this can be done. We have
3 planted enough seeds that, if we can get them to grow at
4 the same time, we can get Leonard out of jail.

5 I am really urging and asking you.
6 Please ask any questions you want. Please inquire of us
7 later on if there is anything else you need that we haven't
8 given you information about. I am urging, and urging you
9 earnestly, to do this. Maybe this will be the kickback
10 of all those violations of Indian sovereignty and Indian
11 security that have taken place in this case. Maybe the
12 Indian Commission here can do something to kick it back
13 the other way.

14 In any event, that is what I ask you to
15 do. Thank you.

16 **ANNE DREAVER:** I would just like to
17 mention that Art Solomon was one of the first people in
18 Canada to have heard of Leonard's arrest and took an active
19 role in organizing across the country. Art has been with
20 us as our Elder and part of our Elders and Advisory Council
21 right from Day One.

22 **ELDER ART SOLOMON, Leonard Peltier**
23 **Defense Committee (Canada):** It has already been so well

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1 presented and so eloquently that I don't have much to say.

2 I want to say that Frank would be here
3 -- he is here in spirit because he began this work 18 years
4 ago. He is dedicated and determined.

5 I was the first person to be told when
6 Leonard Peltier was picked up in Alberta. I have prayed
7 and I have worked for Leonard Peltier ever since, as well
8 as Nelson Mandela. A couple of weeks ago Nelson Mandela
9 was in the United Nations, addressing the United Nations
10 after more than 27 years in the bloody prison.

11 I don't have much to add here, after the
12 eloquent speakers who have spoken so well, except to say
13 that I would like to see you give this top priority. We
14 are not going to give up on Leonard Peltier, not until
15 at least hell has frozen over. We are going to get him
16 out one way or the other -- legally.

17 I worked in the prisons of Canada
18 voluntarily over the last 15 years, and I can say that
19 it is simply an evil empire; that's all it is.

20 The United States has the highest rate
21 of incarceration of any country in the world, and Canada
22 is second. It's a blasphemy in the face of God. The crime
23 is the prisons.

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1 Last weekend I was visiting a young woman
2 who spent 17 years in a bloody prison for one mistake that
3 she made, and she is still doing life. She is about 40
4 years old now.

5 I really don't have anything to add
6 except to say: Help us out. Make this a top priority.
7 There is no reason in the world why an innocent man should
8 spend 18 years in a prison.

9 I guess that is all I am going to say
10 about it. Maybe you might want to ask questions or
11 something.

12 **ANNE DREAYER:** Before we get into
13 questions, on behalf of Frank and me, I just want to thank
14 Barbra Nahwegahbow for sitting here with us. She is with
15 an Anishinabe Health Centre here in Toronto.

16 Her support and understanding was very
17 important to us, as to what Leonard Peltier's case is all
18 about as a political prisoner, not that it just some kind
19 of vague label that risks definition that people don't
20 understand. There are some people who understand what
21 it means on a community-based level, what it means for
22 everyday Indian people who are struggling to survive, who
23 are dealing with the oppression that they are dealing with

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1 on a day-to-day basis. That is also what Leonard's
2 struggle represents and what it is all about, and why it
3 came to be the way it did and how the FBI unleashed its
4 whole warfare against the Indian people at the time.

5 We just want to thank people like Barbra.
6 We asked her to sit up here with us in solidarity because
7 of the growing awakening and awareness that is needed
8 through the presentations of my husband, Frank Dreaver,
9 and others.

10 Indian people who have suffered the
11 oppression and brutal experiences of prison -- Frank has
12 spent over 12 years in super-maximum penitentiaries. From
13 Day One, upon his release in 1980, he took an active role
14 in pushing this case forward, right to the point where
15 we established the Defense Committee in 1987 and lobbied
16 60 lawyers and whittled it down to the five or six and
17 got the whole thing moving.

18 There is a story, too, as to how hard
19 it has been to keep this going, how difficult it has been
20 through all these years to generate the public interest,
21 the support. After all, it isn't an American issue; it
22 isn't 16 and 17 years ago. It's a continuation of what
23 is going on today. It's a violation of all our rights.

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1 There has to be something said for the
2 fact of what kind of support we have gotten, aside from
3 the grass roots support that this struggle deserves and
4 what it is based on, which is where it came from -- the
5 fact that we have the support from the Labour Congress,
6 the fact that we have the support from so many different
7 organizations and movements and peoples all around the
8 world, people engaged in struggle for the preservation
9 and defence of their fundamental rights.

10 We want to thank people like Barbra and
11 others for being there with us and working at the grass
12 roots level and bringing this to the attention of people
13 and helping us now at a very critical time when we are
14 coming forward with these new initiatives and where we
15 need the organizing support from people on a grass roots
16 level.

17 **COMMISSIONER PAUL CHARTRAND:** Thank you
18 very much for coming and making a presentation here today.

19 I am certainly in agreement, from the very little that
20 I know compared to Mr. Solomon, with the description of
21 the system as an evil empire and a blasphemy in the face
22 of God. I certainly couldn't express it that well. I
23 think it is like that for everybody but, as you have

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1 indicated here today, it is more so in this particular
2 case.

3 I have heard quite a lot about this
4 particular case over the years. I grew up just north of
5 the line there in that same area. I certainly have no
6 difficulty in offering support, but the support that you
7 are asking for must come from the Commission as a whole.

8 In order to be able to urge that, I would
9 like to ask a very small point just to make sure that I
10 understand as well as I can what it is you would like us
11 to do -- just for that purpose.

12 Are you asking us to write, to urge in
13 some way, the Minister of Justice, or are you asking us
14 to make these recommendations to the Prime Minister, or
15 are there others to whom you would like us to direct those
16 recommendations? That is the first point, and then I am
17 going to ask another small point about the three
18 recommendations that you made. Maybe you could tell me
19 about that first one first.

20 We are not going to make our report for
21 a while. In the meantime, I wonder if you could tell me
22 precisely what it is you want us to do.

23 **LEW GURWITZ:** Who does the Commission

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1 ultimately report to?

2 **COMMISSIONER PAUL CHARTRAND:** The
3 federal government, through the office of the Prime
4 Minister.

5 **ANNE DREAVER:** Maybe I could answer this
6 question, and you can back me up on what you think needs
7 to be clarified.

8 Last week we had a meeting with Warren
9 Allmand. Warren Allmand is a Liberal MP who has been a
10 long-time ally. He had a Private Member's Motion for
11 Leonard, and it is on the back burner.

12 He was the Solicitor General in 1972;
13 he actually was in the Trudeau government at the time,
14 and he was Indian Affairs Minister. So he has been with
15 us for a long time.

16 We met with him last week. Because the
17 initiatives in the U.S. are so critical -- it is just to
18 the U.S. President right now for executive clemency.
19 Because of the strength of the injustice here, the fraud
20 that without a doubt can be proved -- we have all the
21 evidence here. It represents the strongest form of
22 pressure that we can exert internationally favourable to
23 Leonard because of what it is all about.

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1 When you are asking what it is
2 specifically that the Commission can do, what I am saying
3 is that we are in a period now where we are working within
4 a U.S. initiative, and we are supporting that as best we
5 can.

6 Within the next four to sixteen weeks,
7 certainly by the end of January or early February, we will
8 have a defined understanding of precisely what it is we
9 are going to do.

10 When Warren Allmand came here last week,
11 we coincided that with a public event in Toronto. We had
12 an opportunity to bring together some of the attorneys
13 and people associated with us. With Mr. Allmand we all
14 sat and discussed the avenues and what we can now do for
15 Leonard from Canada.

16 Out of that came an understanding from
17 Mr. Allmand that he will go back to Ottawa and ask the
18 Justice Minister, Mr. Allan Rock, for his informal
19 assessment -- in other words, present the whole case to
20 Mr. Rock and see what he says.

21 We always left the very final thing that
22 we could do here in this country, after the Supreme Court
23 presentation. We never took it to the Justice Minister

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1 because we always knew that under the Tory government we
2 wouldn't get anywhere. It was the final door that could
3 have been slammed in our face, so we didn't pursue that.

4 But now, because of the urgency and with
5 the new Liberal government, this is the opportunity. We
6 are going to go forward.

7 This is what is happening. He is going
8 back to Ottawa, and he is going to present it to Mr. Rock,
9 and he is going to get Mr. Rock's opinion, to see how much
10 flexibility there is within the government right now.
11 So there is an informal assessment taking place, and we
12 will have an understanding of that before the end of the
13 year.

14 In the meantime, the route that we are
15 taking right now is basically a legal document that will
16 be prepared and that will be submitted to the Justice
17 Minister at some point in the new year. The timing of
18 this we are working on; we will determine that. This legal
19 document will contain all the recommendations that we would
20 want specifically the Canadian government to put forth.

21 These are just general outlines. The purpose of this
22 Commission meeting here was to make you aware and give
23 you the broad parameters of what it is we would want you

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1 to adopt and put forward as a recommendation.

2 Again, what I am saying is that, when
3 we have our direction finalized, when we have our
4 assessments politically and when we go forward with the
5 legal presentation to the Justice Minister, then we will
6 have specific and detailed recommendations that we would
7 again want to submit to you, based on these three points
8 and perhaps further expanded and further clarified. You
9 could then receive that as our formal submission to you.

10 We would maintain a working relationship
11 with you while these events are unfolding for us so quickly
12 and while this direction is beginning now to become very
13 clear to us. This basically is intended, therefore, to
14 be a stepping stone and to support our presentation to
15 the Justice Minister, which in turn will support the United
16 States President to grant Leonard Peltier his immediate
17 freedom.

18 **LEW GURWITZ:** In the meantime, while
19 awaiting whatever new information we develop -- and I agree
20 that that is what we should do, and I hope it would be
21 agreeable that we could continue to submit information
22 to you as it develops. If you were able to make a quick
23 decision in the Commission so that we could go to work

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1 right away, then the place to respond would be to the
 2 Justice Minister and to the Prime Minister -- to the Prime
 3 Minister because that is your authority and to the Justice
 4 Minister because of the urgency of this situation, that
 5 you take the opportunity to present this to him at the
 6 same time you are presenting it to the Prime Minister.

7 **ANNE DREAVIER:** And don't forget
 8 External Affairs as well. That is very important.

9 In the history of this, on a political
 10 level they have often been the stall in all of this. I
 11 think it is very important that they also receive the
 12 information and any recommendations that come forward.

13 **COMMISSIONER PAUL CHARTRAND:** The point
 14 I thought I might seek a little bit of assistance with,
 15 in trying to understand, was the relationship of what
 16 appeared to me, in my ignorance, to be two distinct things
 17 in those three recommendations. One, of course, concerns
 18 a domestic inquiry -- and I understand that. The second
 19 one involves something different, that of seeking the
 20 return to new extradition proceedings.

21 I am not sure how that would relate to
 22 the third strategy -- that is, to work toward securing
 23 a release through whatever means.

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1 Is No. 2 an anticipatory back-up
2 mechanism?

3 **LEW GURWITZ:** This is what we talked
4 about at that meeting that Anne was talking about.

5 Warren thought maybe the best way would
6 be to just see if we could secure his release in the United
7 States. We said, "That's great, but maybe it will serve
8 the United States government's purposes better to say,
9 'Send him back up here,' and then they don't have to deal
10 with the FBI."

11 It is really an alternative.

12 **ANNE DREAVER:** There has been a Private
13 Member's Motion successively since 1977 -- actually, it
14 did come before the House on April 9, 1987 -- precisely
15 with this Point 2 involved and with an annulment of the
16 actual extradition itself.

17 **LEW GURWITZ:** It is a violation of the
18 Treaty of Extradition between Canada and the United States
19 to submit falsified documents -- knowingly falsified
20 documents -- into the forum of decision. The
21 international law remedy for violation is to return to
22 the status quo. That is one possible way of doing it.

23 Clearly, I don't see any way that we are

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1 going to get the Secretary of State or whatever minister
2 here to take on the United States in these days of NAFTA
3 and expanding NBAs and stuff like that. We are all in
4 bed together on this stuff.

5 Whatever works, we want Leonard out of
6 jail or returned to Canada where he has no sentence facing
7 him. If it's easier for the United States to release him
8 to Canada, if that takes the pressure off, then I think
9 that should be our demand. If it's easier for them to
10 release him internally, there are those quiet workings
11 of the Secretary's office or Internal Affairs.

12 **COMMISSIONER PAUL CHARTRAND:** Thank you
13 very much for helping me. It is obvious that Mr. Peltier
14 has some friends with tenacious courage. Thank you.

15 **CO-CHAIR GEORGES ERASMUS:** I just have
16 one question.

17 Has the request for the President's
18 clemency already been initiated in the United States?

19 **LEW GURWITZ:** Yes, but informally. The
20 word coming back was that Leonard should seek parole before
21 filing for clemency, because it wouldn't look good to even
22 consider a clemency petition --

23 **CO-CHAIR GEORGES ERASMUS:** How can he

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1 seek parole when he hasn't admitted his guilt?

2 **LEW GURWITZ:** You don't need to admit
3 your guilt to seek parole. Under the laws of the United
4 States you are sentenced to 20 years in jail, but you get
5 so much time off for good behaviour and so much time off
6 for however they figure it.

7 **CO-CHAIR GEORGES ERASMUS:** That is very
8 different from the parole of Donald Marshall. The reason
9 he stayed in jail so long is that he never admitted his
10 guilt.

11 **LEW GURWITZ:** That's right. We are not
12 required to admit guilt in order to accept parole. So
13 Leonard would not admit guilt. He could have admitted guilt
14 15 years ago and got out of this whole thing, but he didn't
15 and he is not going to admit guilt.

16 Under our laws he is eligible for parole
17 at a certain calculated date, and what he is supposed to
18 show is a good plan of where he is going to live, where
19 he is going to work, and all that sort of thing.

20 The reason it has not been done up to
21 this point is that he is doing two consecutive life
22 sentences. If he were paroled from one, he would just
23 be paroled to the other, so it didn't make any sense.

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1 **CO-CHAIR GEORGES ERASMUS:** Two

2 consecutive; that's amazing.

3 **LEW GURWITZ:** After you die, they put
4 you back in for another one.

5 **ANNE DREAYER:** 2034 is his release date.

6 **LEW GURWITZ:** Now he will make that
7 request. Whether he is granted or denied, he would then
8 be eligible, in my mind, to go for the clemency petition.
9 Having served as many years as he has, I don't think they
10 would make him sit the required time out on the second
11 life sentence.

12 **CO-CHAIR GEORGES ERASMUS:** So there are
13 some internal decisions in his defence that need to be
14 made, whether you are going to formalize that request and
15 whether you are going to do the pardon first.

16 **LEW GURWITZ:** It is the Pardons Office.
17 You go to the Pardons Office -- I am not sure there is
18 any difference between clemency and a pardon. If there
19 is, they figure out which category it fits most neatly
20 into, and that is the way they do it.

21 There is a person specifically assigned
22 in the White House to deal with pardon requests, and the
23 materials are submitted there. When that person was

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1 contacted, he or she advised to go through this next step.
2 That step is being undertaken, and by the beginning of
3 the year we should have a decision on whether or not he
4 will be paroled.

5 It is inconceivable to me that he would
6 be paroled to the streets but, if he were, we would send
7 you a quick letter saying, "Deal with other problems."

8 **ANNE DREAVER:** It is actually something
9 that he is forced to go through. They are asking him to
10 exhaust all legal avenues, including parole, and then you
11 formally apply for this executive clemency. That could
12 be at some point in 1994.

13 **LEW GURWITZ:** At that time, if the
14 recommendation comes from here and something happens and
15 Warren's meetings are good and we get the kind of support
16 we need here, and if it comes at the same time that the
17 pardon request comes to the Pardons Office, it may dovetail
18 into some initiative. Then we would try to get our allies
19 in Europe and other places to express their concern.

20 **CO-CHAIR GEORGES ERASMUS:** That answers
21 my question. I can see why we need to keep in touch.

22 What the Commission will do is certainly
23 take a look at this. It is not the normal kind of

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1 presentation that we have been hearing up to now.

2 As you say, we may be in an interesting
3 situation.

4 **ANNE DREAVER:** We need help almost
5 immediately because events are moving so quickly. We
6 don't know when it will go to the U.S. President. It could
7 be within the next six months, eight months. The time
8 is very short.

9 If we could suggest that, on the basis
10 of those three points submitted, you put forward some kind
11 of letter, position of support, at the very least on the
12 basis of those three broad points, that would assist us,
13 not only publicly while we build this campaign, but it
14 could also be more defined later on when those
15 recommendations, hopefully by this Commission, can be put
16 forward in an expanded form to the Canadian government
17 to support what we have just talked about.

18 **CO-CHAIR GEORGES ERASMUS:** We hear you.
19 I want to thank you.

20 That is the end of our Hearings here.
21 Perhaps we could have Elder Art Solomon close the meeting
22 for us.

23 --- **Closing Prayer by Elder Art Solomon**

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1 --- Whereupon the Hearing concluded at 3:15 p.m.