INDIAN GOVERNMENT

REPORT 1981-1982

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1981/82 ANNUAL REPORT

INDIAN GOVERNMENT STAFF

PORTFOLIO HOLDER	:	Sam Bull - Treaty Six Vice-President
Program Director	:	Sharon Venne
Researcher	:	Judy Sayers (June 1981-December 1981-Now articling with Willie Littlechild)
	:	Sue Heron (May 1982--August 31, 1982)
Secretary	:	Darlene Laboucane (May 1981 - August, 1981)
	:	Justine Supernault(September 1981-November 1981)
	:	Alethea Kewayosh (November 1981-May, 1982 -Alethea is presently attending the Native Law Program in Saskatoon with intentions of going to law school in the fall.)
	:	Fern Shu (May 1982-----)

Marion Dinwoodie has been approved by the Board of Directors to do some research for the Indian Government Program for the months of July and August when Sharon will be away. Marion is an Indian woman who has just graduated with her law degree from Queen's University in Kingston, Ontario.

Sue Heron is working for the summer months on Indian Child Welfare,'Existing' Treaty Rights and other projects within the Indian Government Program. Sue has just finished two years of law at Osgoode Hall Law School in Toronto. Sue is from the Northwest Territories.

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REPORT ON INDIAN GOVERNMENT
FROM SAM BULL
FOR THE INDIAN ASSOCIATION ANNUAL MEETING

The Indian Government Portfolio for the last year has been involved almost exclusively with the Constitutional Debate and the Indian Government Bill. In order to cover both topics, it will be necessary to deal with them on an individual basis. However, it must be understood that the Indian Government Bill is part of the Federal Government and Provincial Government's plans to transfer the jurisdiction over to the Province.

The Constitutional Debate and subsequent passage of the Canada Act in Great Britain gave the Federal and Provincial Governments the necessary legal clearance to accomplish the task the Federal Department of Indian Affairs and Northern Development could not do in 1969. In 1969, the Federal Government did not have the necessary Constitutional authority to transfer the Indians of Canada to the Provinces. They now possess the authority.

The Canada Act which has been discussed in Canada since 1971 and seriously since 1979 have exluded Indians every step of the way. Although Indians across Canada have attempted by various presentations to Members of Parliament through the Standing Committees, the Joint Committee-Cabinet meetings between the Indians and Cabinet and in the Committee that was selected in 1980 by the Provinces and the Federal Government to come to some understanding on the Constitution. At each of these stages Indian people made presentations on their position on the Constitution but they were excluded when the Constitution was finally drafted in 1981. Since 1971, papers presented by Indians have outlined three (3) basic principles that Indians want included in any Constitution:

1. That Indian Treaty and Aboriginal Rights be entrenched in the Constitution.

2. That Indian Governments be recognized as viable entities within Confederation.

3. That no changes to the Constitution take place without Indian consent in those areas that deal with Indians.

These basic principles have always been in place as far as the Indians of Canada were concerned. However, the Federal Government has repeatedly stated that the Indian people of Canada did notknow what they want. This play by the Federal Government against the Indian people has escalated to the point where the Provinces are now encroaching on Indian rights. The Provinces, now, are making statements that Indians do not know what they want. For example, last November the nine (9) Premiers of Canada and Trudeau decided to take out Section 35 of the Constitution which dealt with Indian and Aboriginal Rights. The nine Premiers stated that Indians did not really tell them what they wanted included in the Constitution.

Consequently, they did not include anything. Trudeau has repeatedly stated since November that Indian people will only be allowed to participate after Patriation. Patriation is now a fact and Indians are now going to meet with Trudeau on the 22nd of this month. Where do Indian people fit into the Constitutional framework? I will deal with this question later on in my report but first of all I would like to give a brief but detailed summary of the last year's events in relation to the Constitution.

The Indian Government Portfolio of the Indian Association was given authority through the I.A.A. Annual Assembly last year at Morley to deal with the Constitution. The three (3) staff members of the Indian Government Portfolio have dealt almost exclusively with the Constitution until March of this year. The fact that the Constitutional issue has been a very complicated and controversial issue a number of reports to the Chiefs' meetings and the Chiefs' Committee Meetings was tabled with a great deal of detail. I will not restate the reports but I would rather outline the major difficulties encountered through the year to give people an idea of the work in the Indian Government Program on the Constitution here and in Great Britain.

THE CONSTITUTIONAL LOBBY IN LONDON

Last June in Morley when I reported on the Lobby from London, the Indian Association had not established any firm lobby but was merely testing the water so to speak. In lobbying in London, Indian people had to learn alot about the whole lobby process. In Canada up until that time people lobbied individuals or more e specially, the Minister of Indian Affairs to gain certain guarantees at their reserve. But the lobby in London involved more complicated strategies dealing on three (3) levels - the Political push within Parliament itself with M.P.s and Lords, the legal back-up where court cases were discussed to help the political lobby and the lobby outside Parliament with the interested groups like Labour Unions and Churches. This kind of massive lobby mounted in a country so far away from our own proved difficult for us. But in the growth of the Indian people in Canada and their awareness of the Lobby has proved very beneficial. We now can look back on the Lobby and see what we have learned.

Last June, we knew there were six hundred (600) and some M.P.s in London. we did not know how many were favourable to us. We knew there were over one thousand (1000) Lords and knew one Lord who was prepared to speak on our behalf. We did not know to get at other Lords. We weren't sure how the Political system operated in London, how close Margaret Thatcher was connected to Pierre Trudeau, what pressures could be put on in Canada which would maybe get us concessions before the Constitution was passed. Many of these questions hung in the air last June. Throughout the year we learned how to deal with each and every one of these areas and hopefully come to some understanding so that Indian people and their case could be put forth in the best light.

After the Morley Conference last June, the Indian Association did an extensive survey of the Lobby in London, looked at the N.I.B. Lobby

which has been there since November of 1980 and hired a group of consultants, political and legal consultants to give us some idea of the problems involved with lobbying M.P.s within the English Parliamentary system. They gave us a preliminary report which stated that the Members of Parliament were underpaid, over-worked, no office space, did not have research back-up, lack of adequate secretarial assistance. For the most part, because of these difficulties M.P.s were not interested in taking on new issues especially in the areas like the Indians in Canada which did not win them votes in their elected areas.

Therefore, our first task was to select and approach members of Parliament whom we felt would be suitable to establish our cause. The problem with selecting M.P.s, some have good reputations among their own fellow parliamentarians and some don't. It became a question of who will speak at the time when the debate goes on. For the next six or seven months, selection of M.P.s was of vital importance to the Indian Association and other Indians across Canada. While we were reviewing the lobby in London at the end of June and the beginning of July, it became quite clear that a national strategy had to be developed. Indian people across Canada had to work together in London to achieve certain goals.

First of all, there were a number of Churches in England who were prepared to help the Indian people but needed resolutions from Churches in Canada to back that help. The Unions in the United Kingdom were prepared to have their sponsored M.P.s support the Indian cause but we needed resolutions in Canada from the corresponding Unions to get the necessary help in England. Many other areas needed to be corresponded between Canada and the United Kingdom. This was the conclusion that was reached by mid-July, 1981.

In the last week of July, the Indian Association met with the technicians from Provincial and Territorial organizations in St. Sault Marie at Rankin Inlet Reserve to discuss a national strategy. By the end of week the Joint Council of the National Indian Brotherhood and Chiefs met and a national strategy was developed whereby there would be a London Lobby Co-ordinator, a Canadian Lobby Co-ordinator and an overall Co-ordinator to make sure that the Lobby ran smoothly. In that regard the Indian Association played a major part in establishing the national strategy to deal with the Constitution. At the technicians meeting the Association outlined the problems in London and made suggestions how to eleviate them. Because the Indian Association had played such a major role in the setting of the guidelines that should be operated from, Joe Dion was chosen as the overall Co-ordinator to make sure that the Lobby was ran smoothly Joe Muskokimun from Ontario was subsequently chosen as the London Lobby co-ordinator and Mr. Dave Ahenakew was chosen to be the National co-ordinator. The strategy fell apart prior to the N.I.B. meeting in the middle of August due in large part to financial problems. The conflict in personalities between the different organizations and the inexperience of the Lobby co-ordinators at the London level to mount a national lobby of this nature. At any rate, the National Indian Brotherhood meeting held in Saskatoon at the end of August attempted to keep the Lobby in progress but it was rapidly

becoming noticeable to the different people who wanted to participate in the Lobby that a national Lobby may not be possible either here or in Great Britain.

At the N.I.B. Annual Meeting held in Saskatoon, there were three (3) mandates given to the Indian Association of Alberta to carry out on behalf of the Indians of Canada. First of all, a resolution was passed that the Indian Association make a presentation at the International Non-Governmental Conference on Indegenious Peoples and the Land in Geneva, Switzerland on Sept 15 - 18th. The presentation by the Indian Association was drawn up the Indian Government program. I spoke on our presentation in the Legal Commission where at the end of the four days of hearings the Legal Commission found that Canada had violated the rights of the Indian peoples of Canada by refusing to recognize the right for self-determination and communal ownership is in essence of indigenous land rights and must be recognized nationally and internationally. Indigenous nations and peoples have the complete right to determine their own land rights. Under the Constitution of Canada as it now stands, this right is not recognized and protected. Thus, the Legal Commission found that Canada had violated the Declaration of Principles for the defense of Indigenous Nations which had been passed in 1977 at a previous N.G.O. Conference. Canada was the main thrust of the presentation in Geneva and how they had violated our rights but we left open the areas that Great Britain, if they passed the Constitution would also violate the same rights of the Indian peoples in Canada. Thus, the presentation in Geneva was the first step outside of Canada to press home our rights as Indian people.

The other resolution passed by the National body dealt with the support of the South African people - the blacks against the whites for their rights to self-determination. Their struggle for their home lands or tribal lands is very similar to our struggle here in Canada and by passing resolutions would give support to national groups such as SWAPO and the National African Congress.

The Indian people of Canada are extending a hand outside of the country to other groups so that other people can see the difficulty that Indian people have in this country. If we don't establish some sort of national or international profile with other people, nobody knows what is going on in Canada. When Canada makes its presentation to the United Nations every year on human rights and conditions in Canada, very seldom will they refer to the Indian living conditions or economic political conditions, rather they would dwell on topics such the inequality of the Indian womens' rights in the Constitution or outside of the Constitution. Since 1967 have not mentioned the type of living conditions that Indian people have to endure within Canada. It is up to the Indian people themselves to make these presentations. So, in establishing contacts with other organizations and other peoples who are suppressed like Indian people, we can have a higher level of profile and creditability outside of Canada. It is the first small step in gaining international support for our argument. The other

resolution that was passed by the N.I.B. dealt with the Indian Association attending the Commonwealth Heads of Government Conference in Melbourne, Australia to make a presentation on behalf of the Indian peoples of Canada. While we knew it was impossible to get delegate status to the conference, there are a number of things that could be achieved by attending such a conference. One of the points that could be achieved was a press conference on the rights of Indian people could be made known to the international press community for public- ation in their own countries. This goes a long ways to destabilizing Trudeau's creditability among world leaders and establishing our creditability as people. The Federal Government had been extensively campaigning outside of Canada stating that the Indian peoples are fine and doing well in Canada. Because Trudeau is highly recognized among the diplomatic community in the world, his statements on Indian rights in Canada are generally accepted as being true unless Indian people rebutt the statements. The Commonwealth Heads of Government Conference gave us an opportunity to meet with other merging countries who use to be under the colonial rule of Great Britain and many of the people attending this conference were able to give many pointers to the people from Alberta; Eugene Steinhauer, Eric Shirt, Ed Burnstick, Ron Lameman and Sharon Venne on how to deal with Great Britain in the Parliamentary process as many of these countries had to lobby over a large number of years to gain their independence from Great Britain. Thus, the Commonwealth Heads of Government Conference for the lobby in London was very beneficial.

Between attending the international conference in Geneva and the Commonwealth Heads of Government Conference the Government of Tanzania had invited Indians to come and visit the country. Four of us went from Geneva to Tanzania to Dar Salom the capital, to meet with the foreign affairs people in preparation for the Commonwealth Heads of Government Conference in Melbourne, Australia. What we were hoping to achieve by going to the meeting in Dar Salom was to gain some measure of support from the African black countries and other third world countries such as India, Malaysia countries so our issue could be brought up by a delegate at the Conference. The difficulty of course is that there are so many peoples who want their issues raised by other countries that you have to lobby as many people as you can. In Melbourne, we were fortunate in that Indra Gandhi, Prime Minister of India, raised the issue of the indegenous peoples of Canada, Australia and New Zealand to the Canadian Government and other governments on how they treated those people. We have achieved some measure of success in having the issue raised there. However, we should not pretend that this is the end of the line. There has to be extensive work done to continue the work that was begun last year. The Common- wealth Heads of Government will be meeting again, if not this year, next year and preparation should begin now if Indians of Canada want to participate or make their presentations known at this Commonwealth Heads of Government Conference. It is only by repeated attendance and repeated outlining of our grievances, that other countries will become aware of our continuing problems. Last September, at the Commonwealth Heads of Government Conference, the major thrust of the Association's

approach was to establish contact with the countries and to give them an understanding of the Constitutional issue as it affects us and to understand what other countries are doing in relation to Aboriginal and Indigenous Rights. There are a number of Indigenous countries around the world who now hold control over their lands. Some are in partnership with other countries, other peoples in their own homelands. Thus, we can learn alot as Indian people by dealing with these people, understand how they operate and being able to bring this kind of information back to our people in Canada.

The three mandates given last year by the National Indian Brotherhood on behalf of the Indian people of Canada were carried out by the Indian Government program prior to the end of September.

The fight for the Constitutional recognition becomes more difficult as an agreement between the Premiers and Prime Minister appears to be on the horizon.

The Alberta All Chiefs' Conference on October 13 - 15th marked a major departure for the Chiefs of Alberta. We had two (2) guests from England who came to talk to the Chiefs. First of all, we had Mr. Bill Cash, who is our Parliamentary Agent come from London to make a presentation on the process of Amendments to the Canada Act once it got to England, the petition to the House of Commons and how it should have to worded and the Law case which had developed to date by the Union of B.C. Indian Chiefs and how the legal case fit into the Parliamentary process. Mr. Cash's work with the Indian Association had started in July and his primary focus was to make sure that the Indians of Canada were able to make Amendments to the Canada Act because the Government of Canada had said that Indian people would not be allowed to make Amendments once the Canada Act left Canada. The Petition to the House of Commons was an idea of how to get our case brought before the House of Commons prior to the debate stage on the Canada Act when it occurred and the position was designed so that the Chiefs from across Canada would be allowed to sign the Petition. Sir Bernard Braine was who was an outstanding M.P. from the Conservative side of the House of Commons in England also attended the Conference to meet with the Chiefs from Alberta. He had agreed to make the presentation of the Petition on our behalf. Thus, we had two distinguished guests make presentations to the Chiefs on how to proceed in London. From this meeting, Mr. Bernard Braine as our guest, went to visit other Indian groups in Canada while Mr. Cash returned to England. The Chiefs decided at this meeting to go ahead with the front of the London Lobby ensure that the Alberta people's position was clearly put forth in London.

It was at this time there was serious discussion about the legal case that the Union of British Columbia Chiefs were planning on mounting and had stated that they were prepared to launch. By mid-October, it appeared as if there legal case was at least two months to launching. It remained a critical question for the Chiefs of Alberta and the Association as to whether or not the legal case would be launched in time for any pertinent action in England. If the legal case was

launched too late then it would appear as if Indians were just launching legal cases to stall and delay for time. When the Indian Association first discussed the legal case with the U.B.C.I.C. last March, 1981 they led us to believe that the legal case was ready and prepared to be launched at any time. By October, this was not the case. We had not seen documentation that they were prepared to rely upon. At this critical time, the Chiefs of Alberta decided to explore separately the possibility of taking a case dealing with the Treaty Rights of the Indians of Alberta. Mr. Bill Cash upon returning to London was instructed to get various legal opinions from learned people in international treaty area and in the area of self-determination within the framework of the Parliament of Great Britain to determine whether an Indian Association court case should be launched prior to the Canada Act being sent to England.

The major blow to the Indian cause on our fight on the Constitution came on November 5th, when the Federal Government along with the nine (9) Provincial Premiers decided to compromise on the Constitution. They took out Section 35 of the Constitution so an accord could be reached between the Prime Minister and the other Premiers. They left the veto that Quebec had traditionally enjoyed out of the Constitution. This Black Thursday as it is referred to in the history of the Indian people today was done without the consultation of Indians. It was announced in the Press. Indian people were not told that it was taken out. This blow to the Indian people is one which we may never get over. The betrayal of the Trust Responsibility that the Federal Government with Indian people became obvious. It was a choice between trust of the Indian people and getting a compromise worked out with the Premiers. Trudeau and Chretien quickly dropped the Indian people.

In the next two weeks, the Indians of Alberta tried to organize against the process. Mr. Lougheed, the Premier of Alberta, was one of the major pushers to have Section 35 removed. At the November 11 - 12th All Chiefs meeting held in Red Deer, Alberta, the Chiefs of Alberta decided to hold a rally against the dropping of Section 35. At a rally to restate their position on Treaty and Aboriginal Rights, the right to self-determination, the right to Indian Government and the right to have a consent clause within the Constitution. At that meeting held in Red Deer, the Chiefs also authorized the Petition to be presented in England. The Chiefs of Alberta who were present at that Conference signed the Petition. In the next two (2) weeks, Chiefs across Canada would join the Chiefs of Alberta in the signature on the Petition. When the Petition was presented in London in January, there were 196 Chiefs who had signed the Petition.

On November 19th, the I.A.A. along with the Chiefs of Alberta sponsored a rally in Edmonton. Approximately 7,000 Indian people from across Alberta came out to demonstrate against the way the Federal and Provincial Governments were treated, the Indian people on the Constitutional accord. We had a number of people from outside of Alberta come and join in the protest against the Federal and Provincial

Government. Buffy St. Marie, Wilf Samson, Charlie Hill and Floyd Westerman came from the United States to support the Indian people of Alberta in the fight against the Constitution. The demonstration, the largest ever held in Alberta to that time against the Provincial Government was a major success for the Indian people. There was only eight (8) days to organize the demonstration. The Indian people showed their displeasure with the Constitutional Package by coming out in full force. There were many people who came to the demonstration who had never been to Edmonton before. An Elder from Frog Lake came into Edmonton who had never been in the City of Edmonton. He was prepared to make the sacrifice to come from his reserve so that his displeasure could be shown. There were many people who came to Edmonton at that time. These people came from their reserves out of concern for their rights and the rights of their children. It is difficult to measure when and how one thanks all these people for coming to the demonstration. But I would like to say in this report that without the support of the people in the community the process of Indian Government would be stopped completely. It is the out-pouring of the people's indignation and outrage about the treatment that they have received for the last one hundred (100) years at the hands of the Federal Government that led many of them to come to this demonstration. And, as Indian Governments grow stronger, the voice of the people at the Bands will be heard. We must continue to fight for Indian people to have their voices recognized.

On November 32rd, 1981 the Indian Association of Alberta launched their legal case in the High Court of Justice in London, England. Louis Bloom Cooper, Q.C., was the Barrister for the Indians of Alberta while Mr. Richard Drabble was his assistant. The solicitor for the Indian Association of Alberta was Roger Cobden Ramsay. In London, the lawyers are different than they are in Canada in that you need one solicitor and one barrister, so you have to actually pay two people to take a legal case. How it works is this way. The solicitor takes all the instructions or all the information from the clients, which is the Indian of Association of Alberta. He goes through it and gives all the material to the barrister who was Louis Bloom Cooper. In our case, because the lawyers in England did not have a very good understanding of how things are operating in Canada the meetings held between the Indian Association people and the lawyers took place together with the solicitor and barrister so that everyone had a good understanding of what was going on. The court case in London was simple. Does the Government in Great Britain have any responsibilities to the Treaty Indians in Canada?

While the Court Case was going on in London there was a massive lobby mounted by the Alberta Indians in Ottawa to try to push Amendments on the Constitution Bill to fit in with our desires from Alberta. At the end of November, the I.A.A. was the only province who was actively lobbying Ottawa to have Amendments through the House of Commons for Indian people. The lobby process was not well organized from the N.I.B. level. Much of the appointments and time obtained with M.P.s was organized by the Indian Association's staff.

was organized by the Indian Association staff. The lobby with the M.P.s was interesting in that most of the M.P.s had resigned themselves to the fact that the Canada Act was going to be passed. The Constitutional accord reached excluded Indian people and therefore Amendments to the Bill would not be particularly well received by the Government of Canada.

However, the Indian Association of Alberta pressed ahead and had a meeting with the Governor-General, Mr. Schreyer, to ask his help in settling the impasse between the Indians and the Government of Canada. On two separate occasions the position of the Indian Association was outlined to the Governor-General. He asked us to prepare a letter outlining our position on the Constitution so he could pass it along to the Prime Minister of Canada. We agreed to prepare this letter for the Governor-General to pass it on to the Prime Minister. However, there was no dialogue between the Indian people and the Prime Minister of Canada. There was no outcome from the meetings with the Governor-General in that the Constitution Act passed through Parliament without anyone raising Amendments to the Canada Act in any substantial way.

There were some Amendments raised for the Indian Consent but these were quickly voted on. The Liberals who hold the majority did not want amendments. The Canada Act passed Houses of Parliament on December 8, 1981.

On December 9th, the legal case for the Indian Association was heard in London, England. Mr. Justice Wolfe, sitting at the High Court of Justice in London denied the Indian Association of Alberta leave to take their case to Court. He denied us leave not on legal grounds but on political grounds saying that the British Government and the Canadian Government lawyers argued that the Indian peoples' case had already been determined. It was between the British Government and the Canadian governments to decide the fate of the Indians.

Our legal stand: it was a matter for judges to determine when the legal obligations for the Indians transferred from Great Britain to Canada. At any rate Mr. Justice Wolfe made a political decision on the Indian Association court case and denied us leave to proceed. The Court itself was full of journalists from all over Great Britain and Canada who were very interested in the Indian Association Court Case. We got good coverage in London. A bit of why we were in London. We had some legitimate reason for being in England. The Courts were denying us access not on a legal basis but on political reasons which gave more creditability to our Lobby with the M.P.s.

The Union of B.C. Indian Chiefs launched their legal case in the Chancery Division of the High Court of Justice in London. Their Court Case was based on trust responsibility that Indian people had the consent to that Indian people had the consent to the passage of the

Canada Bill before the Canada Bill could be transferred from England to Canada. The problem with taking a court case into the Chancery Division is that it takes months for the court case to be processed while the Indian Association court case going through the High Court of Justice can be pushed through relatively quickly. Since the Constitution Act had already been passed in Canada it was only a matter of weeks or maybe a month or so before it would be pushed through in England and our battle in London would be over.

Thus, the Indian Association decided to Appeal the decision of Mr. Justice Wolfe to the Court of Appeal in London. At the Court of Appeal, three (3) judges sit to hear the reasons why you should be given leave to appeal. Lord Denning who is the Chief Judge of the Court Appeal decided he wanted to hear the Indian Association Court case along with two other judges. On December 21st, Bloom Cooper appeared on behalf of the Indian Association before Lord Denning and argued that the Indian Association of Alberta was unjustly tossed out by Mr. Justice Wolf on the 9th and that the Indian people should be given leave to have their Court Case heard in London. Lord Denning sitting less than one half (1/2) hour decided that the Indian people of Alberta deserved a chance to have their case before the Court. The Court would hear why Indian people felt that Treaty obligations still existed in Canada. The other two judges agreed and he sat down February 8th and 9th for the Indian Association's lawyers to prepared their case. It was on the next day, the 22nd day of December that the first reading of the Canada Bill was held in the House of Commons in London, England. The First Reading of the Bill was a mere formality, read for the members of the House of Commons to know that it was coming forward and to have it published in the Parliamentary Debates official reports. The Government on the 22nd of December, stated that they would hold off the second reading of the Bill until the Indian Association Court Case had been heard. Originally the second reading of the bill was put for the week of the 18th of January. When the Indian Association had received leave the day before to have their Court Case heard in February, Margaret Thatcher's people announced that she was prepared to hold off with the reading until the process was complete in the Courts. From that day forward, there was considerable pressure both here and in Great Britain by the lawyers from Canada and England to push the Court Case forward. The pressure from Great Britain was two pronged in that the Members of the Parliament since they were on Christmas recess, were not able to bring the issue before Parliament. There was pressure put on from the Foreign Affairs office to put pressure on other people in the House of Commons to deal with the Canada Bill as soon as possible. The lawyers from Canada were prepared to make a presentation to the Court of Appeal as soon as the Court reconvened in the first part of January so that the Indian Association's Court Case could be put on as soon as possible.

The Court of Appeal on the 18th of January decided that the Indian

Association Court Case should go forward and started on January 21st to hear the agrument for the Government against the Indian Association. At the time the hearings were going on in England in relation to the Court Case the petition signed by the Chiefs of Canada was presented by Sir Bernard Braine on the 22nd of January so as to alert the M.P.s to the fact that there was a number of people in Canada concerned very much with the passage of the Canada Act. So in conjunction with the Constitution coming up for debate, the Court Case of the Indian Association had and the public petition presented on behalf of the Chiefs that had signed the Petition, there was considerable growth of awareness of the Indian position developing in the House of Commons and the House of Lords in London.

By the end of January the number of M.P.s who were prepared to speak on behalf of the Indian people in Canada had grown from one in July, 1981 to near 60 by the end of January, 1982. Thus, in a few short months, Indian people through the Indian Association Lobby were able to get a number of M.P.s committed to speak on behalf of the Indian people. The Constitutional push at this time was mainly generated towards making sure that the M.P.s who were going to speak on behalf of the Indian people were properly briefed on what the position of the Indian people of Canada was, on the Amendments Indian people wished to see put down in relation to the Canada Act and making sure that those M.P.s stated our position as clearly as they could. This kind of background work was down by Mr. Bill Cash who had help draft the Amendments, Mr. Grenville Jones and George Knapp who worked for External Development Services wrote the briefs for the M.P.s. The technicians from the Indian Government program took the time to brief each M.P. with the agruments that they wanted presented within the House of Commons and the House of Lords.

It was a good experience for Indian people in Canada to have to explain why they thought the Termination Policy was in existence and why they felt it was being aimed at them to justify why the Federal Government was moving in that direction. It gave Indian people a feel for the kind of dog-eared work that has to be done if their rights are going to be protected in the future.

The Court Case on January 28th where Lord Denning and two other judges denied the Indian Association claim that the Treaties still subsided in England. One judge said that Treaty obligations had been passed in 1931. One judge said that they had passed some time between 1867 and 1931, he wasn't sure when and the other judge said it was new law that Treaty obligations were passed to Canada. Based on that, the Indian Association of Alberta asked the Court of Appeal to give them leave to Appeal to the House of Lords. The Court of Appeal denied leave to the House of Lords but later the House of Lords gave the Indian Association leave to have their Court Case heard. The major thrust of the lobby at this time was to make sure there was enough delays in London so that

the Court Cases could be heard and to give the M.P.s time to prepare arguments against the Court Case going ahead as quickly as possible. M.P.s spoke on our behalf in the House saying that the Government owed the Indians of Alberta in Canada the chance to Appeal to the House of Lords and their time should not be cut short because of political pressures from Canada. Due to the fact that this issue was very important to the Indian people of Canada every opportunity should be given to them so they can push their case.

Since the Indian Government Portfolio has made numerous presentations on our year's activities to the Chiefs' Committee meetings on the Constitution, there is no need really to go into detail as to the extensive discussions on the critical lobby in London. Rather, I have appendixed (blue and yellow) to my report, the summary of events occurring in London between May, 1981 and March, 1982.

The External Development people who are political advisors in London were the ones who drew up the reports for us. As you can see, the reports are quite detailed in how the Lobby was progressing and has numerous comments as to the changes that were occurring as a result of the Lobby conducted by the Indian Association of Alberta.

On January 28th, 1982 when the Court of Appeal denied the Indian Association leave to Appeal to the House of Lords, it was decided in Canada that we would proceed with attempts to get an Appeal to the House of Lords. At any rate, our only hope was that the House of Lords in considering our case would think that we had valid cause to want to Appeal. Thus, our major emphasis at the beginning of February in London was on getting an Appeal to the House of Lords but that did not retract from the work that was going on with the House of Commons and the House of Lords in getting people to speak to our cause.

The Lobby on the International scene was also heating up at the beginning of February. In Geneva, Switzerland, the United Nations Committee on Human Rights were meeting. Mr. Ed Burnstick attended the meeting on behalf of the Chiefs of Alberta. His presentation at the International Meeting was on the breach by Canada of the International covenant on civil and political rights of the Indian people in Canada. At that time, a number of Indian peoples from Canada and United States were pushing the Human Rights Committee to establish a working group on the plight of indigenous peoples in the Western Hemisphere. Due to the representations made the Indian people in United States and in Canada, the working group was a suggestion that went forward to the United Nations. Now, the process in relation to a working group on the United Nations is quite simple. The working group is made up of different people from around the world who look at the plight of the people whom they are studying and make recommendations to the Social and Economic Development Council of the United Nations which in turn make representations to the General Assembly of the U.N. It is possible if working through the working group to have a statement eventually come out of the United Nations General Assembly which condemns Canada's

treatment of Indigenous Peoples in Canada. This is our goal is to try to condemn Canada for their denial of Indian people's rights to self-determination. As you know, Indian people in Canada have a right to self-determination as the original inhabitants of this land. The human rights aspect of the Indian people has been ignored in general by people outside of this country.

On the 1st and 2nd of February, the Indian Association through its technicians made a presentation to the Joint Council meeting of the N.I.B. and Chiefs in Ottawa. Essentially, the I.A.A. Indian Government staff presented the proposed Amendments which the Indian Association was prepared to have M.P.'s in London introduce on behalf of the Indians of Canada. The Amendments were not voted on. The Indian Association dealt with the clause-by-clause sections where Amendments were made to the various sections of the Constitution which we thought violated Indian rights. The F.S.I.'s one major amendment presented which would change the whole scope of the Canada Act. Our agrument against that kind of Amendment was that it was not within the Parliamentary procedure in London to present that kind of Amendment. Amendments should only be presented which go the substance and nature of the Constitutional package itself. Since the Constitutional package had been essentially passed in Canada, Great Britain had a difficult time in deciding what their Parliamentary role was. Thus, confused the issue by presenting Amendments which would change the whole scope and nature of the Bill was highly unlikely to pass.

On the 16th and 18th of February, the Joint Council Meeting in Ottawa decided to support both types of Amendments rather than make a decision on either one of them. Both Amendments went forward to the House of Commons in England. In supporting both sets of Amendments, left it up to the Clerk of the House of Commons to determine whether or not the Amendments were acceptable. In the end it was decided that the I.A.A. Amendments were more acceptable and the F.S.I. Amendments for the most part rejected. There was some parts of the F.S.I. Amendments which were accepted but when it came to the vote they were rejected. The reasoned Amendments as drafted by the I.A.A.'s staff were put done by Bruce George, Sir Bernard Braine, Donald Steward and Douglas Jay on February 12, 1982. The speaker of the House of Commons ruled that most of the Amendments were within the Parliamentary Guidelines established under Westminster.

On Febuary 18th the second reading of the Bill took place in the House of Commons. The debate was cut off at 10:00 P.M. when the Government agreed to allow another day prior to going onto the Committee stage to discuss the Amendments which had been set down. This is a major victory for us in the battles that were going on at Westminster. It was generally assumed that the second reading would take place one or

two hours and the Committee stage would immediately sit afterwords. Instead the Committee stage was delayed another day while the M.P.s debated the merits of the Bill. It was at this stage of the game, second reading that we had been aiming all of our efforts for the last six (6) months. This was the time when we wanted to get onto record the treatment of Indian people in Canada. The press in Canada call it "a washing of the dirty linen in public in London". Mr. Chretien, who was sitting in the visitor's galleries of the House of Commons, was visibly disturbed by the second reading debate. A number of Chiefs of Alberta travelled to London to be there during the second reading because M.P.s were being briefed at the last minute as to what to say in the House. It was a very educational process for all those who were there and able to participate in this historical occasion.

On February 23rd, the Committee stage of the Canada Bill took most of the day in London where Amendments were raised and voted upon. Due to the fact that the Thatcher Government had a majority in the House of Commons. All the Amendments were defeated by the Government because Margaret Thatcher had committed her Government to support the Canada Act unamended. Thus, the Indians' Amendments were over-ruled by the majority House but we did manage to receive a large measure of support from M.P.s and the other parties in the opposition who were supportive of our case.

On March 3rd, the Committee stage was complete and the report went forward for third reading. On March 8th, 1982 the third reading of the Canada Bill took place in the House of Commons in England. Thus, closing one of our chapters of our Lobby in England.

The next step in the process of Westminster was the Bill to go before the House of Lords. The House of Lords as it was stated before was a massive number of people who are Lords and Ladies sitting in the House. They have no party discipline. They sit as independents and they vote as they please. It was unknown as to how these House of Lords would be affected by the Lobby mounted by Canada. Lord Shaunessy, who sits in the House of Lords is a resident of Calgary. He was going over to vote for the first time in the House of Lords on the Constitutional Bill. He stated on Canada A.M. one morning that he was prepared to vote for the Canadian Government. The Indian issue was not really much of a concern to him or other Lords in the House of Lords. It became clear by the time the Bill reached the House of Lords that the Trudeau Government was quite agitated by the whole process being delayed by three (3) months by the Indians. The Quebec case at this time was non-existent. We feel that the I.A.A. Parliamentary Lobby was most useful in delaying the process this long.

On March 11th, the House of Lords rejected the I.A.A.'s Appeal to them

but reaffirmed the statements made by Lord Denning in relation to Indian rights in Canada. When Lord Denning said that no Parliament should undermine the rights of the Indian people in Canada, this was essentially reconfirmed by the House of Lords. By having Lord Denning make such a statement in the Court of Appeal and subsequently confirmed by the House of Lords gives the Indian people in Canada a strong legal position to start their fight in Canada for their rights.

On March 17th the Canada Bill received second reading in the House of Lords and then on March 23rd, the Committee stage of the Canada Bill was held in the House of Lords. By the 25th of March the third reading of the Bill was held in London and on the 26th, Queen Elizabeth signed it into law, thus ending the Consitutional and Political Lobby in England.

One of the interesting developments occurred at the end of March was the meeting between the I.A.A., Elders and the Catholic Bishops of Alberta. A presentation was made to the Bishops by the Indian Government Staff as to how the Bishops could help the Indian people lobby for Constitutional Entrenchment of their rights coming under the new Constitution. We started this new process in hopes of being able to have the Churches help Indian people pressure the Federal Government. The meeting was very successful in that Catholic Bishops have undertaken a number of initiatives on their own to help for the cause of Indian peoples in Canada. The Bishop of Calgary has made presentations to the National Broadcasting News such as the Journal for Indian people to make a major statements to the Canadian public on the process that they have been subjected to by the Federal Government in the Constitutional Renewal process. These kind of meetings held between Indian people, Churches and Labour Unions must continue if we are going to influence the non-Indian people in supporting our fight against the Government. It hass become increasingly clear over the past year that the Constitutional Battle with the Federal Government and the Provincial Government are not going to be solved by Indian people. We will need tremendous amount of support from outside of the communities. This support can be achieved in a number of ways. For example, there is a lot of discuss that there is going to be a provincial election within the very near future. If Indian people were very strong and got alot of support from non-Indian groups at community levels they could influence the voting on the parties. Can I give you a bit of an example of this: say the Catholic Church and two or three churches and a couple of Labour Unions supported the Indian position. Between the Indian people voting and these people voting against the Party because of their stand in relation to Indians, it is possible to elect people to the legislature who would be sympathetic to Indian people because of their support among the non-Indian communities.

On April 17th, the Canada Act was proclaimed law in Canada. The National Indian Brotherhood and the Joint Council of Chiefs declared April 17th a National Day of Mourning for Indian people. Indian people who were asked to participate in the Federal Government's celebrations at the Ottawa level were to be branded as traitors to the Indian cause in Canada. In Edmonton, because it was a National Mourning, over one thousand (1,000) people came out and held a peaceful demonstration in front of City Hall. Joe Cardinal, the Elder from Saddle Lake placed a wreath at the Veteran's Memorial on behalf of the Indian peoples of Canada for their loss on the Canadian Constitution.

At this time, I would like to make one further comment in relation to the Constitution before I leave this topic and go on to the Section 37 Conference.

Last June when the Annual Assembly was held in Morley, the Assembly passed a Resolution to establish the War Chest. The War Chest was a separate fund set under the Indian Government program on the Chiefs' Committee on the Constitution. Rssentially the War Chest was contributions from Bands to run the Lobby in England and the Lobby in Canada. Most of the Funds were expended in relation to the Lobby in London. Attached to my report on the Green Sheets of Paper is a breakdown of the War Chest.

The War Chest fund gave the Indian people of Alberta some flexibility. Without any kind of independent funding the Indians of Alberta would be limited as to what kind of lobbying they could mount. Thus, the War Chest Lobby Fund was a very good idea for the Indian people in Alberta. Unfortunately, the Lobby has been overexpended and we have now a deficit now.

The momentum that is being shown by Indian people on the Constitutional push was exhibited at the National All Chiefs Conference held in Penticton, B.C. between the April 19-23, 1982. It was at this Conference that the Chiefs of Alberta took a lead role in the Consitutional push for recognition at the Section 37 Conference. The Chiefs unanimously approved the Resolution that there were four (4) basic freedoms which should have entrenched in any new Constitutional process. These were the rights to have physical autonomy, institutional autonomy, traditional freedom and cultural freedom. These are four basis for the Indian Government. These were not to be infringed upon by the Federal or Provincial Government. The four (4) principles have been accepted as being one of the building blocks which the Indian people will take to the Prime Ministers meeting on June 22nd. Since the Alberta people have shown a lead in this particular area, the Indian Government staff at the Indian Association have been mandated from the National Office to pursue and define these four freedoms for the Section 37 Conference. The Indian Government staff have already started working on this process and should have it finished by the end of August.

On May 3rd and 4th, the Minister of Indian Affairs from Ottawa, Mr. Munro, called the Inter-Governmental Affairs Ministers on Native Affairs from the Provinces to a meeting in Fredericton. Certain Indians from different provinces were invited to participate with the provincial representatives at this meeting. Essentially, the Indians were token representation where they sat behind the Provincial delegates and the Provincial Ministers for ministerial responsibilities for native peoples. The Indian people nodded their head yes or no but weren't allowed to make a presentation. What the Chiefs of Alberta decided to do was to go to a meeting held in Fredericton, but to meet separately at a reserve near Fredericton and decide how to deal with the whole process. It was decided that the Minister of Indian Affairs should not continue the meeting because Indian people were not consulted about the purpose of the meeting. The Grand Chief, Mr. Dave Ahenakew was asked to tell the Minister to leave the meeting. Munro left the meeting and told the Indians he would stop the meeting but instead returned to the meeting and adjourned it rather than bowing to the request of the Indian people. This is an indication of the kind of things that the Federal and Provincial Governments are going to do in relation to Indians over the next year because of the Section 37 Conference. What was happening in the Fredericton meeting was that the Federal Minister of Indian Affairs and Provincial Ministers who have some responsibility for native peoples within their provinces were deciding how to divide up and distribute Indians across the country to the different jurisdictions. Because Alberta Chiefs along with other Chiefs in Canada, made a strong presentation to Munro, they have temporarily backed off this position. Subsequent to that, the Prime Minister of Canada has decided to meet with the Indian people to discuss what they would like to see entrenched in the Constitution without the Provinces being present at the meeting.

It always has been the contention of the Indian people of Canada, especially the Treaty people and those people who have outstanding Aboriginal Rights, that any negotiations in relation to their rights and the entrenchment of their rights in the Constitution should be only held between them and the Federal Government because of Section 91(24) of the Constitution. Now, what the Federal Government is trying to do is involve the Provinces in the whole process. It remains then up to the Indian people to conceive or push their position on the Consitution so that the Federal Government doesn't railroad Indian people being trapped between Federal and Provincial jurisdiction. We have seen numerous examples across Canada in the last fifty to sixty years where the Federal Government and the Provinces have played the Indians off between themselves. For example: in British Columbia, no claims to land has been settled because the Federal Government says all Crown Land is owned by the Provinces and if anybody is giving land to the Indians, it is to be the Provinces. The Province says that all Indians belong under the Federal jurisdiction and therefore if there is going to be a land claim settlement, they have to deal with the Federal

Government only. But you can't settle land claims without settlement of some land. The Federal Government is not prepared to buy the land back from the Province. Thus, the Indians are batted between one and the other. This is only one example of where this has occurred. There are numerous other areas where Indian people have been batted between the two jurisdictions. For example: in Child Care, this issue has been bantered between the Federal and Provincial Government. Essentially, the Federal Government says that Child Care does not belong under their jurisdiction because there is no specific statement under the Indian Act. The Province says the Child Care should be under the Province but because the Indians are a Federal responsibility should pay for it totally and consequently the Indian people are caught between the Federal Government not wanting to pay one hundred percent (100%) for services and the Province trying to impose their rules and regulations upon reserves. Consequently, the Child Care facilities for the Indian people are very poor. But it is not only in Alberta, that Child Care is a major problem. It is a major problem in all jurisdictions across Canada because it is a dispute between the Federal and Provincial Governments on Indians.

Thus, the Constitutional problems is anywhere near complete. We are heading into a Section 37 Conference which will be held late this fall or early in the spring. Indian people have to make presentations at this Conference if they want some Constitutional entrenchment of their rights. At the Chiefs Meeting held in May, 1982, the Chiefs decided to go ahead with preparing a document on what the term "existing Treaty Rights means" both from the Federal point of view and the Provincial point of view and from the Indian point of view.

Because of the word "existing" being placed in the Constitution last November by the Constitutional accord, there is a conflict between our traditional Indian belief of what their treaty rights are and what their aboriginal rights and what the Federal and Provincial Governments say they are. In order to rebutt the position taken by the Federal and Provincial Governments, extensive research will have to be undertaken to draw what Indian people's understanding of Treaty Rights are as opposed to the Federal Government and Provincial's stand. This research should start fairly soon and be prepared by the end of September, so if there is a Constitutional Conference by the beginning of October or November, the Indians of Alberta will be prepared to take a position to the National body and have their position placed before the First Ministers. In relation to the Constitutional Conference, there needs to be preparation for a position to be taken by the Indian Bands that Regional Development of Indian communities are distinct within Canada. That is, that Indian communities are based upon their rights to self-determination. Any expansion of Regional Economic Development plans by the Federal and Provincial Governments should treat Indian peoples as special concerns. Therefore, there should be some outlining of the kinds of difficulties that Indian communities experience in relation to economic and regional development. The Canadian Government assists different organizations who deal in third

World Development situations but is unable to or unwilling to give such assistance to the Indian people of Canada.

In another area that needs to be looked in relation to the Constitutional process is the Federal responsibility for urban Indians. Under the existing Constitutional provisions, it clearly states that Indians wherever they are located are the responsibility of the Federal Government. But the Federal Government has said that Indian rights except in Education only operate on the reserves. Thus, when Indian people locate permanently off the reserve, they are totally under Provincial jurisdiction. It seems to me that it is not legally correct for this position to be taken by the Federal Government. There needs to be some research done that would be used to prepare a legal case to challenge the Federal and Provincial Governments stands on the position of Treaty Indians living in urban areas. A report should be made available before the First Ministers Conference.

The role of customary law or Indian law is important to the development to good strong Indian Governments. The role of customary law will become increasingly more important as the Constitution becomes more entrenched in Canada. It is only by relying upon Traditional Indian laws or Indian law that we will be able to preserve the sanctity of the Indian society. If we are relying on the non-Indian law to decide on how our Governments will be run and how our people will relate to each other, then the vital core of the Indian community will be taken out of it. Customary law then must be preserved, somehow between the written form that non-Indian law takes and the oral understanding of the Indian law as it is today. The Elders could play a major role here in helping to codify or solidify traditional Indian law in certain areas such as land tenure, marriages, guardianship, succession, Indian Governments, traditional police forces on the reserves. If Indian people operate under customary law there is no reason why they should be obligated to except the European concepts. To avoid this uncertainty, I would suggest that Indian law be codified as soon as possible and tribunals or some form of recognized system should be applied within the Indian Governments so that the Federal or Provincial Governments can not challenge the legitimacy of Indian law.

One area where Indian people under the new Constitution can assert more authority is the freedom of religion section. Indian religious practices in the past have been restricted by Federal Government authorities who did not understand them. But restrictions have damaged the integrity and strength of the Indian culture. However, under the new Constitution it is hoped that Indian religions could be asserted by the Indian people to support the continued distinctiveness of Indian people. In United States of America there are numerous case laws which support the proposition that Indian religion provides integrity and strength for the Indian people. A great deal of preparation will be required to prepare us for some eventual court action where our rights

may be challenged under the Charter of Rights.

INDIAN GOVERNMENT BILL

The Federal Government is planning on introducing a new piece of legislation known as the Indian Government Bill. This legislation is a restatement of 1969 White Paper Policy which was designed to incorporate Indian people into the municipal structure of the Provinces and thereby have their lands taken from reserve status into municipal type structures. The legislation now has been worked on for over eleven (11) years. While Indian people have been busy working on other things building their Indian Governments and building up their internal self-governments, the Federal Government has been very busy planning on how to implement the Indian Government legislation.

First I would like to discuss the Indian Government legislation and then go into the way in which the Federal Government through the Department of Indian Affairs and other Departments are implementing the legislation now. I realize last year at the Morley Conference that the people voted against the implementation of the Indian Government Bill. I must say that in the last four (4) Chiefs meetings held nationally the chiefs rejected the concept of the legislation. The Minister of Indian Affairs has ignored the Chiefs' resolution and has instructed his staff at the Regional Office to implement the Indian Government Bill through the operational plan. We have given the chiefs at their meeting in April a complete rundown of the operational plan and how it will affect the reserves in Alberta. Across Canada, the Chiefs have unanimously rejected the concept of the Indian Government Bill. The Chiefs of Alberta for the past two (2) years at every meeting they have held have rejected the Indian Government Bill.

Despite all of these rejections by the political leaders of the Indian people of Canada the Indian Government Bill is being implemented today. The way in which the Indian Government Bill is being implemented is quite simple. They are using cash to implement the bill. They are restricting the payments to Band Councils, programs are being restricted and Band Councils are being forced into accepting the concept of the Indian Government Bill. When people living at the Community are living on a day to day existence and they see where things could be available to them, it is difficult for Chief and Councils to say if we take that program, then that will be falling in line with Indian Government Bill because people are suffering at the community levels. They have poor housing, poor health, poor education and no facilities and when the Federal and the Provinces dangle information before them, it is difficult for people to pass it up.

Let me go into some of the description of the Indian Government to give you a summary.

The Indian Government Bill would be implemented by way of Band Constitutions. A Band Constitution would be developed and approved

by sixty-six and two thirds (66 2/3) of the eligible voters. The eligible voters would be determined by the Minister of Indian Affairs, not by the Band people. Once the Band Constitution has approved by two-thirds (2/3) the Band Constitution is sent to the Minister of Indian Affairs for his approval. If the Indian Affairs Minister does not approve a Band Constitution, it is sent back to the Band for re-drafting. Once the Minister decides that Band Constitution falls within his guidelines, then he takes it to Cabinet. Once the Cabinet accepts the Band Constitution, it is passed into law by an Order in Council. An Order in Council is almost impossible to change. It needs to have all the members or a great majority of the Cabinet Members approve changes to a Constitution. Let me give an example: say one of the Bands in Alberta went through and wanted to change their Constitution. How do they accomplish this task. They must lobby the M.P.s within the Federal Cabinet for a change to the Constitution. But if there are 572 Bands across Canada who have a Band Constitution, do you think that the Cabinet would be prepared to change one Constitution to accomodate them? When this happened in the United States in 1930's where Bands opted into this Charter system or Constitutional System, the outcome of that today in 1982 is that many Bands are operating within a system that does not work for them at all and are stuck to continue within that system. There is no flexibility for the future. The other aspect of this, once you have opted into the Indian Government Band Constitution concept, the Indian Act would no longer apply accept for one area membership. So basically the Band Constitution is a requirement for a Charter System which outlines the line of authority and responsibilities which would come from the legislation.

The criteria while it allows for some degree of control over the lands, resources and people is still subject to ministerial approval. That is the Minister of Indian Affairs will have to approve everything the Band does. Many of the powers that they are talking about within the new Constitution concept of the Indian Government program are already in the Indian Act. They are just putting in a different way.

Under this proposed legislation, the Band Government will be on the same level as a municipality. Its laws or by-laws will be subject to over-riding Federal and Provincial legislations which maybe found null and void and therefore the Indian people will not have a third order of government. Under this proposed legislation, since the Indian Act will not apply, the laws that the Indian communities pass will apply only on the reserves.

The Indian Government legislation deals with a section on membership. The legislation does allow for the Bands to assume some control over defining who the members are but the control will still remain within the Indian Act provisions of membership along they come within the Human Rights provisions of the Canada Act. While the legislation allows Bands to determine its membership, it does not allow this criteria to establish Indian status. The major reason for this is

because of the financial implications. The Department will still maintain records and Band lists, so essentially we have a continuation of the present practice to determine who will benefit from their Indian status.

INDIAN GOVERNMENT BAND AUTHORITY

An Indian Band Government authority will be established as an independent commission to assist in the establishment and monitoring of Indian Governments. The authority will have a maximum of seven members, the majority of whom will be Indians. The members will be chosen by the Governor-General in Council with consultation with the Bands. The authority will be empowered to hear Appeals from band members, not Chief and Councils, on 1) Indian Band Governments application of the Band Constitution 2) the Indian Band Governments application of Band laws and 3) the application of the Indian Band Governments abridgement or abstention from respecting an individual's rights.

As you can see, what they are doing here is that they are moving the concept away from the collectivity of the reserve to individuality. Under the new Constitution, the individual has higher rights than the collective rights of the Band. Thus, if a Band person does not like the way in which the Band Government is operating, he can complain directly to the Minister which would allow the Minister to bring the Indian Band Government before the Indian Government authority for dealing with them. There is provisions under the Indian Government Bill to suspend the operation of a Band Government and the Minister can appoint someone to take over that. It reminds us of the 1880's and 1890's and onwards when the Indian Agent ran the whole internal workings of the Band and the Chief and Council had nothing to say about how the Band Governments operated. It is actually a step backwards rather a step forward for the Indian people.

Under the new legislation, there would be provisions for the Provincial Governments or the R.C.M.P. to enter into agreements with the Band Government to provide policing services on the reserve. It doesn't say anything about Indian Bands being able to continue their traditional usage of Band police of what they want to set up. They have to come under the provincial or R.C.M.P. authorities which denies the right of access to traditional laws and traditional institutions such as police forces within the community. One important feature of the legislation is that the Federal Government could delay or veto any Indian Government initiatives if these initiatives are judged negatively to affect Indians. There is some suggestion in the legislation that the Provinces could intervene in the development of an Indian Government and have a similar veto or delay. Thus, the Federal Government could make unilateral decisions on behalf of the Bands and the Band Councils would have no authority to change the decision that was taken. This is not giving Indian people more authority under Indian Government but rather taking their authority away from them. It now appears quite

clear that the Federal Government has no intentions of backing down on the Indian Government Bill. A recent letter received by the Indian Association by the Minister of Indian Affairs said that once the legislation is place, he will be prepared to deal with a number of items on Indians. Thus, there are no plans at all to curtail the application of the legislation. The catch on the application of the registration is simply this. The Minister of Indian Affairs states that the legislation is optional. Indian Bands can opt in or opt out in that there are forty some bands in Canada who are prepared to opt in to the legislation. The problem is not the opting in or opting out by choice because the way in which the Federal Government is implementing the budgetary process at this time does not give the Bands any options on how they want to deal with it. Because if the Bands chose not too opt in, this 1982 is their base year.

Every Band has taken a cut in budget. The Operational Plan by the Department is to cut the Bands back as far as they can and when they opt in to the Indian Government legislations to give them a five (5) year incentive raise. But at the end of five years the plans are that the Indian Bands will be ready to move into the Provincial jurisdictions. Thus, it is very difficult to fight the Indian Government legislation by passing resolutions, it has to be a Band fight, Chief and Council fight. It is difficult to get a handle on this because they are operating at different levels in different areas.

The way in which the Indian Government Bill is being implemented in Alberta is through the Operational Plan for Alberta. Mr. Kohls who is the Regional Director of Alberta has stated quite strongly his plans for the next five years, that the implementation of the Operational Plan is a restatement of the 1969 White Paper. Each Band is being forced into submission by the restriction of dollars to run their programs. The Federal Government has an excuse for cutting back on the budgets by using different funding criteria and then saying the Provinces have similar programs available for the Bands, if the Bands want to make use of the Provincial programs. If this continues, then reserves within the next five years will be no more than municipalities within Alberta. It is a direct violation of the Indian treaties and certainly an erosion of Indian rights.

The Alberta Government has made available existing housing programs and social service programs to Indian Bands contrary to the Treaties. The Federal Government is not providing any of the funds for these programs to run so the Provinces are encroaching on the reserves by providing services that the Federal Government will not provide. Eventually, the way in which the new social services set up, it will allow for the Provincial Governments to come unto the reserves to determine whether or not the reserves are with in their criteria. We will have Provincial people snooping around Band offices determining whether or not Band Councils are in line with Provincial Government authorities. It is the first step towards the loss of Indian lands and the Indian status Indian people are presently enjoying in Canada. The Indian

Government Bill along with the Operational Plan must be viewed together and must be opposed together.

The main thrust of the Indian Government Program is to plan for the section 37 conference with the First Ministers and to prepare the documents for such a conference. The other priority for the staff is preparing materials to help band councils fight against the Indian Government Bill and the Operational Plan of the Department. The material is made available directly to the bands so their band councils can plan for their citizens.

Indian Governments in Alberta can be stronger in the future for the benefit of all their people.

Respectfully submitted by:

Sam Bull,
Treaty 6 Vice-President

INDIAN ASSOCIATION OF ALBERTA
Statement of Revenue and Expenditures
War Chest & National Publicity
As at February 28/82

REVENUE:

Received From:	Enoch Band	$ 20,000.00	
	O'Chiese Band	2,500.00	
	Paul Band	10,000.00	
	Beaver Lake	6,700.00	
	Saddle Lake	50,000.00	
	Blood Band	17,000.00	
	Stoney Band	56,000.00	
	Goodfish Lake	20,000.00	
	Blue Quills	15,000.00	
	Sunchild Band	4,500.00	
	Heart Lake	2,000.00	
	Kehewin	2,500.00	
	Alexander Band	2,000.00	
	Miscellaneous	740.71	
	TOTAL		$208,940.71

EXPENDITURES:

London Lobby:	Lawyer's Fee's	$ 44,850.00	
	P.R. Firm	39,471.09	
	Consultants and Office	57,935.85	
	Air Fare	16,111.50	
	Telex and Telephone	4,918.45	
	TOTAL		$163,286.89
Ottawa Lobby:	Consultants and Advisors	$ 7,388.15	
	Air Fare	6,609.55	
	TOTAL		$ 13,997.70
International Lobby:	Consultants	$ 5,176.86	
	Telex and Telephone	1,000.00	
	Air Fare	3,456.30	
	TOTAL		$ 9,633.16
National Publicity:	Advertising	$ 23,266.71	
	Consultant	18,387.74	
	Air Fare	1,031.00	
	TOTAL		$ 42,685.45

Rally in Edmonton:	Consultants and Organizers	$ 12,847.34	
	Celebrities (expenses only)	4,729.09	
	Rental of Hall & Sound System	4,513.70	
	Miscellaneous	2,813.75	
	TOTAL		$ 24,903.88
	TOAL EXPENSES		$254,507.08
	TOTAL OVER EXPENDITURE		($ 45,566.37)

* Pledges: (made at Calgary meeting on Nov. 6 - 7/81)

NOT RECEIVED:	Peigan Band	$ 5,000.00
	Sarcee Band	5,000.00
	Blackfoot Band	3,000.00
	Frog Lake	2,500.00
	Goodfish Lake	3,750.00
		$ 19,250.00

* The Over Expenditure of ($45,566.37) has been paid from I.A.A. Funds

* Accounts Payable: (Estimate)

External Development Services)	
Bill Cash)	
C.N.C.P. and Telephone)	$160,000.00
Radcliffe and Company)	
InterNation Travel - Air Fare)	

These Payable amounts escalate daily.

SERVICES

Economic and Political Consultants

TELEX: 28540 EDSLND G

THE PARLIAMENTARY LOBBY

- AN EXPLANATORY NOTE

16 May 1981

EDS, in our role as advisers to overseas governments and political bodies, have on occasions mounted nationwide political campaigns and parliamentary lobbies on behalf of our clients.

Notably, these include the Government of the Republic of Biafra, the Rambi Council of Leaders representing the dispossessed Banaban people of Ocean Island in the South Pacific, and the Nevis Reformation Party who were seeking secession for Nevis from the state of St.Kitts-Nevis-Anguilla.

Although in the case of both the Biafran and Banaban causes the campaign was nationwide, each of the three operations centred upon a parliamentary lobby which we created at Westminster. The purpose of this explanatory note is to describe briefly what is involved in setting up and in servicing a parliamentary lobby. It is not proposed to go outside the sphere of our estimate of costs and touch upon the wider field of campaigning outside Parliament through the Churches, the cause groups or by undertaking a full public relations campaign.

The Members of the British Parliament are underpaid, generally overworked, and, most important or all, they are almost entirely bereft of research back-up and lack adequate secretarial assistance. Their quality, and the regard in which they are held by their fellow members, is extremely variable.

Our first task, therefore, is to select and approach members who are most suitable for the cause we shall be asking them to promote. The selection process is, of course, of vital importance. There is not only the danger of enlisting incompetents, but the cause can be irreparably harmed by becoming associated with an MP who is known to be corrupt. It will be readily appreciated that such MPs are generally the most eager to embrace a cause from which free travel, entertainment and, occasionally, monetary reward can be expected. They are the kiss of death.

The motives which we seek in an MP are that he believes in the cause we ask him to support and, of course, that he will enhance his reputation in Parliament, in his constituency and in the country at large through what he achieves.

A great number of factors will influence our choice of MPs, including the ability and willingness of each to fight his own front bench in case of need. Also important are his position on the left, centre or right of his party and his power to influence his colleagues.

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Members of the Government are obviously not eligible for selection to the lobby. The same applies to front bench Opposition spokesmen. They can, however, be influenced by the right choice of back bencher. The Rt. Hon. Leon Brittan, QC, MP is an example. An able and effective member of the Banaban lobby, he became a Patron of the Justice for the Banabans Campaign which was formed by the partners of EDS, Grenville Jones and George Knapp. When Leon Brittan became a Minister in the Conservative administration he had, of course, to withdraw from the lobby. There was no doubt, however, that his influence in the background was always importance to us.

After selecting the right MPs and winning them to our side, we have to undertake the job of briefing them individually, concerting their efforts so that, as far as politics allow, they work as a team, and, in most cases, write their speeches and draft their letters, parliamentary questions, etc. In short, our task is to guide them in the direction our clients wish them to go and provide them with the services of a secretariat such as a Minister receives from his permanent officials.

It is our experience that without professional handling, a case will not be fully pressed home. The impetus will falter and the campaign will lose direction. This is all the more so because of the myriad conflicting claims upon the time and energies of members of the British Parliament. It is naturally the best supported and serviced lobbies that most often succeed. The lobbying undertaken by the unions and trade associations, by financial and commercial interests, by the more effective cause groups and by the Churches succeed because they are professionally handled and provide the necessary assistance for the MPs who fight the battle.

It will be borne in mind that lobbying undertaken on behalf of overseas peoples, communities or political parties requires particular care. We have always found it a very great advantage for our parliamentary lobby to have direct contact with a representative of the people for whom they are fighting. On no occasion should the impression be given that the case is not a genuine one or is in any way manufactured or greatly elaborated by professional advocates in London.

The proposal for a lobby at Westminster on behalf of the Indian community in Canada is, indeed, based upon the assumption that an Indian of high calibre will be in London for a great deal, if not all, of the time the campaign continues. Such assistance is designed to provide the direct contact with the cause overseas which we are promoting and, of course, to reduce the amount of EDS consultancy time to the modest level incorporated in our estimate of costs.

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THE INDIAN ASSOCIATION OF ALBERTA'S PARLIAMENTARY LOBBY AND THE TIMETABLE FOR THE CANADA BILL

12.1.82.

12th January 1981

Procedure

For a U.K. Bill to become law, the following procedure, in layman's language, is followed:

1. The Bill has to be introduced, in turn, in each of the Houses of Parliament, Lords and Commons, and then obtain Royal assent. A Bill is normally introduced first in the Commons.

2. First Reading

   This is no more, in effect, than the publication of the Bill.

3. Second Reading

   This is when the Bill is debated and either passed or rejected by vote of the House. A Bill introduced by the Government, as the Canada Bill is, is nearly always forced through by the weight of the Government Party's majority. What is known as a "3-line whip" is applied to Party Members. To ignore this, or to abstain without excellent reason, is inclined to be regarded as a breach of Party discipline of the first importance. At the present moment the intention of the official Opposition is to apply a "2-line whip" which will allow Labour Members to vote according to their conscience.

   We should mention also that a mechanism for rejecting the Bill on second reading is to move what is known as a "reasoned amendment". This calls for the House to move that the Bill should be reintroduced either 6 months later or after certain other steps have been taken.

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4. Committee Stage

After the Bill has been passed on second reading it goes to Committee. Once second reading has been passed, amendments can be tabled. The amendments should not be a means to defeat the principle purpose of the Bill since this will have already obtained the approval of the House on second reading. The decision on whether amendments can be moved or not is for the Chair. The decision is reached on constitutional grounds and on the advice of the Clerks of the Commons or Lords. It is not a matter for the Government to decide. The reason for any decision is never given by the Chair. Some indication on acceptability of amendments can be gleaned, however, by seeking advice from the Clerks. There are matters on which Parliamentary Agents are able to advise and negotiate to an extent.

5. Report Stage and Third Reading

These are usually formalities when the result of the Committee stage is reported and the Bill read a final time.

6. A similar procedure will then be followed in the House of Lords. After going through the Lords it will go to the Queen for her Assent.

7. Government business is announced week by week. During a Parliamentary session notice of the next week's business is given on Thursdays. Business for the first week of a new term is given before the recess.

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The Canada Bill Timetable

The Bill was read for the first time (published) on 22nd December 1981. Sir Bernard Braine was given prior notice of this and of the Government's intention to have the second reading in the first week after the Parliamentary recess, i.e. the week beginning 18th January. He was also told that it was the Government's intention to allocate a full day to the Bill's Committee stage.

When the I.A.A. was successful in their application to the Court of Appeal on 21st December, the Government agreed to postpone second reading until the I.A.A. litigation was settled.

Any estimate of the timetable now depends on: (i) the date the Appeal Court hands down its decision; (ii) whether there is an appeal to the Law Lords (the final Court of Appeal), and, of course, (iii) the extent to which the decision goes in favour of the I.A.A.

The shortest hypothesis would depend on the Appeal Court deciding against the I.A.A. application and for the I.A.A. to announce its decision not to appeal to the Lords in time for the Government to announce on Thursday, 21st January that second reading will take place the following week, perhaps Wednesday, 27th. The Labour Party spokesman has told us that he will insist on 2 or 3 days in Committee, so it would be unlikely that the Bill would get through the Commons before the end of the week ending 5th February. The Bill could then go through all stages in the Lords by the week ending 19th February, or later.

The hypothesis is extreme. The timing rests largely with the I.A.A., and, if they go to the Law Lords, completion of the legislation could be delayed, even if expedited, by several weeks.

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The Parliamentary Lobby

On the instructions of Chief Sam Bull, we have, in collaboration with his technicians and with assistance from time to time from other visitors from Canada, laid the foundation for a lobby at Westminster which we believe will achieve the maximum possible effect when the issues come to be debated.

Our principal guidelines from the beginning have been to ensure: (A) that the best available opinion leaders were selected around whom parliamentary opposition to the Bill would rally when the time came; (B) to establish with the I.A.A. the Indian case which would evoke the widest support at Westminster; and, (C) to judge as nicely as possible in the fluid circumstances the timing for widescale appeals to be made to M.P.s for their support.

(A) The selection of opinion leaders required us, first and foremost, to find and brief backbench Members of the two principal Parties in the Commons who were both well regarded by their Party colleagues and prepared to dedicate the very substantial amount of time and energy to fight the Indian case. British M.P.s are notoriously overworked, have insufficient secretarial and research back-up, and must give first priority to their constitutency interests amongst which Canada and her problems have no voice.

On the Labour side, Bruce George already figured prominently before we were retained. He had worked hard and selflessly for the Indian cause since, we believe, July 1979. Not knowing him very well, we made enquiries at Westminster to establish, above all, that the esteem in which he was held in Parliament was sufficiently high. The personal reports we received were unanimous that he was respected as a Parliamentarian. At the request of Wallace Manyfingers, we pursued our investigations further and obtained a detailed assessment of him. It more than confirmed what we had been told. While Wallace Manyfingers had been maintaining contact with Bruce George long since, we first introduced ourselves to Bruce George as advisers to the I.A.A. in July 1981. Since the summer recess we have been conferring with him regularly and in detail on the promotion of the Indian case at Westminster, particularly within

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the Labour Party. The selection of Bruce George as the I.A.A.'s key spokesman on the Labour backbenches did not, of course, preclude our maintaining close contact with other Labour Party persons of influence, such as David Lowe of the Labour Party International Division, Barry Davies, Secretary to the Parliamentary Labour Party, Frank Hooley, Vice Chairman of the backbench Foreign, Commonwealth and European Affairs Group and Kershaw Committee Member, and, latterly, the newly appointed Labour spokesman on the Canada Bill, Stanley Clinton-Davis, who shares a room in the House of Commons with Bruce George. All these contacts tended to support the view, amply confirmed since, that Labour Members associate Bruce George with the Indian cause and are inclined to view him as the focal point for the Canadian Indian cause.

Amongst the Conservatives, a more loyal and disciplined Party, we had no doubt that Sir Bernard Braine would be the ideal choice. Indeed, few, if any, alternative Conservative M.P.s carrying Sir Bernard's weight in the Party and in the House could be expected to lead a revolt against the Government Whips. He is not only a former Minister for Commonwealth Relations but we know him, as do indeed the Government, to be a determined and persuasive advocate who could be counted upon not to spare himself for a cause he considered to be just. We had worked with him closely in the past in a not dissimilar campaign and know his quality well. It was not easy to persuade him that a case could be put for the First Nations to which he was prepared to pin his reputation. By July last year he had agreed to take up the cause and subsequently visited Canada at the invitation of the N.I.B.

(B) Crucial to the task of persuading Bruce George and Bernard Braine to take up the cudgels on our behalf was to determine in consultation with the I.A.A. the Indian case which was to be put to Parliament. One principal difficulty had first to be overcome. The case being put by the I.A.A., as well as the F.S.I., U.B.C.I.C. and, while they were operating here, the N.I.B., contended that the Indians' right to self-determination extended as far as a claim that the Indian Nations were not, or should not be, within the sovereign jurisdiction of Canada. Not only Bruce George and Bernard Braine, but every other Member of the U.K. Parliament with whom we have been in contact agreed that while the Indian Nations had every right to pursue this claim in Canada and internationally, it was not an argument that would obtain support of any importance at Westminster.

In the first place, British Parliamentarians, reluctant as they are to interfere in Canada's "internal affairs", would solidly oppose any attempt to fragment Canada. Secondly, it was quite clear to us, even before we received emphatic confirmation from several M.P.s, that, in asking for "sovereignty", Indian interests would be asking the U.K. Parliament for something which was not within its power to give. Parliament have, however, given the residual jurisdiction under the Statute of Westminster and its ancient traditions enshrined in Erskine May, a very real and persuasive duty to ensure that legislation accords with Britain's international human rights obligations and also to protect the rights of minorities. In fact, the central plank in the Indian Westminster platform had, necessarily, to be the defence of the human rights of a threatened minority.

There is clearly a virtual unanimity of view at Westminster in this matter, most recently stated to us explicitly by the Opposition spokesman on the Canada Bill, Stanley Clinton Davis. Mr. Davis is at present in Canada and has arranged to confer with us as soon as he returns.

Central to the expression and recording of the Indian case worked out after extensive consultations between ourselves, Parliamentary Agent, Bill Cash, Parliamentarians and the I.A.A., was the Public Petition to the House of Commons which Bernard Braine had agreed to present. The Petition, while demanding Indian autonomy within Canadian sovereignty, seeks the support of Parliamentarians here for an Indian minority whose rights are threatened by patriation.

Unfortunately, it was made plain to us personally by Victor O'Connell of F.S.I. and by both Louise Mandell and Chief Bob Manuel of U.B.C.I.C. that they could not recommend their Chiefs to sign the Petition. The reasons were explicit: the Indian Bands within B.C. and Saskatchewan were not minorities. As Sol Sanderson stated publicly at a Press Conference in London in early December, the Indian Nations he represented were not within Canadian jurisdiction. They, therefore, could not be regarded as a minority.

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Bernard Braine, Bruce George and Lord Morris made their view on this plain at the first meeting of the Parliamentary Friends of the First Nations held at the House of Commons on 8th December: Indian interests had every right to take this line, but it was not acceptable to the three Members founding the P.F.F.N.; F.S.I. and others were free to promote the Indian sovereignty argument elsewhere at Westminster but it was not thought it would be well received by any other Parliamentarian of influence.

It is our view that the appeal to Westminster expressed in the I.A.A.-sponsored Petition is irreconcilable with the policy adopted by F.S.I. and U.B.C.I.C. We have no evidence that the F.S.I./U.B.C.I.C. argument that the Indian Nations are not, or should not be, minorities within Canadian jurisdiction has attracted any adherents in Parliament here. On the other hand, the I.A.A. human and minority rights position which is currently being promoted by Bruce George and Bernard Braine is receiving a very impressive response.

We would make a further comment on this unfortunate divergence of views between P.T.O.s. It has been claimed, we understand, that the acceptance at Westminster that Canadian Indians are within Canadian sovereignty would in some way damage Indian interests when, after patriation, the Indian Nations appealed for support at the U.N. or elsewhere internationally. We have been closely involved with several political disputes concerning self-determination for peoples in colonial and neo-colonial contexts, when lobbying at Westminster had to be coordinated with approaches to the U.N. We know of no evidence to suggest that an international case for self-determination is likely to be adversely affected by an appeal to the legislature of a Member State to legislate in a matter within their jurisdiction.

(C) Over-occupied as they are, M.P.s here are very reluctant, as we have said, to become involved in causes which do not involve a constituency interest. Where a matter is bound to come before Parliament the vast majority will take guidance first and foremost from their front bench (the Government or the Opposition) from specialist back-bench Party Committees or Groups, or, in the case of the minority parties, the individual to whom responsibility as Spokesman has been delegated. In comparatively rare cases, M.P.s will seek instead to follow the lead of an individual backbencher whom they have identified as the expert in the matter and in whom they have

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confidence. In these circumstances, M.P.s will almost universally avoid involving themselves in the complex and time-consuming task of assessing the merits of the various interest groups who approach them. Ninety percent of the paper sent to them goes straight into the wastepaper basket or to the Parliamentary colleague from whom they are prepared to take the lead. The volumes of documentation, the multiplicity of approaches they receive on a matter such as the Canada Bill is inclined to prejudice them against the lobbyists concerned.

Furthermore, very many are inclined to defer consideration of an issue until immediately before it is likely to be debated by Parliament. Once they have taken the trouble to hear a case put they are naturally unwilling to hear it twice. Lobbyists who do not come rapidly to the point, who are repetitive, inconsistent, who profer arguments which are unacceptable or require action which does not accord with Parliamentary practice will at best get a polite and non-commital response.

The timing and the method of approach is, therefore, of the essence. The selection of opinion leaders in Parliament around whom dissent can rally is crucial.

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Conclusion

Taking these facts of Parliamentary life into account, we have advised the I.A.A. to proceed through the careful selection of opinion leaders, as described in (A) above, and have delayed widescale approaches to M.P.s as late as possible. At our suggestion, a preliminary approach was made by Wallace Manyfingers on a draft prepared by us. He wrote to a carefully screened list of 382 M.P.s in the Lords as well as the Commons. The letter enclosed the Public Petition and was made on the introduction of two M.P.s, Bernard Braine and Frank Hooley, Vice-Chairman of Labour's backbench Foreign, Commonwealth and European Affairs Group. The reaction was promising, though limited, with many M.P.s who are willing to support us asking for any meeting to be delayed until shortly before second reading of the Canada Bill takes place.

We next took the opportunity afforded by the publication of a leading article in the GUARDIAN on Christmas Eve to draft a joint letter to the Editor from Bernard Braine and Bruce George, published on 4th January. The letter served as a first salvo in the Parliamentary battle to come. It has been widely noted by M.P.s, particularly on the Labour side, and we also have indications that GUARDIAN readers are writing to their own M.P.s to ask them to support Bernard Braine and Bruce George.

Over the Christmas recess, we judged that the time was ripe for Bruce George and Bernard Braine to write to all Parliamentarians asking for their support. Bruce George has already written, in two batches, personally "topping and tailing" each letter to all his fellow Labour Members in the Commons and to some 140 Labour Members of the Lords. Bernard Braine has written, in the same personal form, to every Conservative Member of the Commons, except for Ministers and a couple of others. We conferred with Bernard Braine and Bruce George on the draft letters we prepared, adapting them accordingly. We naturally arranged for the reproduction of the letters ourselves, for them to be individually signed, "stuffed" in their envelopes, together with a copy of the GUARDIAN letter, and stamped and posted at the House of Commons. Further batches will now go to each Member of the minority parties and active Members of the House of Lords not already written to by Bruce George as Labour Party adherents.

We understand from Bruce George that he has already received up to 50 pledges of support, including five or six offers to speak for the I.A.A. approved policy which Bruce George has advocated. We believe 20 to 30 others have also replied asking for further information, most of whom should prove willing to support us. He expects to be receiving many more replies after the recess. We shall be hearing shortly about reactions from Labour Peers and Conservative M.P.s.

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The response from the Labour side would seem to us to be proving significant already. Supporters of the case put by Bruce George include Labour Privy Counsellors and other senior backbenchers, as well as all shades of opinion within the Party. He tells us that frontbench spokesmen have also responded sympathetically, although stressing that they will have to take guidance from their colleagues, Stanley Clinton Davis and Dennis Healey.

The reaction to the case agreed between the I.A.A., their advisers and our two Parliamentary opinion leaders, is very promising. It now looks as if the I.A.A. lobby is on the verge of achieving an impact when the Canada Bill is debated which will cause considerable difficulty for the U.K. and Canadian Governments.

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THE INDIAN ASSOCIATION OF ALBERTA'S

PARLIAMENTARY LOBBY

An up-dating of our Report of 12th January 1982

5 Feb. 1982

1. Bruce George, M.P. has now written to all his fellow Labour M.P.s and to all Labour Members of the House of Lords. Sir Bernard Braine has written to each of his colleagues, except those in Government, and to the minority parties.

2. The results have been good, particularly, of course, on the Labour side, where the shadow Government is moving to some extent in our direction. Even among the Conservatives, Sir Bernard Braine is now receiving support from some fellow backbenchers of considerable influence.

3. Sir Bernard Braine M.P. has, to date, definite support from 14 Conservatives, including former Ministers and Privy Councillors. Bruce George M.P. has pledges of support from 62 Labour M.P.s; 4 Nationalists, 2 Ulster Unionists and 4 Social Democrats, also support, making a total, of which we have firm evidence, of 86. Several more Members have expressed support verbally and we are in the process of checking and classifying these. We append, at the request of Chief Roy Fox, a list of the members of each Party in the Commons.

4. Although concentrated for the time being on the Commons, letters will in the next few days be going to all active Members of the House of Lords, except members of the Government.

5. The timetable for the Canada Bill has been delayed at least until the week beginning 15th February. If the Government announces, next Thursday, 11th February, that they will proceed with second reading without awaiting the outcome of an I.A.A. hearing before the Law Lords, we are approaching the situation in which a conflict may be brought about between the Conservative Government and the Labour Opposition. This would be our only opportunity of seriously challenging the Government's majority on a point of constitutional importance, rather than solely on the merits of the Canada Bill.

6. If the Government decide to avoid this conflict by awaiting a hearing before the Law Lords then we will have maintained the initiative, heightened the tension, won valuable additional time and, perhaps, delayed the Bill until a ruling is given in the Quebec case which could prove helpful.

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7. It would seem to us that, if at all possible, this litigation pressure should be maintained by the petition to the Law Lords being proceeded with, even if a final decision is made, for financial or other reasons, to withdraw at the eleventh hour. It may also be that the Law Lords will turn down our Petition to be heard.

8. We see our own role now as being largely concentrated on assisting Bruce George and Bernard Braine in consolidating and extending their support in Parliament. We have, this week, for instance, drafted some 40 individual letters to Conservatives who have inclined to support, are interested, or, indeed, might possibly be converted. Further action of the same nature will be needed from now on as well as the preperation of second reading speeches and detailed speaking briefs for those who are prepared to speak in our favour.

9. There is a need now for direct Indian approaches to selected M.P.s, groups of M.P.s and, most important also, to political and church bodies outside Parliament, including the Trade Unions, wherever these bodies can bring influence to bear on M.P.s. This process has already begun with letters going out from Wallace Manyfingers to the Manifesto, Labour First and Tribune Groups asking for meeting with Indian delegates.

10. We would intend, during the next week to assist Wallace Manyfingers in expanding this programme. This should include a direct approach to the Liberal Party, whose lack of support is worrying, to the Social Democrats and, under the guidance of Sir Bernard, to selected Conservatives.

11. If Chiefs and other representatives of the I.A.A. and Treaties 6, 7 and 8 can be in London in the week beginning 15th February, we believe that the powerful moral case that Indians can best put themselves can make itself heard to great effect.

Annex

State of Parties (House of Commons)

Conservatives (Government)	334
Labour	245
Social Democrats	25
Liberal	12
Scottish Nationalist	2
Welsh Nationalist	2
Independent	2
Official Ulster Unionist	4
United Ulster Unionist	1
Democratic Unionist	3
Ulster Unionist	1
Anti-H Block	1
The Speaker	1
	633

THE POLITICAL AND LEGAL POLICY

adopted by

THE INDIAN ASSOCIATION OF ALBERTA,

THE UNION OF NEW BRUNSWICK INDIAN CHIEFS and

THE UNION OF NOVA SCOTIA INDIAN CHIEFS

in relation to

THE PATRIATION OF THE CANADIAN CONSTITUTION

February 9th, 1982

1. In adopting a joint policy to oppose Prime Minister Trudeau's attempt to patriate the Canadian Constitution, our three PTOs have had to consider, (a) how to achieve the maximum from the debate on the Canada Bill in Westminster, and, (b) how to prepare the ground for post-patriation activities in Canada and internationally.

2. As long as nine months ago, it became evident to the I.A.A. that the Westminster Parliament could only be expected to respond positively to requests from Indian interests which it was within their jurisdiction and procedural practice to grant. It was established early on that many M.P.s at Westminster would react positively and sympathetically to a plea that the human rights of the Indians as distinct peoples within Canada should be fully protected in the Canada Bill. It was similarly clear that little support could be obtained for the proposition that the Indian Nations either were not, or should not be, within the jurisdiction of the Canadian Government. Such a proposition would be unpopular and would, in any case, be outside the powers of Westminster to enforce.

3. The I.A.A., joined later by the Unions of New Brunswick and Nova Scotia Indian Chiefs, have been consistent in the policy which they have adopted as a result of this conclusion. The policy has encompassed:

(a) the organisation of a lobby at Westminster to develop support from M.P.s including amendments aimed at entrenching Indian rights, clause by clause;

(b) a public petition to the House of Commons by Indian Chiefs throughout Canada setting out our grievances and seeking a remedy for them which Westminster is able to grant, and,

(c) litigation aimed at assisting the Parliamentary action by clarifying Indian and Aboriginal Rights, delaying the legislation, maintaining as far as possible, the political initiative in the U.K., spotlighting the issues at stake and heightening the tension at Westminster.

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4. The political policy promoted by us in the British Parliament is now gaining substantial support. In the region of 100 Labour M.P.s have already undertaken to help entrench our rights, some 15 Conservatives are prepared to consider bucking the Government whip, and help has also been promised among the minority Parties. A set of detailed amendments to the schedules attached to the Canada Bill are nearly ready to be tabled at the appropriate moment. A device to reject the Bill on its second reading, known as a "reasoned amendment", has already been prepared with an appropriate number of Privy Counsellors and other M.P.s to put their names to it. Attempts are also being made to induce the Labour front bench to take a stand, if it should prove necessary, and oppose second reading of the Canada Bill until our legal action has been heard by the Law Lords, if they are prepared to hear it.

5. The assertion has consistently been made, both in Canada by the Federal Government and other sources, and in England by the Foreign and Commonwealth Office that the Canada Bill cannot be amended except at the request and consent of the Canadian Parliament. Our advice has always inclined to the opinion that this Governmental view is not correct, despite the fact that the Kershaw Committee, and many other interested parties appeared to go along with it. We now have official confirmation from the Speaker that the Canada Bill is amendable in the same way as any other Bill and that the Chairman of Ways and Means, who will chair the Committee stage of the Bill, will decide which amendments are in order as he does with any other Bill. We have long since, through our Parliamentary Agent and I.A.A. lawyers, been engaged in the preparation of amendments to all Clauses of the Bill which need to be amended so as fully to entrench and secure Indian rights. The intention has been throughout our lobbying at Westminster, as requested in the Prayer contained in our petition to the Commons, to have our detailed, clause by clause, amendments debated in Committee with a view to their being included in the legislation or, at the very least, to have fully on the record through our Parliamentary spokesmen the deficiencies of each individual part of the Canadian Resolution affecting Indian rights.

6. We have been conscious during the past nine months of the situation which may arise after patriation has taken place. Our resolve has been to strengthen our bargaining position in Canada if we fail here. There is no doubt in our minds that we shall succeed in doing this if we ensure that the Schedules to the Canada Bill are meticulously examined and their

7. We see no reason whatsoever to fear that our argument at Westminster that the Indians, being distinct peoples, are a minority with a special constitutional position within Canadian sovereignty can in any way prejudice any future approach we may feel it right to make to the U.N. or any other international forum. Once we fail, if we do, to secure our rights either at Westminster or later in Ottawa, we are free to undertake whatever other action our Nations consider appropriate.

8. The I.A.A. decision to raise the matter of Indian Rights in the English Courts was taken strictly within the context of how such action would influence the Parliamentary lobby at Westminster. Our Parliamentary Agent was instructed to obtain top legal opinions on the Treaties, on Human Rights, and on the prospects of a Court action.

9. Professor Clive Parry of Downing College at Cambridge University advised that the Treaties would not be found to be international Treaties, which would have placed them outside the jurisdiction of the Courts. He advised that they were, instead, agreements between the British Crown and its Indian subjects which were part of the constitutional law of Canada, and, possibly, of the U.K. Professor James Fawcett, three times President of the European Commission on Human Rights, gave us opinions, supplemented by Professor Douglas Saunders, to the effect that the Canadian Resolution was in breach of Canada's and Britain's international human rights obligations. Mr. Louis Blom-Cooper, Q.C., added his opinion on litigation. His advice was that it was possible to argue in the English Courts that Treaty obligations lay with the Crown in the U.K., but warned that we were not likely to succeed in establishing this.

10. The I.A.A. decided to go ahead with the action. We failed to get leave in the first Court to argue the matter, with the result that we appeared directly before the Court of Appeal. The result, as we had hoped, was (a) that we obtained a postponement of the debate on the Canada Bill which would otherwise have taken place on January 20th, and (b) we obtained a judgment from Lord Denning which, although ruling that Crown obligations were in the right of Canada, contained statements which are likely to prove invaluable when the issue is debated here at Westminster and after patriation in Canada.

11. In the first place, Lord Denning has, in his judgment, written the provisions of the Royal Proclamation into the British North America Act. He said:

> "Save for that reference in section 91(24) the 1867 Act was silent on Indian affairs. Nothing was said about the title to property in the 'lands reserved for the Indians', nor to the revenues therefrom, nor to the rights and obligations of the Crown or the Indians thenceforward in regard thereto. But I have no doubt that all concerned regarded the Royal Proclamation of 1763 as still of binding force. It was an unwritten provision which went without saying. It was binding on the legislatures of the Dominion and the Provinces just as if there had been included in the Statute a sentence: 'The aboriginal peoples of Canada shall continue to have all their rights and freedoms as recognised by the Royal Proclamation of 1763'".

12. Secondly, Lord Denning confirmed that until the Canada Bill is passed the Canadian Government "is not completely independent. It is still tied hand and foot by the British North America Acts of 1867 to 1930. The Dominion itself cannot alter one jot or tittle of those Acts." In this way, he emphasised the importance of the British Parliament's role until the Canada Bill is passed.

13. Thirdly, Lord Denning, although he did not feel able to make any direct criticism of the Canadian Courts or Government, concluded:

> "There is nothing, so far as I can see, to warrant any distrust by the Indians of the Government of Canada. But, in case there should be, the discussion in this case will strengthen their hand so as to enable them to withstand any onslaught. They will be able to say that their rights and freedoms have been guaranteed to them by the Crown -- originally by the Crown in respect of the United Kingdom -- now by the Crown in respect of Canada -- but, in any case, by the Crown. No Parliament should do anything to lessen the worth of these guarantees. They should be honoured by the Crown in respect of Canada 'so long as the sun rises and the river flows'. That promise must never be broken."

14. When the Bill comes to be debated we shall, with the substantial support we have in Parliament, be in the strongest possible position to fight it every inch of the way. We have no doubt that the battle which is fought for us here will, even if unsuccessful, put us in a far stronger position to protect the position of the Indian Nations later in Canada and worldwide.

EXTERNAL DEVELOPMENT SERVICES

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THE INDIAN ASSOCIATION OF ALBERTA'S PARLIAMENTARY LOBBY

* * * * * * * * *

AN INTERIM REPORT

February 15, 1982

1. The reasoned amendment went down on Friday in the names of the two M.P.s spearheading the lobby, Sir Bernard Braine and Bruce George. It is supported on the order paper by two Privy Councillors, the Rt. Hon. Donald Stewart, M.P., Leader of the Scottish National Party, the Rt. Hon. Douglas Jay, former Labour Cabinet Minister, and Sir John Biggs-Davison, M.P., a former front bench spokesman and Vice-Chairman of the Conservative Back Bench Foreign Affairs Committee.

2. Meanwhile, both Bernard Braine and Bruce George are seeking out fellow M.P.s with the view to getting more signatures for the amendment.

3. Over 200 M.P.s have been sent a brief background paper on the Canada Bill.

4. Detailed briefing documentation has been sent to the key 25 M.P.s, who support the Indians, and may be prepared to speak.

5. Sir Bernard has written to the Speaker and the Chief Clerk regarding hybridity and he and Charles Waller saw Kenneth Bradshaw (Clerk to the Chairman of Ways and Means) this morning. He also mentioned that the Speaker and Mr. Birley (in charge of the Public Bill Office) were at that moment discussing the matter of the Royal Prerogative and Crown privilege.

6. The Leader of the House, the Rt. Hon. Francis Pym, has assured Sir Bernard that the Government will not seek a closure on the second reading at the usual time of 10 p.m. Thus, the debate, which is likely to begin at 4 p.m., will not be cut short.

7. Although the Government had intended a Three-line Whip, Sir Bernard has just had it confirmed that they have now climbed down, probably because of the points of order raised last Thursday. The Government realises that they are going to have some sort of revolt from Tory backbenchers and do not want to be made to look foolish.

.../2

8. What this means is that if M.P.s are in Parliament they are expected to vote for the Government, but they can "pair" (i.e. find a member of the Labour Opposition and agree that neither will vote) if they so wish. Sir Bernard feels that this is a significant move by the Government.

9. We are now preparing speeches for Sir Bernard and further background information for other key M.P.s.

10. The Lord Privy Seal has now replied to the IAA-sponsored Petition to the House of Commons. A copy of the reply is attached.

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13th April 1982

Chief Sam Bull
Acting President
Indian Association of Alberta
Room 202, Kingsway Court
11710 Kingsway Avenue
EDMONTON
Alberta T5G 0X5

Dear Sam,

I did promise you a final political round-up. Pressure of other work has delayed this a little, but we now enclose it.

We hope this paper will be helpful, particularly because of the strong criticism of the IAA London operation from the FSI and the UBCIC. There is virtual unanimity here that the IAA approach was the only practicable one. Furthermore, despite FSI claims that they organised and ran the London lobby, the leading actors who spearheaded all operations were Bruce George and Sir Bernard Braine in the House of Commons, and Lords Morris and Gosford in the Lords - all of whom either refused to have any contact or dealings with the FSI after November 1981 or, in the case of Charlie Gosford, did not have any contact with Dr. O'Connell until after Third Reading in the Lords.

These facts should strengthen your hand in any inter-Indian negotiations, discussions or inquests.

What you have achieved through the London lobby and the Denning Judgment will also, we hope, be of great assistance in your negotiations with the Federal and Provincial Governments, and in International Forums.

.../

George also mentioned the possibility of some sort of continuing activity. Certain MPs and peers here, in particular the four mentioned above, are anxious to form a group to monitor all developments concerning treatment of Canadian Indians (Treaty and Land Rights, etc.). We await your reactions to this.

I enclose Lord Gosford's letter which appeared in The Times last Thursday, which he sent them on 1st April; earlier publication being clearly delayed by the Falklands Crisis.

With best wishes,

Yours

Grenville

Grenville Jones

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13th April 1982

AN ASSESSMENT

of the

LONDON LOBBY

of the

INDIAN ASSOCIATION OF ALBERTA

1. In assessing the success of any political lobby, it is necessary to define both the aims of that lobby and the parameters which constrain it. There was a divergence of views on the need for a lobby at Westminster, not only initially within the IAA, but most certainly as between the various PTOs.

2. The UBCIC took the view that Westminster (despite its power to legislate for Canada) was of little importance. Although Chief Bob Manuel and Louise Mandel often visited London (the latter more for the UBCIC High Court action), the British Columbian position was made crystal clear to EDS and Bill Cash in our office:- the Indian Nations were sovereign nations which should treat only with other sovereign states (Germany, Denmark, etc.).

3. They were also highly critical of British MPs, particularly Bruce George and Sir Bernard Braine, because these MPs, along with the rest of the parliamentary lobby, did not support the sovereignty argument. This, however, did not prevent them from meeting with MPs.

4. The FSI, who maintained a strong and continuing presence in London, took up the position (only muted later):

   a) that the Indian Nations were not within Canadian jurisdiction;

   b) that the FSI did not want British MPs to pursue the minority and human rights line;

.../

c) if the procedures and rules of the British Parliament did not allow this, then MPs should change those rules (more comment on this later).

5. The IAA also originally adopted the sovereignty stance but softened this after consultation with advisers, MPs and peers. The IAA agreed that the most productive and effective case to promote was that of Aboriginal Treaty, Human and Minority rights.

6. Some influences within the IAA also questioned the need for the British operation, but eventually became convinced of its usefulness.

7. Thus the IAA, while in no way abandoning the longer-term self-government argument, accepted the parameters set by Westminster's constitutional conventions which, of course, included the right to self-determination.

8. The IAA also quickly developed a political appreciation and understanding of what was possible within Westminster's terms. They accepted that given the nature of the relationship between Canada and the UK and the anomalies in the Constitution, there was never any possibility of the Constitution not being patriated. Indeed it could be argued that no one, not even Indians, opposed patriation as such. What they wanted was entrenchment of their treaty rights.

.../

9. The IAA legal action was undertaken within the context of the Parliamentary battle. The delay in the legislation which this action brought about and the Denning Judgment proved a very great assistance in the debates which followed. But it should be remembered that the IAA decision to embark on this course was strongly attacked both by the FSI and the UBCIC who did everything to discourage and delay the IAA action.

10. In parallel with the slanderous comments made by the representatives of these PTOs about IAA political advisers, technicians, and the MPs selected by them as Parliamentary opinion leaders (see below), attempts were also made to shake IAA confidence in their leading Counsel. Mr. Louis Blom-Cooper, QC, is an advocate of great experience whose reputation rests not only on his defence of the "underdog", but also on his having been selected in the past to lead successfully for the Crown in Privy Council and other cases immediately relevant to the issues at stake in the action brought by the IAA. Despite his reputation, the IAA will be aware of the slur made by the representative of another PTO who described Mr. Louis Blom-Cooper as "a poor advocate with a losing record".

11. Despite misguided and malicious remarks of this nature, the IAA were not deflected from the legal course of action which they had initiated.

.../

12. Any assessment of the effectiveness of the lobby is a matter for two groups:

a) the IAA; and

b) those MPs and peers who were lobbied, particularly those who spearheaded the parliamentary campaign.

13. In the final analysis, the latter are perhaps the only people qualified to assess the effect of the approaches made by the IAA and its advisers on parliamentary opinion.

14. Before dealing with this matter we wish to make certain comments on the activities of the FSI lobby in London, and its attitude to the IAA advisers and those parliamentarians who took the IAA line.

15. While of course we appreciated the difficulties of the IAA within the Canadian Indian context and the need to achieve as much common ground as possible, we felt that by the nature of the divergence of views a common front was never possible. Even when it was agreed that all parties should proceed with their different policies and respect, and not attack, eachother's position, this did not work out in practice.

16. The FSI representatives in London were critical of the Early Day Motion put down by Sir Bernard Braine. There was a determined move to sabotage the IAA petition to Parliament

.../

including strong criticism of Bill Cash and EDS. As is well-known, representatives of both the FSI and the UBCIC rejected Sir Bernard Braine and Bruce George as parliamentarians of little weight or effectiveness.

17. At a meeting held in London in February, attended by the IAA, Quebec and Saskatchewan Indians and by Grenville Jones of EDS, an FSI spokesman stated that his group had "long left MPs like Sir Bernard Braine and Bruce George behind, and were dealing with Privy Counsellors." He said that they'd met 175 MPs and had strong support. He appeared very startled when he was informed that Sir Bernard Braine and Bruce George had received pledges of support from over 100 MPs. More recently, the FSI in London wrote to the Speaker of the House of Commons attacking Bruce George and Sir Bernard Braine.

18. During the course of the February meeting the FSI representative said that it was politically disastrous to put down detailed amendments to the Constitution. This attitude was rejected by Bill Cash and EDS (with MPs support) as politically naïve.

19. Despite the criticism directed at Bruce George and Sir Bernard Braine, it is acknowledged by all that these two MPs were the spearhead of the lobby. The Earl of Gifford paid tribute to them during his speech in the House of Lords on Second Reading.

.../

20. Both Sir Bernard Braine and Bruce George have received substantial mail, much of which is from Canadians, congratulating them on their fight for the Indian peoples. All the speakers for the Indian cause in the House of Commons were recruited by these two MPs and by no one else. The divisions were organised by Bruce George, who acted as Whip for the Indian cause. The IAA amendments were the only ones voted on.

21. It was also through Bruce George, who shares a room with Stanley Clinton Davis, the Opposition Spokesman on the Canada Bill, that we were able to obtain a direct line into Opposition Front Bench thinking, and to play some part in influencing policy by briefing Stanley Clinton Davis on at least a dozen occasions.

22. Indeed, perhaps the most interesting assessment of the IAA lobby came from Mr. Clinton Davis at the tea party held by the IAA in the House of Commons, when he described the IAA operation as "a lobby the like of which I have never seen before".

23. While the House of Lords had a good Second Reading and twelve of our supporters spoke for the Canadian Indians, the Committee Stage was virtually by-passed because of an arrangement between the two Front Benches. Even so, seven peers supported the Indian cause.

.../

24. The Third Reading in the House of Lords, as the relevant Hansard Report shows, would have been over in five minutes. However, the interventions of the Earl of Gosford and Lord Morris kept their Lordships going for nearly 40 minutes. The information on his not being allowed to continue speaking, and the subsequent substantial press coverage, have been sent to you.

25. The Lord Gosford episode has aroused considerable reaction (the last time this happened was in 1858) both here and, we understand, in Canada.

26. This account of the London Lobby closes one chapter in the Indian struggle for self-determination, justice and Human Rights.

THE TIMES THURSDAY APRIL 8 1982

LETTERS TO THE EDITOR

Canada's Constitution

From Lord Gosford

Sir, Your *Times* Diary mention (March 30) of the vote by the House of Lords to stop me speaking on the Canada Bill raises issues of greater importance than the interesting historical context in which you place it.

In the House of Commons, thanks to the efforts of Mr Bruce George (Lab) and Sir Bernard Braine (C), and the statesmanship displayed by the Labour Opposition in tabling and talking to amendments, Indian grievances were fully aired and placed on the record.

In the Commons, the Bill was debated for 22½ hours. However, in the Lords, after a normal second reading, the Government and the official Opposition came to an arrangement which meant that the committee stage was virtually by-passed. It was for this reason that I sought, in a speech which, uninterrupted, would have scarcely lasted more than 15 minutes, to produce evidence in support of the grave allegation which I had already made.

Despite Parliament's ancient tradition of protecting human rights peers were not willing to consider the opinion I had quoted of the eminent jurist, Professor James Fawcett (three times President of the European Commission of Human Rights) that in passing the Canada Bill unamended, Parliament was in breach of the United Kingdom's obligations under the International Covenant on Civil and Political Rights.

History will record that the House of Lords stifled the briefest comment on the deficiencies of the Canadian Constitution that they were rubber-stamping, and refused to hear evidence of the Canadian Government's avowed intention to extinguish, rather than continue, the land title of Canada's native peoples.

The evidence included secret legislation proposals which had just come to hand confirming that Indian lands will be subject to expropriation and compensation "determined by the body designated by the legislation which authorizes the expropriation."

Yours faithfully,
GOSFORD,
House of Lords.
April 1.

HOUSE OF COMMONS
LONDON SWIA OAA

from: Sir Bernard Braine, D.L., M.P.

12th February 1982

BACKGROUND INFORMATION ON THE CANADIAN CONSTITUTION and THE CANADA BILL

(Second Reading on Wednesday, 17th February 1982)

1. Canada's position in the community of nations is unique. It is to all extents and purposes a totally independent sovereign state with its own international identity.

2. However, Canada is not, in constitutional terms, a fully independent sovereign state. Because of its complicated history and the Federal structure, the Canadian Constitution remains here at the specific request of past Canadian Federal and Provincial Governments. As Denning has ruled, "Canada is not completely independent. It is still tied hand and foot by the British North America Acts of 1867 to 1930".

3. The Canadian Government has now requested the U.K. Parliament to enact a law "patriating" the Canadian Constitution to Canada. Canada can only obtain full constitutional independence when the British Parliament enacts this.

4. This constitutional dilemma has resulted in an embarrassing situation. The Canadian Government, while regarding itself as fully sovereign, has to approach another government in order to request the return of its own Constitution. This hurts their pride. The Canadian Government has insisted that when it requests the U.K. Parliament to return the Canadian Constitution, we should accēed without demur. There have even been statements to the effect that Britain has no right to intervene in Canadian affairs and, if British M.P.s do not like the Bill, they should "hold their noses and pass it".

.../2

5. Certainly, many British M.P.s feel reluctant to intervene in what they believe is basically a Canadian matter.

6. Both the Canadian Government and the British Foreign Office are promoting that view on the grounds that there is a parliamentary convention that we should not deliberate about Indian rights and interests. They have similarly asserted that the Bill cannot be amended in any way. The only option is to "send it back to Canada as it is".

7. Virtually all British parliamentarians would go along with the view that the British Parliament should not hesitate to repeal their jurisdiction over the Canadian constitution just as soon as Canada requests them to do so. However, the Canada Bill is much more than a simple request that we should divest ourselves of our remaining powers under the BNAA. Most of the Bill comprises original legislation drawn up by the Canadian Government against the opposition of Indian interests and Quebec and without consultation with the British Parliament, who are expected to enact it as it stands. It is a complex measure which was whipped through the Canadian Parliament with the debate being guillotined before many important clauses could be even discussed.

8. There is a growing feeling that Parliament has a moral duty to exercise its right to scrutinise and, if necessary, to amend the Bill in order to protect certain rights, particularly aboriginal rights.

9. A clear indication that the advice of the two Governments is totally wrong is given by the Speaker's confirmation that the Bill is capable of amendment, that amendments can be tabled and, at the discretion of the Chair, will be called and debated.

10. There is also concern amongst some M.P.s over the position of Quebec, which has rejected the Canadian constitutional proposals and which is a founder province of the Canadian Federation, with one quarter of Canada's total population. Quebec has challenged the legality of the Canadian Resolution which is reproduced word for word in the Canada Bill. They are asking the Canadian Courts to rule that Quebec's agreement is essential to the Bill. The Government, quite wrongly, are refusing to await this constitutional decision.

.../3

11. The Indians of Alberta, New Brunswick and Nova Scotia have asked the Courts here to say that the British Crown was still bound by Treaties with the Indians and by George III's Royal Proclamation of 1763. The Court of Appeal ruled on 28th January that the Crown in Canada was now responsible, but that the obligations were still binding and were part and parcel of the BNAA which, for the time being, remains our responsibility.

12. Unfortunately, Lord Denning, in his Judgment on 28th January, obviously did not feel it proper to criticise the Canadian Parliament or Judiciary. He said: "There is nothing, so far as I can see, to warrant any distrust by Indians of the Government of Canada".

13. In a joint letter from Bruce George and myself, published in the GUARDIAN of 4th January, we gave two examples in which the Canadian Courts had been rendered powerless by laws of the Canadian Parliament to protect Aboriginal and Treaty Rights from being extinguished. Ironically, the laws in question were not even aimed at extinguishing those rights. There are other examples also which show that the Crown obligations to the Indians which Lord Denning ruled were solemn and binding have been casually destroyed by Canadian Parliaments in the past.

14. Lord Denning, however, went on to suggest that there may be reason for concern. He said: "But in case there should be (distrust), the discussion in this case will strengthen their (the Indians') hand so as to enable them to withstand any onslaught. They will be able to say that their rights and freedoms have been guaranteed to them by the Crown -- originally by the Crown in respect of the United Kingdom -- now by the Crown in respect of Canada -- but, in any case, by the Crown. No Parliament should do anything to lessen the worth of these guarantees. They should be honoured by the Crown in respect of Canada 'so long as the sun rises and the river flows'. That promise must never be broken".

.../4

15. The Bill contains within it the means by which all remaining Native Rights can be extinguished by agreement between the Federal Government and 7 out of the 10 Provinces. There is little doubt that the Provinces are interested in acquiring Native land and the resources beneath it. The Canadian Prime Minister is on record as saying that he does not believe in Aboriginal Rights and that perhaps the Treaties should not continue. Documents in my possession update this policy statement: they state explicitly that Canadian Federal policy is to extinguish, rather than continue native title to land.

16. Opinions by Professor James Fawcett, three times President of the European Human Rights Commission, and by British Columbia Law Professor, Douglas Sanders, state in full and unequivocal detail that the Charter of Rights and Freedoms, which is part of the Bill is in contravention of the International Covenant of Civil and Political Rights and of the U.N. Charter. Both are binding on the Canadian and British Government. However, this is a British, not a Canadian, Bill, so it is our Parliament that is being asked to flaunt Britain's international human rights obligations.

17. I believe our moral duty is clear. However embarrassing it may be, we must adhere to our international human rights obligations and play our part, as Lord Denning invited us to, in ensuring that this Parliament, at least, does nothing to lessen the worth of the Crown's guarantees to the Aboriginal peoples of Canada.

18. Detailed and constructive amendments to the Bill have been worked out with a Parliamentary Agent. These amendments would secure Native Rights. I hope that M.P.s will support those who move them in the Lobby.

ENDS