

Reactions to the Forthcoming
Constitutional Conference to be held
in Ottawa on March 15-16, 1983.

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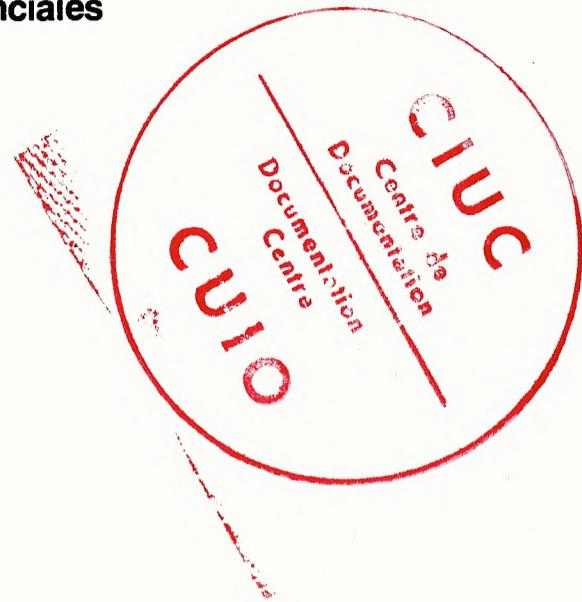


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REVUE QUOTIDIENNE DE LA PRESSE

REACTIONS
to the Forthcoming
CONSTITUTIONAL CONFERENCE
to be held in
OTTAWA on MARCH 15-16, 1983

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REACTIONS
à la
CONFERENCE CONSTITUTIONNELLE
qui se tiendra à
OTTAWA les 15-16 MARS 1983

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Natives fear talks doomed

By Ken MacQueen
Canadian Press

Native groups say the historic first ministers' conference on aboriginal rights here Tuesday and Wednesday may fail before it begins unless they win more provincial support.

They fear they don't have the support of enough provinces to entrench a clause in the Constitution requiring a continuing series of negotiations to resolve the question of what special rights Indians, Inuit and Metis have in the Constitution.

"If they can't entrench an ongoing process in the Constitution, then I think I know where we stand," Mark R. Gordon, chief constitutional negotiator for the Inuit Committee on National Issues, said on the weekend.

Without that clause, native leaders fear rights negotiations may end Wednesday, with the governments having fulfilled the current requirement in the Constitution to hold one first ministers conference on aboriginal rights by this April 17, within a year of the Constitution becoming law.

To entrench further meetings, the Constitution must be amended to with the support of Parliament and seven provinces representing 50 per cent of the population.

Right now, they don't have the numbers.

Native groups are reluctant to say which provinces are against an entrenched process. They say they can count the federal government, Ontario and Manitoba, and the rest will depend on how effective their lobbying is.

Quebec reluctantly holds the key, said Norman Zlotkin, a University of Saskatchewan professor and author of a study published this month on the conference.

"Unless Quebec changes its mind about participating there won't be enough support to entrench a constitutional amendment," he said.

And Quebec Premier René Lévesque told Indians he doesn't know what he'll do if Quebec support becomes essential for a constitutional amendment on a continuing negotiations or several other issues.

Lévesque says he supports native aspirations but still refuses to accept the Constitution as legitimate since Quebec wasn't part of the constitutional agreement reached between the other nine provinces and the federal government in 1981.

Zlotkin said private discussions with government and native participants of several preparatory meetings convince him British Columbia will lead the opposition to entrenching an ongoing series of negotiations.

La conférence constitutionnelle d'Ottawa

■ Les autochtones préfèrent encore des garanties écrites

par Paule des Rivières

OTAWA — Même si elle est historique, la conférence constitutionnelle sur les droits des autochtones, qui s'ouvre demain à Ottawa, n'est qu'une étape dans une négociation qui s'échelonnera au moins sur trois ou quatre ans.

En fait, la conférence de deux jours n'aura de sens que si elle débouche sur une entente entre les représentants autochtones, le gouvernement fédéral et les provinces sur un mode de rencontres ultérieures, pour définir quels sont au juste les droits des autochtones au Canada.

Ottawa est prêt à s'engager à tenir une conférence constitutionnelle à chaque année durant les trois prochaines années ou encore une conférence à tous les deux ans durant quatre ans.

De plus en plus énergiquement, le gouvernement fédéral privilégie l'avenir: il se montre prêt à définir les droits futurs des populations autochtones, mais il se montre beaucoup moins prompt à remonter le temps et à disséquer les erreurs des sièges passés. Bref, Ottawa va tenter de ne pas s'appuyer sur des prérogatives historiques.

Or, les autochtones insistent justement pour que leurs droits historiques soient solidement enracinés dans la constitution. Au point qu'ils veulent amender les quelques lignes qui leur sont consacrées dans la constitution actuelle. Le texte ne mentionne en effet que les droits « existants » des peuples autochtones. Ces derniers prègèrent parler de « titres autochtones ».

Vaine sématique? Pas vraiment, pense le gouvernement fédéral, pas spécialement enthousiaste à l'idée de modifier le texte actuel.

Cela ne vas pas exactement dans le sens des revendications des autochtones, qui sont par ailleurs « ouverts ». Mais, pour l'avenir, les autochtones aimeraient que les rencontres futures soient garanties dans la constitution, en partant. (Sept provinces doivent être d'accord).

« Il se produit invariablement des incidents qui nous incitent à la méfiance », déclarait récemment un porte-parole de l'Assemblée des premières nations, qui représente les 292,700 Indiens inscrits du pays.

Et ce n'est pas l'annonce, cette semaine, d'un budget de \$40.3 millions aux Inuit pour produire leurs propres émissions de télévision qui les amadouera.

Ce à quoi le président de l'Inuit Tapirat du Canada, M. John Amajoalik, fait échos: « notre instinct nous suggère de suivre la route la plus sûre; c'est pourquoi nous aimerais que l'engagement à poursuivre les discussions ou à tenir d'autres conférences soit enraciné dans la constitution. » Il y a 25,300 Inuit au pays.

Ce sera la première fois que les autochtones participent à une conférence constitutionnelle sur un pied d'égalité avec les autres participants qui sont, outre le fédéral, les dix provinces, ainsi que le Yukon et les Territoires du Nord-Ouest.

La conférence aura été compromise jusqu'à la dernière minute, cependant, une scission étant survenue entre les représentants des 98,200 Métis — concentrés dans l'Ouest — et ceux des 75,110 Indiens non inscrits. Les premiers se sont dissociés du Conseil des autochtones et ont fait des pieds et des mains pour avoir leur propre siège à la conférence d'Ottawa; ils l'ont obtenu.

Tout en reconnaissant qu'il n'y a rien comme un « ennemi commun » pour les rapprocher, et tout en admettant que les divisions entre les autochtones ne peuvent que nuire à leur cause, ces derniers ne veulent plus qu'on mette leur légitimité en doute à la moindre dissension. « N'oubliez pas que nous avons été ennemis pendant des millénaires », faisait valoir l'un d'eux, vendredi, lors d'une session d'information à l'intention des médias.

En plus du mode de discussion future, l'autre question majeure à cette conférence est celle de la participation des autochtones aux décisions qui les affectent.

Le gouvernement fédéral jongle avec deux hypothèses: ou un engagement politique à consulter les associations autochtones avant de modifier la constitution sur des points qui les touchent, ou alors un engagement constitutionnel, par ailleurs toujours limité à la consultation.

Cette seconde voie sera difficile d'accès car elle suppose une modification à la formule d'amendement actuellement incluse dans la constitution. Or pour y parvenir, le consentement des 10 provinces est requis. Cela semble écarté.

D'abord, dans l'Ouest, on résiste ferme. Et puis, au Québec, le gouvernement Lévesque pourrait refuser de voter sur la question, parce qu'il ne reconnaît pas la constitution, encore appelée, non sans mépris, le Canada bill. La délégation autochtone du Québec tentait encore, ce week-end, de convaincre le premier ministre Lévesque de ne pas lui nuire.

De toutes manières, les autochtones veulent plus qu'un simple droit de consultation, encore que les sensibilités varient d'une association à l'autre.

D'autres sujets sont à l'ordre du jour de la conférence: la compétence des tribunaux administratifs, comme la Régie québécoise des loyers et son pendant ontarien, qui a été contestée, les tribunaux familiaux, de manière à ce que les provinces aient plus de souplesse et puissent transférer des cas de garde d'enfant ou d'éviction à des tribunaux administratifs, ne les laissant plus entre les mains des cour supérieure, les droits de propriété et enfin la succession intérimaire du lieutenant-gouverneur.

A ces questions s'ajoute un dîner, et peut-être davantage, sur l'économie, à la demande du premier ministre Trudeau lui-même. C'est au cours de ce repas que les premiers ministres aborderont l'économie et il sera quasi-impossible à M. Lévesque de se défiltrer.

De plus, il n'est pas complètement exclu, quoiqu'improbable, que la question du Québec et de son droit de veto soient abordés. Mais si les provinces anglaises, le Québec et Ottawa se disent ouverts à toute initiative qui réconcilierait le Québec, personne à ce stade-ci n'est prêt à faire de proposition concrète.

Les représentants autochtones, eux, craignent d'être eclipsés par ces multiples autres considérations.

Outre le mécanisme de discussion ultérieure, la définition des droits des autochtones est primordiale, y compris leur enracinement dans la constitution, avec une reconnaissance de leurs droits ancestraux (on touche ici aux revendications territoriales) et celle d'une formule d'amendement en vertu de laquelle les autochtones auraient leur mot à dire advenant des changements les touchant.

Sur ce point, le fédéral parle de consultation ou d'une certaine forme de consensus, et les autochtones de veto ou d'une formule de consentement. Leur accord serait préalable à des modifications les touchant.

Les autochtones sont également préoccupés par la souveraineté et la représentativité parlementaire mais ces questions ne seront pas discutées en profondeur. Encore là, les sensibilités varient selon les groupes. Alors que l'Assemblée des premières nations veut s'approcher de la souveraineté, les Inuit, parce qu'ils sont largement majoritaires là où ils se trouvent, sont moins inquiets et arrivent plus aisément à contrôler leurs institutions.

Il est clair que l'issue des pourparlers avec les représentants autochtones aura des répercussions sur les négociations sur les revendications territoriales en cours présentement (notamment au Yukon) et l'utilisation des ressources de la mer et de la terre.

Cette conférence constitutionnelle ne sort pas des nues d'ailleurs; le premier ministre était tenu de la convoquer avant le 17 avril, soit dans les 12 mois suivant l'entrée en vigueur de la nouvelle constitution canadienne.

La conférence — où peuvent et où seront abordés d'autres sujets que la question autochtone — vise à reprendre le dialogue avec les autochtones, qui, dans les tractations de dernière heure qui ont précédé l'adoption de la constitution par les provinces en novembre 1981, avaient été sacrifiées, avec les femmes et le Québec. En fait, on leur a consenti une conférence ainsi que deux paragraphes dans la constitution, dont un confirmait leurs droits, mais qui les laissent complètement sur leur faim.



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De son côté, le gouvernement fédéral est prêt à étudier deux formules de rencontres ultérieures, soit une conférence annuelle durant trois ans, soit une conférence à tous les deux ans durant les quatre prochaines années.

Du côté des provinces, on est beaucoup moins loquace. Mais il est clair que les provinces de l'Ouest, de loin les plus touchées, sont réfractaires à l'idée d'en-chasser des droits autochtones dans la constitution.

Le Québec non plus ne veut rien entendre : « il n'est pas question d'accepter un amendement constitutionnel qui enchaînerait leurs droits (des autochtones) dans le Canada Bill », déclarait un membre du gouvernement. Les réticences québécoises ne sont pas liées à des résistances à l'endroit des autochtones — le gouvernement veut leur faire une place dans sa charte ou dans ses lois — mais plutôt au fait qu'il ne reconnaît pas la constitution. En fait, il espère pouvoir se vanter de ses réalisations dans le dossier autochtone même s'il reste à voir si les Indiens et les Inuit approuveront publiquement l'entente de la Baie James.

Le Québec a tout de même jugé qu'il ne pouvait s'offrir le luxe d'ignorer la question autochtone et de s'abstenir. Sa participation sera donc officielle : le premier ministre Lévesque lira l'allocution d'ouverture demain matin. M. Lévesque sera accompagné des ministres de la Justice et des Affaires inter-gouvernementales, MM. Marc-André Bédard et Jacques-Yvan Morin.

Les représentants du gouvernement ont eu plusieurs rencontres avec les porte-paroles autochtones du Québec mais leur entente reste partielle dans la mesure où les populations autochtones du pays veulent transiger d'abord avec le gouvernement fédéral (sauf les Métis), se méfiant des sautes d'humeur des provinces, contre lesquelles la constitution canadienne les prémunirait.

Pour l'Inuit Tapirisat du Canada, M. Amagoalik a déclaré il y a quelques jours que le simple fait d'avoir inscrit dans la constitution actuelle un paragraphe à l'effet que « les droits existants — ancestraux ou issus de traités — des peuples autochtones du Canada sont reconnus et confirmés », avait déjà provoqué l'assouplissement de certaines provinces qui négocient présentement sur les revendications territoriales.

Il reste que le paragraphe pourrait susciter des débats animés parce que les trois associations autochtones le jugent trop limitatif. Le gouvernement fédéral est ouvert aux discussions, là-dessus ont assuré ses porte-parole.

Mais les résistances les plus farouches pourraient venir des provinces, et les autochtones le savent fort bien.

En Saskatchewan, un représentant du gouvernement expliquait que sa province était plus que désireuse de poursuivre les négociations avec ses populations autochtones mais que compte tenu du contexte économique et compte tenu du refus du Québec à tout changement constitutionnel, il serait préfé-

rable de ne rien enchaîner dans la constitution. La Saskatchewan est la province qui a la plus forte proportion d'autochtones, plus de 10 % de sa population de 1 million d'habitants.

En Alberta, où le premier ministre Peter Lougheed se vante d'avoir du sang indien, la position de la province est à peu près semblable.

Rejoint au téléphone, le ministre des Affaires fédérales et intergouvernementales, M. Jim Horsman, a confirmé que son gouvernement est réticent à inscrire quoi que ce soit dans la constitution, parce qu'il est plus simple de procéder autrement. Il fait valoir qu'une disposition constitutionnelle pourrait s'avérer trop rigide alors que les modes de consultation futures pourraient prendre diverses formes.

Interrogé à savoir si son gouvernement arrivait à Ottawa avec une preuve de sa bonne foi dans ce dossier, M. Horsman a déclaré qu'il négociait présentement avec les Métis (l'Alberta a la plus forte concentration de Métis) sur des questions de territoires.

« Nous disons que le gouvernement fédéral a une responsabilité à assumer à l'endroit des Inuit et des Indiens; nous reconnaissons la notre envers les Métis », a-t-il déclaré, adoptant ainsi une position semblable à celle de la Saskatchewan qui a dénoncé le gouvernement fédéral encore tout récemment, pour avoir coupé les subventions pour l'éducation et la santé aux Indiens vivant hors des réserves.

• Conférence fédérale-provinciale sur les droits des autochtones

17 participants au lieu de onze

par Michel C. Auger

OTTAWA (PC) — Pour la première fois, les participants aux négociations constitutionnelles ne seront plus onze mais bien 17 quand le premier ministre Pierre Trudeau ouvrira officiellement la conférence sur les droits des autochtones, demain matin, dans la salle principale du Centre des conférences d'Ottawa.

En plus du gouvernement fédéral et les dix provinces, six nouveaux participants seront admis à la table des discussions constitutionnelles, jusqu'à la chasse gardée des onze premiers ministres.

La nouvelle constitution prévoit, en effet, que les représentants élus des gouvernements des Territoires du Nord-Ouest et du Yukon et des associations représentant les Indiens, Inuits et Métis, participeront aux travaux de cette conférence consacrée à la définition de leurs droits constitutionnels.

M. Trudeau a donc invité l'Assemblée des premières nations à représenter les 300,000 Indiens, le Conseil Inuit sur les questions nationales sera le porte-parole des 25,000 Inuits et le Conseil autochtone du Canada interviendra au nom des Métis et des 75,000 Indiens sans statut.

Métis des Prairies

Les quelque 80,000 Métis des provinces des Prairies qui étaient en rupture de ban avec le Conseil autochtone du Canada se sont vu octroyer, vendredi, un siège à la table des négociations après avoir brandi la menace d'obtenir une injonction pour bloquer les travaux de la conférence.

Ils seront représentés par le tout nouveau Conseil national Métis.

La tenue de la conférence de cette semaine était rendue obligatoire par l'article 37 de la nouvelle constitution qui

prévoyait sa convocation dans l'année qui suivait le rapatriement de la constitution, donc avant le 17 avril 1983.

Après quatre rencontres de fonctionnaires et deux réunions au niveau ministériel, les représentants des 17 partenaires acceptaient un ordre du jour qui avait été mis de l'avant par les associations autochtones.

Les discussions porteront d'abord sur une charte des droits des autochtones qui comprendrait une reconnaissance de leur statut et de leurs droits particuliers.

Formule d'amendement

De plus, on discutera de modifier la formule d'amendement à la constitution pour que les questions autochtones soient soustraites au droit de retrait des provinces, ce qui signifierait qu'une éventuelle charte des droits autochtones serait appliquée également partout au Canada.

Les autochtones veulent également que leur consentement soit obligatoire pour l'adoption de tout amendement qui les concerne, alors que le gouvernement fédéral et certaines provinces préfèrent parler de consultation.

"Mais nous ne voulons pas un veto, comme ils le prétendent, affirme un leader inuit. Ce que nous voulons c'est ce qui est déjà prévu dans les cas où un amendement ne touche qu'une province. Il faut alors l'accord de cette province et d'Ottawa. Nous

voulons la même chose, qu'un amendement qui nous touche doive être approuvé par nous et le gouvernement fédéral".

Mais toute modification à la formule d'amendement exige le consentement unanime des onze gouvernements ce qui est loin d'être acquis, affirment des hauts-fonctionnaires fédéraux et provinciaux.

Les autochtones se sont plaints, tout au long des discussions préparatoires, que les gouvernements provinciaux refusaient de montrer leur jeu et de prendre position sur les propositions mises de l'avant par les autochtones ou le gouvernement fédéral.

Seuls le Manitoba et l'Ontario se sont montrées assez ouvertes et ont fait des propositions concrètes, affirment certains porte-parole autochtones, alors que les trois provinces de l'Ouest — Saskatchewan, Alberta et Colombie-Britannique — sont celles qui seraient les plus réfractaires.

Le Québec

Les autochtones s'inquiètent aussi de la position du Québec qui, en affirmant toujours ne pas reconnaître la nouvelle constitution et la formule d'amendement, pourrait effectivement bloquer toute tentative de modifier la constitution.

Les modifications à la formule d'amendement exigeant le consentement unanime des onze gouvernements, même une abstention de la part du Québec pourrait faire échouer toute tentative de modification.

Le Québec pourrait également disposer de la septième voix décisive dans le cas où les trois provinces de l'Ouest refuseraient d'encaisser dans la constitution la continuation du processus de définition des droits des autochtones ou quelques éléments d'une charte des droits des



autochtones.

Les discussions toucheront également les questions de la constitution d'un gouvernement autochtone autonome, de l'abrogation des articles de la constitution traitant de la création de nouvelles provinces à même les deux territoires, dispositions qui inquiètent grandement les autochtones.

Et après

Enfin, dernier point à l'ordre du jour mais sans doute le plus important, les délégations seront appelées à discuter de la poursuite du processus de rencontres constitutionnelles sur les droits des autochtones.

Selon les propositions du gouvernement fédéral, on pourrait assister à une conférence par année pour les prochains trois ans ou deux conférences au cours d'une période de quatre ans.

Selon les représentants autochtones — et ce point de vue est partagé par certains gouvernements — il est impensable que l'on puisse régler cette question au cours des deux prochains jours et que cette conférence ne peut que servir de point de départ.

"Le succès de cette conférence sera déterminé par la volonté des premiers ministres de compléter les négociations qui y auront été amorcées", affirmait l'un des leaders Métis, "ce sera la première fois que nous négocierons officiellement avec eux et nous négocieront, en fait, notre entrée dans la confédération".

Pour les autochtones: une première

**la politique
fédérale**

par Michel Gratton

courrieriste parlementaire

OTTAWA — Ils ne pouvaient quand même pas nous en priver indéfiniment.

Comment les onze premiers ministres du seul pays au monde uni par un chemin de fer qui ne fonctionne plus pourraient-ils efficacement compliquer l'avenir de l'univers s'ils ne pouvaient se retrouver à la Table constitutionnelle une fois de temps en temps?

Quand on les voit débarquer dans leurs retraites préférées — René Lévesque au Plaza de la Chaudière, Peter Lougheed au Skyline, Bill Davis au Four Seasons — quand ils ne se ramassent pas tous au Château Laurier, pendant que Pierre Elliott rêve secrètement au 24 Sussex de voir la foudre les frapper tous en même temps, on ne peut tout à fait s'enlever de l'idée l'image du club de «old boys» se rendant à leur congrès annuel.

Les visages des joueurs n'ont pas tellement changé

depuis, comme le disent les sportifs au moins une fois par année, «le match du siècle». Rien de plus que deux nouvelles recrues du Manitoba et de la Saskatchewan. Plus du cérébral Allan Blakeney ou du viscéral Sterling Lyon.

Mais, quand ils rependront demain matin leurs sièges traditionnels à la table ronde du Prince Pierre, ils ressembleront probablement tous aux photos du passé. Ils auront probablement tous leurs mots de sagesse à livrer à la postérité. Ceux qui ont à faire face à des élections prochainement seront plus sages que les autres. Richard Hatfield sera au bord des larmes, Peter Lougheed ne sourira pas.

sous les dents serrées, Bill Davis se cachera derrière sa pipe, René Lévesque ne manquera pas de piquer Trudeau, Trudeau fera semblant de rien entendre en ayant l'air de compter les fissures au plafond. A ses côtés, le ministre John Munro, comme un comédien qui vient de gagner son premier Oscar, fera tout pour avoir l'air de l'homme qui passe à l'histoire.

John Munro est ministre des Affaires indiennes. Et, même si une majorité de Canadiens ne sont probablement pas au courant, c'est précisément des autochtones qu'ils vont parler pendant deux jours au Centre des conférences.

Et c'est là que les Canadiens risquent d'être surpris et confus. Parce que, à part les onze acteurs habituels de la comédie, il y aura «du drôle de monde» à la table. Les premiers ministres auront en effet droit à la compagnie des représentants des grandes organisations autochtones du pays (Amérindiens, Métis et Inuit) en plus des dirigeants des deux gouvernements territoriaux du Nord.

Ne vous en faites pas si vous ne comprenez pas très bien de quoi ils parlent. Il n'y a pas beaucoup de monde dans la salle qui y comprendra vraiment grand'chose. Le «what does Québec want» à côté de ça, ce n'est rien.

Tout simplement parce que les problèmes que l'on a feint d'ignorer pendant des siècles, contrairement au proverbe, ne se règlent pas

toujours nécessairement avec le temps. Parfois, ils se compliquent.

Un peu comme Lord Durham prévoyait l'assimilation inévitable des Canadiens français qui en seraient autrement réduits au statut de «porteurs d'eau», les Canadiens des «deux peuples fondateurs» ont pour la plupart cru que le problème amérindien n'existe tout simplement pas.

Les chiffres sont imprécis puisque plusieurs milliers d'autochtones ont également perdu leur statut d'Amérindien, mais, si l'on tient compte de tous les groupes, leur nombre pourrait atteindre près de un million d'in-

dividus. Dans un pays de 26 millions d'habitants c'est beaucoup de monde, surtout quand la majorité d'entre eux sont concentrés dans les régions nordiques du pays qui seraient vides de monde autrement.

Que veulent-ils? Entre autres choses — et en simplifiant beaucoup — une charte des droits autochtones et un degré de «souveraineté» pour les bandes indiennes qui pourraient dorénavant traiter avec le fédéral «de gouvernement à gouvernement». Il y a quelque 550 bandes indiennes au Canada.

Quoi qu'ils veulent, ils ont déjà remporté une première victoire en s'asseoyant à la table des choisis du peuple. On ne peut plus maintenant faire semblant qu'ils n'existent pas. Et, il ne serait pas exagéré de dire que, peut-être sans trop le savoir, la confédération canadienne vient d'entrer dans une nouvelle ère.

Faire avancer la cause des autochtones sans nuire à celle du Québec

par Pierre Tourangeau

QUEBEC (PC) — En décidant de participer à la conférence constitutionnelle sur les droits des aborigènes qui s'ouvre demain, à Ottawa, le Québec a parié qu'il pouvait faire avancer la cause des autochtones sans nuire à la sienne.

Pour la première fois depuis que le Canada s'est doté d'une nouvelle constitution sans son accord, le Québec sera impliqué directement dans le processus de négociation constitutionnelle qu'il avait toujours boudé jusqu'ici.

Le premier ministre Lévesque a déjà expliqué qu'il ne s'objecterait pas aux demandes des autochtones à moins que celles-ci ne remettent en question des lois ou des droits québécois.

Ça n'est pas un hasard d'ailleurs s'il a formulé ainsi ce que sera l'attitude de son gouvernement tout au long de ces négociations. Il n'est en effet pas question pour le Québec d'appuyer quelque amendement que ce soit à la constitution canadienne. Ce serait là reconnaître de facto un document que l'Assemblée nationale, elle, ne reconnaît pas.

Tout au plus le premier ministre Lévesque a-t-il l'intention de s'abstenir de voter sur les changements qu'ont à cœur les autochtones et que son gouvernement n'a pas d'objection à voir enchaîner dans la constitution.

Cette manière de procéder est déjà un atout pour les aborigènes; il permettra sans doute aux participants d'en arriver à quelques ententes étant donné que le document constitutionnel n'exige l'unanimité des provinces que lorsqu'il est question d'en modifier la formule d'amendement.

Par contre, comme les autochtones réclament justement certaines modifications à cette formule d'amendement (touchant au droit de retrait des provinces et à un droit de veto "autochtone" entre autres), le Québec risque de se voir pointé du doigt si les autres participants s'entendent tous sur un point en particulier.

C'est pour cette raison que du côté québécois on tient à faire passer le message suivant: le Québec sera prêt à appuyer l'inclusion des droits des autochtones dans la constitution canadienne à partir du moment où cette constitution lui sera devenue acceptable.

En attendant, les autochtones devront se contenter de son abstention complice ou, au mieux, de son accord sur des compromis impliquant des ententes en dehors du cadre constitutionnel.

Affrontement

La salle de conférences pourrait d'autre part être le théâtre d'un affrontement entre les premiers ministres Trudeau et Lévesque au début des travaux. C'est du moins ce que craignent les délégués autochtones qui feront partie de la délégation québécoise.

Le centre de ce litige appréhendé: la composition de la délégation québécoise et le fait que M. Lévesque entend allouer un droit de parole aux autochtones qui siégeront à ses côtés.

Jeudi dernier, le premier ministre québécois annonçait que 17 des 33 sièges réservés à la délégation québécoise seraient occupés par les représentants des autochtones du Québec.

Il indiquait du même souffle que ceux-ci pourraient intervenir pour faire valoir leur point de vue propre si celui-ci s'écartait de la position officielle mise de l'avant par le Québec.

Les porte-parole du groupe de travail des peuples autochtones du Québec, le Grand Chef cri Billie Diamond et le Chef Huron Max Gros-Louis, craignent que le premier ministre Trudeau ne s'oppose à cette façon de procéder.

M. Trudeau préférera, soutiennent-ils, que chaque premier ministre défende la position officielle de sa province et que le point de vue des aborigènes soit présenté par la quinzaine de délégués qui les représentent au niveau national.

On craint encore que M. Trudeau ne voie pas d'un très bon œil que les autochtones québécois occupent autant de sièges que tous ceux du Canada réunis.

Précédent remarquable, toutes les nations et associations autochtones du Québec seront représentées au sein de la délégation québécoise: l'Association des femmes autochtones, celle des Métis et des Indiens sans statut, les Inuit, les Cris, les Montagnais et les Attikameks, les Micmacs, les Naskapis, les Mohawks, les Algonquins et les Hurons.

Natives fear provinces may scuttle rights talks

OTTAWA (CP) — Native groups say the historic first ministers' conference on aboriginal rights tomorrow and Wednesday may fail before it begins unless they win more provincial support.

They fear they don't have the support of enough provinces to entrench a clause in the Constitution requiring a continuing series of negotiations to resolve the question of what special rights Indians, Inuit and Metis have in the Constitution.

"If they can't entrench an on-going process in the Constitution, then I think I know where we stand," Mark R. Gordon, chief constitutional negotiator for the Inuit Committee on National Issues, said Friday.

Without that clause, native leaders fear rights negotiations may end Wednesday, with

the governments having fulfilled the current requirement in the Constitution to hold one first ministers conference on aboriginal rights by April 17, within a year of the Constitution becoming law.

To entrench further meetings, the Constitution must be amended to with the support of Parliament and seven provinces representing 50 per cent of the population.

Right now, they don't have the numbers.

Native groups are reluctant to say which provinces are against an entrenched process. They say they can count the federal government, Ontario and Manitoba, and the rest will depend on how effective their lobbying is.

Quebec reluctantly holds the key, said Norman Zlotkin, a University of Saskatchewan professor and author of

a study published this month on the conference.

"Unless Quebec changes its mind about participating there won't be enough support to entrench a constitutional amendment," he said.

And Quebec Premier Rene Levesque told Indians he doesn't know what he'll do if Quebec support becomes essential for a constitutional amendment on a continuing negotiations or several other issues.

Chief Max Gros-Louis of the Hurons of Quebec said Friday.

Levesque says he supports native aspirations but still refuses to accept the Constitution as legitimate since

Quebec wasn't part of the constitutional agreement reached between the other nine provinces and Ottawa in November, 1981.

Zlotkin said private discussions with government and native

participants of several preparatory meetings convince him British Columbia will lead the opposition to entrenching an ongoing series of negotiations with Alberta and Saskatchewan siding with B.C.

A long road

BY MICHAEL VALPY

OTTAWA

An acquaintance of mine who works in the Privy Council Office recalled over the weekend how, as a small boy in the late 1940s, he had been taken by his father to visit the Calgary Stampede.

Indians in feather bonnets were lined up outside the Palliser Hotel. If they were invited into the hotel for tea with the white people, they would pose later for photographs with the children.

My acquaintance still has his photograph.

Saturday was a workday for him and many of his colleagues in the PCO, the government department of the Prime Minister. They were making final preparations for tomorrow's opening of the first ministers' constitutional conference with Canada's aboriginal peoples.

A lot of distance travelled in less than 40 years: from tea-begging in downtown Calgary to the constitutional conference table in downtown Ottawa. There is a lot of distance left to go.

The Inuit, Indians and Métis seek constitutional recognition and protection of their culture, their customary law and political structures, and their proprietary and usufructuary claims to the lands they have occupied since time immemorial.

The issues are complex, and undefined. They abut powerful conflicting demands of a resource- and land-hungry industrial society. They are not high on the political agenda of the broad Canadian electorate. They, of course, are not going to be resolved at a two-day meeting.

But there are going to be shrewd and pragmatic politicians — white and aboriginal — facing each other across the table. And there are going to be fascinating things to watch for.

The aborigines will be the only Canadians who will be allowed to sit down with the Prime Minister and provincial premiers and negotiate their place in the Constitution.

That in itself is intriguing,

because it brings together two culturally opposing ways of political conduct.

The European-Canadian tradition is elitist, particularly in constitution-making (the Fathers of Confederation didn't dare submit Canada's first written constitution, the British North America Act, to a referendum for fear that their careful compromises would be rejected by the people).

The aboriginal tradition is basically consensual (in a word, it's more democratic), which will explain, for example, why the Indians — 576 different bands across Canada — have had so much difficulty achieving a common constitutional position.

This does not mean the two sides cannot do useful business on Tuesday and Wednesday, if pragmatism rules.

There will be two key talking points.

The first deals with what is called the "ongoing process" — what commitments will be made (and enshrined in the Constitution) by the first ministers to meet again for negotiations with the aboriginal peoples.

The second is married to the first and is an ingenious proposal (the notion is largely credited to the Inuit) for keeping negotiations going without pushing either side into a No position.

The proposal is that a statement of principles, embracing all the above-mentioned issues that the aborigines want to negotiate, be agreed upon in one of two forms: either entrenched in the Constitution but without legal weight; or drawn up as a solemn declaration, separate from the Constitution but signed by all the conference participants.

The aborigines naturally want an entrenched form. But in either case, the principles would be of immense political value to the Inuit, Indians and Métis, for the first time advancing onto official paper the issues that mean — for them — their life.

With many voices

The native peoples of Canada have virtually no political base in Canada, except in the consciences of their fellow Canadians.

They are scattered over the 10 provinces and two territories. Only in the Northwest Territories do they have a majority, and even that could be lost to the whites. They are divided. The Inuit have a common language and culture; Indians and Métis do not. There are 576 status Indian bands scattered across Canada. The 13 bands of the Six Nations Reserve in Ontario may have common mores: they will be totally different from those of West Coast Indian bands, which will differ from those a mere 100 miles inland.

The Métis, of mixed Indian and white blood, came to the standing of an aboriginal people only with the Canada Act of 1982. Registered Indians and Inuit not only differ in their views of rights from Métis, but may fear that Métis numbers (perhaps a million) may diminish the hope of realizing their own claims.

Leaders of all three native groups talk of self-government. To the Inuit and Métis this is generally understood to mean self-governing institutions within the Canadian Confederation. To status Indians, according to the national chief of the Assembly of First Nations, David Ahenakew, it means "the right of each of our nations and tribes to our own self-identity, including the right to determine our own citizenship and forms of government." Chief Ahenakew said he did not acknowledge the supremacy of the Parliament of Canada: "That is the way it has been and that is wrong."

What he is talking about is sovereignty. It may be only a bargaining position but, by challenging the sovereignty of Canada, it becomes unacceptable.

table. The unity of this country is not negotiable. It would be equally unacceptable, however, for Prime Minister Pierre Trudeau and the provincial premiers who meet tomorrow and Wednesday with leaders of the native peoples, to use this unacceptable claim to dodge dealing with the real problems of the native peoples.

That is what the native peoples fear. Until the passage of the Canada Act, they had only to deal with, and too often to be oppressed or neglected by, the federal Government. Now they must also contend with the provinces which, as the constitution now stands, could approve constitutional amendments imposing European social views on the native peoples, or subtracting from their material rights.

The provinces and Ottawa, the native leaders know, want to control and profit from natural resources. They could be greedy. They could also, meaning well but doing wrong, force the native peoples to accept their view of rights which to the native people could be deprivations.

The Inuit, the Indians, the Métis do not want this constitutionally required conference to be the last conference. It can be only a beginning. Yet they do not want things to be left to drag on as they have dragged on since Confederation.

They urgently hope that the first ministers will prove their good faith by establishing continuing official consultations imbued with a determination to achieve settlements. They believe that eventually the constitution should be amended to ensure that changes which affect the native peoples can be made only with their consent.

Canada's first ministers should join the native leaders in seeking justice — not under political pressure, for the native peoples can muster little — but instructed by conscience.

THE GLOBE AND MAIL

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THESE MEN MEETING IN OTTAWA TOMORROW AND WEDNESDAY HAVE THE POWER TO DECIDE OUR FUTURE



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Alberta
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Premier Devine
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Premier Pawley
Manitoba
(204) 944-3714



Premier Davis
Ontario
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Premier Lévesque
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Premier Hatfield
New Brunswick
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Premier Lee
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March 14, 1983

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Gentlemen:

Our right to own property is not in Canada's new Constitution. Canadians need an amendment to our new Constitution which will guarantee full private property rights.

You will be discussing and perhaps reaching agreement on this issue in Ottawa at the first Constitutional Conference Tuesday and Wednesday.

British Columbia, whose Premier is William Bennett, has already done its part by adopting this resolution. Please lend your support to enshrining this fundamental freedom in our new Constitution.

Respectfully yours,

Colin Brown
President
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This ad was paid for by the generous contributions of the members of the National Citizens' Coalition who want their right to own private property fully protected.

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GM14/3/83

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Plenty of fuel for fiery rights talks

By JEFF SALLOT

Globe and Mail Reporter

OTTAWA — It took the better part of a year, including four days of meetings among top-level federal and provincial constitutional ministers and native leaders, just to set the agenda for the first ministers' meeting on aboriginal rights that opens here tomorrow.

There are 15 topics on the agenda and, with the possible exception of equal rights for native women, each contains the potential for a political fight.

Some of the more contentious issues are native requests for a special charter of rights, a veto over any future constitutional amendments that might affect aboriginal rights, and a measure of self-government.

Even an agenda provision to talk about an "ongoing process" for future discussions of aboriginal rights could kindle a dispute at the conference table.

Quebec's reluctance to participate in constitutional talks is another potential stumbling block for native groups. Although Premier Rene Levesque plans to attend, his Government wants to deal with aboriginal rights within the province with its own legislation and is loath to do anything that could be interpreted as giving the federal Constitution political legitimacy.

The worst fear of native groups is that some of the first ministers will do no more than their duty next week by showing up to listen. That's why some native groups want future talks entrenched in the Constitution — through a constitutional amendment requiring further talks, such as the last-minute amendment in 1981 that insured that next week's conference would take place.

The federal Government agrees. But some provinces, such as British Columbia, prefer a less formal promise to meet again. It's uncertain whether there'll be sufficient provincial enthusiasm for entrenching future talks.

Entrenchment of future meetings, like any other amendment to the Constitution, would require the formal approval of Ottawa and seven of the 10 provinces representing at least 50 per cent of Canada's population.

The B.C. objection is the result of a recent court case there dealing with an Indian band's claim to a clam bed. The judge said he didn't want to make a decision because the constitutional conference is supposed to identify and define aboriginal rights. B.C. says that entrenching future talks could result in courts stalling all kinds of things, such as plans to commercially harvest clams, while awaiting the outcome of more talks.

Most of the 11 governments have yet to state their initial positions on the agenda topics, if they have arrived at negotiating positions. The federal Government has stated a position on only four of the topics.

Some seasoned observers of fed-

eral-provincial meetings, noting that it took Prime Minister Pierre Trudeau most of his political career to launch constitutional reform with patriation and a charter of rights, expect little of substance to emerge from this conference.

In a briefing memo last summer to Senator Jacob Austin, a federal minister who has been given a role on aboriginal rights issues, a federal official suggested that the senator, in a scheduled speech to a native group, should try to reduce native expectations and season his talk with a few jokes.

In raw political terms, native groups have little more than the power of moral suasion, a chance to make their case on national television, and the stated good intentions of white politicians going for them in these talks. The notion that there are such things as aboriginal rights — as general an idea as that seems, and as politically acceptable as it has become — is still an arguable legal point 219 years after King George III issued a proclamation admonishing his North American colonists not to steal land from the Indian nations.

The native leaders and the white politicians who gather at the conference centre come from two quite different political and cultural traditions.

Natives, who are the descendants of hunting cultures, think in terms of collective or communal rights, particularly the rights of a group to use the land. White politicians are more inclined to think of land as property, owned by someone, and rights are things that are enjoyed by individuals. Maps, fence posts and survey stakes were imports from Europe.

A compromise was reached in 1981 among Ottawa and nine of the 10 provinces (Quebec didn't agree) on patriation, a new amending formula and a charter of rights. But that compromise came only after years of efforts, frequent breakdowns of negotiations, a filibuster in the House of Commons, and a Supreme Court of Canada ruling that said Ottawa needed the agreement of more than two provincial governments to give the federal patriation plan full constitutional legitimacy.

If governments found it that tough to bring about constitutional change, some political observers say, native groups are likely to find it much tougher. Natives are a minority in every political jurisdiction in Canada except the Northwest Territories — which as a federal territory doesn't have a vote on constitutional amendments.

George Braden, the NWT Justice Minister and leader of a government with a majority of natives in the territorial Legislature, says that he's hoping conference partici-

pants will agree to give a sincere commitment to continue the process of identifying and guaranteeing aboriginal rights.

The preliminary indications are that Mr. Trudeau and the premiers will not give aboriginal rights as high a priority as native groups would prefer.

The first indication of that came when Mr. Trudeau, citing the supposed rigors of winter travel, killed a proposal to hold the conference in Yellowknife, the home base of the movement for a Dene Nation of Indians and Metis in the territories.

Now there is Mr. Trudeau's plan, accepted by the premiers, to use part of the time in Ottawa to discuss the economy. The first ministers are to discuss economic issues at dinner tomorrow night.

Native groups had hoped to lobby premiers and provincial delegations that night. They now fear that if a federal-provincial row develops over economic issues it could poison the atmosphere for any constructive work on the second day of aboriginal rights talks.

There is also concern that the perennial fight between Ottawa and the Quebec Government could become a political sideshow that diverts attention from the official agenda. The Quebec delegation comes to the talks reluctantly because of the feeling that the province was betrayed by the nine others during the patriation debate in 1981.

The Quebec vote could make or break a number of amendments sought by native groups. If, for example, a seventh provincial vote is needed to entrench a new series of meetings, there is a real question whether Quebec would provide it. The Quebec Government has said it won't vote against entrenching new meetings, but it's an open question whether the province will vote at all.

The agenda calls for discussion of a charter of rights of the aboriginal peoples as the first item. If experience is any judge, it will be a contentious issue. There could be some progress toward compromise, however, if the focus is shifted early in the deliberations to a subtopic, a statement of principles, and participants move from the general to the specific.

Another subtopic, equal rights for native women, is the one agenda item on which there is the greatest likelihood of agreement. Some constitutional law experts feel the question is now a moot point because the patriated Constitution last year made provision for equal rights for all women. They feel that the first test case will strike down anachronistic provisions in federal law that deny Indian women their status as members of recognized bands because of marriage to non-Indians.

Nevertheless, Inuit and Metis groups would like explicit constitutional recognition of equal rights for native women.

Property, veto issues also on the agenda

From the Ottawa Bureau
of The Globe and Mail

OTTAWA — Four constitutional issues besides aboriginal rights will be discussed by first ministers here this week, including a proposal by the British Columbia Government to add property rights to the Charter of Rights.

The two days of talks, which open tomorrow, will also be a measure of the unresolved feud between Quebec Premier Rene Levesque, on the one hand, and Prime Minister Pierre Trudeau and the other nine provincial governments.

B.C. feels that the property rights issue was a serious omission when Ottawa and nine of the 10 provinces agreed in 1981 to patriate the Constitution with the new Charter of Rights.

The federal Government has no problems with the proposed addition, but there is some disagreement among the provinces. It will be discussed tomorrow night at a dinner meeting at the Prime Minister's official residence, during which the first

ministers are also scheduled to talk about economic issues.

The three other issues involve legal technicalities that might require housekeeping-type amendments to the Constitution:

- Some provision to name an interim administrator to give the required royal assent to provincial legislation during a period between the death or resignation of a lieutenant-governor and the official appointment of a new one;
- A provision to give provincial administrative tribunals, such as rent review boards, the authority in law of superior courts;
- A provision to give provincial family courts the powers of superior courts so that they can deal with questions of child custody and division of matrimonial property in divorce cases.

There is also the possibility that Quebec will try to negotiate a special veto over future constitutional amendments that affect Quebec's rights.

Conférence sur les droits des autochtones

Pour la première fois, les autochtones auront un mot à dire sur leur avenir

OTTAWA (PC) — Pour la première fois, les participants aux négociations constitutionnelles ne seront plus 11 mais bien 17 quand le Premier ministre Pierre Trudeau ouvrira officiellement la conférence sur les droits des autochtones, demain matin, dans la salle principale du Centre des conférences d'Ottawa.

En plus du gouvernement fédéral et des 10 provinces, six nouveaux participants seront admis à la table des discussions constitutionnelles, jusque-là la chasse gardée des 11 premiers ministres.

La nouvelle Constitution prévoit, en effet, que les représentants élus des gouvernements des Territoires du Nord-Ouest et du Yukon et des associations représentantes les Indiens, Inuit et Métis, participeront aux travaux de cette conférence consacrée à la définition de leurs droits constitutionnels.

M. Trudeau a donc invité l'Assemblée des premières nations à représenter les 300,000 Indiens, le Conseil Inuit sur les questions nationales sera le porte-parole des 25,000 Inuit et le Conseil autochtone du Canada interviendra au nom des Métis et des 75,000 Indiens sans statut.

Métis des Prairies

Les quelque 80,000 Métis des provinces des Prairies qui étaient en rupture de ban avec le Conseil autochtone du Canada se sont vu octroyer, vendredi, un siège à la table des négociations après avoir brandi la menace d'obtenir une injonction pour bloquer les travaux de la conférence.

Ils seront représentés par le tout nouveau

Conseil national métis

La tenue de la conférence de cette semaine était rendue obligatoire par l'article 37 de la nouvelle Constitution qui prévoyait sa convocation dans l'année qui suivait le rapatriement de la Constitution, donc avant le 17 avril 1983.

Après quatre rencontres de fonctionnaires et deux réunions au niveau ministériel, les représentants des 17 partenaires acceptaient un ordre du jour qui avait été mis de l'avant par les associations autochtones.

Les discussions porteront d'abord sur une charte des droits des autochtones qui comprendrait une reconnaissance de leur statut et de leurs droits particuliers.

Formule d'amendement

De plus, on discutera de modifier la formule d'amendement à la Constitution pour que les questions autochtones soient soustraites au droit de retrait des provinces, ce qui signifierait qu'une éventuelle charte des droits autochtones serait appliquée également partout au Canada.

Les autochtones veulent également que leur consentement soit obligatoire pour l'adoption de tout amendement qui les concerne, alors que le gouverne-

ment fédéral et certaines provinces préfèrent parler de consultation.

«Mais nous ne voulons pas un veto, comme ils le prétendent, affirme un leader inuit. Ce que nous voulons, c'est ce qui est déjà prévu dans les cas où un amendement ne touche qu'une province. Il faut alors l'accord de cette province et d'Ottawa. Nous voulons la même chose; qu'un amendement qui nous touche doive être approuvé par nous et le gouvernement fédéral.»

Mais toute modification à la formule d'amendement exige le consentement unanime des 11 gouvernements ce qui est loin d'être acquis, affirment des hauts fonctionnaires fédéraux et provinciaux.

Les autochtones se sont plaints, tout au long des discussions préparatoires, que les gouvernements provinciaux refusaient de montrer leur jeu et de prendre position sur les propositions mises de l'avant par les autochtones ou le gouvernement fédéral.

Seuls le Manitoba et l'Ontario se sont montrées assez ouvertes et ont fait des propositions concrètes, affirment certains porte-parole autochtones, alors que les trois provinces de l'Ouest — Saskatchewan, Alberta et Colombie-Britannique — sont celles qui seraient les plus réfractaires.

Inuit, Indiens et Métis face aux onze gouvernements

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There'll be empathy across the conference table

A couple of interviews this week left me with a feeling that for a reporter was not just unfamiliar but was almost unnerving.

That feeling was of optimism, and of hopefulness.

The occasion for these interviews was next week's federal-provincial conference on native rights and the constitution. The first interview was with Chief David Ahenakew, from Sandy Lake in northern Saskatchewan. He's president of the Assembly of First Nations, and so represents some 300,000 status Indians, most of whom live on small, out-of-the-way reserves with an average population of 550.

The second interview was with John Munro, the Minister for Indian Affairs and Northern Development. Because of his portfolio, he represents federal authority, power and money (about \$2 billion worth).

At the conference table, Ahenakew and Munro will be sitting across from each other. The reason for my hopefulness is that, in those pre-conference interviews, each said almost exactly the same thing.

By way of background, the concerns and interests of Ahenakew's status Indians, and equally of the Inuit and of the non-status Indians and Metis, represent one of the three outstanding items of unfinished constitutional business. The others are Quebec's need for some form of constitutional veto and the West's need for representation at the centre other than by its MPs who, if only by circumstance, have usually been in the opposition.

The prospects for next week's first ministers' conference haven't been promising. Most of the premiers view the demands of the native people with, at best, indifference, and at worst, hostility toward their land claims. Relations between Ottawa and native peoples have for years been soured by mistrust, on both sides. Lastly, ordinary Canadians are switched off the subject: the time and energy of most of us these days are expended in worrying about jobs and incomes.

But spare a moment to listen to Ahenakew: "Sure, the attention of Canadians today is on the economy, jobs, nuclear missiles. It should be. But that's good for us. You know, Indians don't really like demonstrating, but in the past we've had to, to get noticed. In today's climate, we can present our case straightforwardly, openly, honestly, and ask to be responded to in the same way."

Listen also to what Ahenakew actually is asking for: "Yes, we've used the word 'sovereignty,' for strategic reasons, and for historical ones because we are the first na-

tions of Canada. But what we mean is domestic sovereignty within Confederation, or self-government within the system. Our own (band) policemen, but connected to the RCMP. Our own system of trials, but connected to yours. The right to determine who shall be a member of a band, but within the rule of (sex) equality."

For his part, Munro began the interview by praising Prime Minister Trudeau's "astounding" commitment to making the conference a success. This wasn't just ritual homage; other sources say the same thing. "He sees it as an act of nation-building, and that always brings out everything that there is in him," says an official.

Munro himself may have "found" himself in his present portfolio. His previous 15-year career as a cabinet minister has been checkered. But his consistent quality has been that of caring. Now, his caring about the Indians and Inuit has begun to pay off in behind-the-scenes cabinet and constitutional victories.

"I think the native people are going to be surprised at how far the federal government is prepared to go," said Munro. Ottawa is prepared to commit itself to a continuing process of constitutional negotiations and, as is incomparably more important, to a declaration of principles that would define and direct future negotiations: recognition of Indians and Inuit as "distinct peoples" within Confederation; recognition of their right to a "unique character" of self-government; recognition of the legal validity of their treaties.

"It is essential," said Munro, "that we entrench in the constitution recognition of the special status of native peoples and of their right to a high degree of self-reliance so that they can develop as full Canadians, but in accordance with their own institutions and traditions."

Munro and Ahenakew might almost have been reading from the same script.

The conference still won't go smoothly. The native peoples, particularly the Metis, are divided amongst themselves. Some of the premiers will try hard to avoid making commitments, while trying as hard not to be seen to be doing so.

Public opinion will decide the issue. Here's Ahenakew's message to the public: "We really mean it when we say we have more at stake in this country than you do. We have nowhere else to go. This is the only country we can ever have. The Creator made Indians to live on the land. We must remain on our land. That's what we're asking you to allow us to do."

Hopes slim for native talks

After a long break, Canada's constitutional debate resumes Tuesday when provincial premiers meet federal ministers and leaders of the nation's native peoples to discuss

aboriginal rights at Ottawa's Government Conference Centre. Today *Citizen* staff writer Jim Robb sets the stage for the talks by outlining the issues that will be on the table.

If Prime Minister Trudeau, the provincial premiers and native leaders agree even to meet again following next week's constitutional conference, it will be a victory of sorts for the concept of aboriginal rights.

At 9:30 a.m. Tuesday, Trudeau will rap his gavel on the horseshoe-shaped table in the Government Conference Centre to open the first constitutional summit meeting in Canada's post-patriation era.

Its focus is the identification and definition of aboriginal rights, the first step in securing for Canada's aboriginal peoples the tenuous victory won when recognition of existing aboriginal rights was included in the constitution.

The conference appears fated to achieve little more than starting the participants on a series of further constitutional talks.

It will be confronted with the great expectations of native leaders, the reluctance of the provincial premiers to concede anything that could seriously affect provincial resources or powers and a federal stance that is founded on a go-slow approach to defining and accepting aboriginal rights in the constitution.

For the first time at a first ministers' conference, the prime minister and the premiers will be joined as participants by the heads of the major national native organizations and the leaders of the two territorial governments.

In the two days the 17 delegations will try to cope with an aboriginal rights agenda that has been put forward by the natives and the provinces.

The native organizations are the Assembly of First Nations, representing status Indians, the Native Council of Canada (NCC), representing Metis and non-status Indians, the Metis National Council, representing Prairie Metis, and the Inuit Council on National Issues, representing the Inuit, smallest of the native communities.

An internal dispute in the native council led to the creation of the western Metis group and late Friday the federal government gave it a seat at the conference table.

The dispute has left the NCC representing only those Metis who live east of the Manitoba-Ontario border — about 20 per cent of the Metis population — and non-status Indians.

There are about 300,000 status Indians, according to the latest cen-

sus. A status Indian is one who is registered or entitled to be registered according to the federal Indian Act.

Some 50 per cent of status Indians belong to bands that have signed treaties with the federal government.

The Inuit are those natives living in Arctic Canada, including northern Quebec and Labrador. They number 25,400.

The Metis are people of mixed Indian-white ancestry, especially those who occupied the Prairies at the time of Confederation.

Non-status Indians are Indians or their descendants who have lost their status under the Indian Act. They include Indian women who lost status because they married whites, and Indians who have renounced their status. There are more than 75,000 non-status Indians.

The latest census puts the number of Metis at 98,300, a figure that is hotly disputed by the Native Council of Canada, which claims to represent more than three-quarters of a million Metis.

Central to the complex discussions that will take place next week are two sections in the constitution that refer directly to aboriginal people.

Section 25 guarantees aboriginal rights and freedoms recognized by the Royal Proclamation of 1763 and any rights and freedoms acquired by way of land claims settlements.

The Royal Proclamation recognizes the existence of Indian "nations," a notion that has spurred Indian demands for sovereign self-government institutions.

The Proclamation also gave credence to the concept of aboriginal title to land by issuing an edict against encroachment by settlers on Indian land unless a treaty had been concluded with the Crown.

Section 35 recognizes and affirms the "existing" aboriginal and treaty rights of aboriginal people and says the aboriginal peoples include Indian, Inuit and Metis peoples.

A third section, Section 37, calls for a constitutional conference within one year of the coming into force of Canada's new constitution to discuss, among other issues, those constitutional issues that directly affect the aboriginal peoples including the identification and definition of aboriginal rights.

The work-up to next week's conference has included four meetings at the official level of representatives from the federal government, the provinces, the territories, and the Metis and Inuit as well as two meetings at the ministerial level presided over by federal Justice Minister Mark MacGuigan in which representatives of the AFN also joined.

Aboriginal rights are difficult to define with precision but, generally, are easy to summarize. They include the concept of aboriginal title

Meeting likely to start another round of talks

to traditional lands, including huge areas that have never been defined by treaty; resource in the land and water; traditional rights such as hunting, fishing and trapping; the right to forms of native government; and rights to their own languages, religions, culture and education; the right to move freely within the country and in some cases across international boundaries.

While the constitutional conference is supposed to identify and define aboriginal rights, that process is also being carried out pragmatically in the land claims negotiations underway between the federal government and a number of Indian and Inuit communities across Canada.

Those land claims have produced cost estimates for settlement that run into billions of dollars and embrace huge tracts of northern territory.

Implicitly they recognize the existence of aboriginal title to land because the federal government wants to extinguish such title, however ill-defined, in return for cash and other benefits to the native people.

The agenda for the conference, largely developed by the native organizations and assented to by the federal and provincial governments, calls for discussion on:

- A charter of rights for aboriginal peoples (essentially an expanded Section 35) including the preamble, removal of the word "existing" from section 35, recognition of modern treaties as well as those signed outside Canada and those signed prior to Confederation, specific reference to aboriginal title including the rights of aboriginal peoples to a

land and water base; a statement of the "particular" rights of aboriginal peoples, a statement of principles, and clauses covering equality between men and women, and enforcement and interpretation of the aboriginal charter.

The native groups want the word "existing" removed from Section 35, fearing it circumscribes the possibility of gaining recognition for as yet undefined rights.

The federal government takes the view that "existing" does not circumscribe aboriginal rights in any way.

But senior federal officials say they are reluctant to remove it immediately, as the native groups want, because they are opposed to "piecemeal" changes to the constitution.

The Inuit want Section 35 to guarantee aboriginal rights as well as to recognize and affirm them.

The Inuit also want included in the aboriginal charter collective and individual rights of native peoples including rights to land and marine areas and their resources — based on traditional use or occupation, rights to language and culture, and rights to customs and traditions.

The Inuit also call for inclusion in the aboriginal charter of "interpretation" clauses to ensure the charter's "spirit and intent" is recognized by the courts and to

change. It is not intended to give a blanket veto to all aboriginal peoples in every instance.

While all three native groups want a "consent" clause in the constitution the federal government has made two proposals that do not go that far.

It has offered to entrench a requirement that the first ministers discuss planned constitutional amendments affecting aboriginal peoples with native leaders. That is termed a "political" commitment by federal officials.

It has also offered a guarantee of entrenching "consultation" in the amending process.

The first proposal would require the consent of the federal government and seven provinces with 50 per cent of the population, since it is not a change to the amending process. The second would require unanimous consent by the 11 governments since it changes the amending process.

- Self government. The AFN self-government demand implies a degree of sovereignty that would remove Indian "nations" from any federal supervision creating, in effect, separate Indian states within Canada.

In effect, the recognition of Indian states or nations would, in the words of David Ahenakew, national chief of the AFN, create "government-to-government" relationships. There are some 550 Indian bands in Canada and Ahenakew has suggested that each could be considered an Indian nation.

The AFN calls for recognition of the "inherent" Indian right to self-government, including the forms such governments and institutions take, and the right to practise their own religions.

The call for self-government by the Metis and Inuit is more moderate and calls for some form of autonomy for their communities founded on a constitutionally-recognized land and resource base within the existing Confederation.

- Repeal of two provisions in the constitution that allow the federal government and seven of the provinces with 50 per cent of the population to create new provinces or extend the boundaries of existing provinces.

The native organizations want these clauses repealed. They see these provisions as a major threat to any hope they have of gaining a land and resource base in the north for native governments.

The federal government, according to senior officials, is not opposed to repeal of the two provisions but the provinces hold mixed views.

- Changes to Part III of the constitution to ensure aboriginal commu-

Additional seat at table added because of split

nities receive a share of the equalization and cost-sharing transfer payments the federal government makes to the provinces, agreement on delivery of government services to native communities and ensuring aboriginal governments have sufficient resources to function effectively.

The native organizations envisage complete or almost complete autonomy and want the same kind of federal fiscal transfer payments that now go to the provinces.

- The ongoing process to identify and define aboriginal rights, including further constitutional summits and the entrenchment of protection for aboriginal rights.

The federal government and a number of provinces have indicated they support an aboriginal charter of rights and the federal government is prepared to entrench in the constitution the requirement for a continuing process to identify and define aboriginal rights.

That process would include either an annual constitutional summit over the next three years or two such summits in the next four years.

All three native groups want a guarantee there will be on-going discussions on aboriginal rights.

Of the native organizations, the assembly by far has adopted the toughest stance on constitutional guarantees for aboriginal peoples.

It wants a constitutional provision for Indian initiated amendments on matters affecting aboriginal title to land, treaty rights and other aboriginal rights.

The Inuit and NCC want legislation enacted by the federal and provincial governments guaranteeing political representation for aboriginal peoples in Parliament, and in the provincial and territorial legislatures.

In sum, this conference can only skim the surface of issues that appear destined to be around for constitutional discussion for many years to come.

Overnight solutions to problems and issues that are centuries old are out of the question.

Overnight solutions out of the question

ensure the courts do not limit or deny any rights aboriginal people may have "as ordinary citizens" simply because the constitution recognizes they are entitled to specific rights.

The Metis and Inuit have called for entrenchment of the equal status of men and women in the aboriginal charter and the federal government is moving to amend sections of the Indian Act that discriminate against Indian women.

- Revision of the constitutional amending formula to ensure that changes on aboriginal matters will not be subject to opting out by up to three provinces and inclusion of a clause requiring the consent of aboriginal peoples to amendments affecting them.

Native leaders say a "consent" clause would apply only to specific native groups whose interests were being affected by a constitutional

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Rebel Métis win seat at conference

By Jim Robb
Citizen staff writer

Three Prairie Métis groups won a place at next week's constitutional conference after breaking away from the national Métis organization.

The groups threatened court action to block the talks unless their demand for a seat was met by the federal government.

Spokesmen for the Métis National Council said Friday Justice Minister Mark MacGuigan informed them they would have a seat at the constitutional summit as full participants.

Harry Daniels, a spokesman for the Native Council of Canada, which the Prairie Métis walked out on, said the Native Council of Canada is still the national organization for all Métis and non-status Indians and will continue to speak for them, regardless of the action taken by the western groups.

The Métis National Council, formed Tuesday, is made up of groups from Manitoba, Saskatchewan and Alberta that broke away following a disagreement over strategy for next week's constitutional conference on aboriginal rights.

They claim to represent some 80 per cent of Canada's Métis. Estimates of Canada's Métis population range from 100,000 to 750,000.

The break-away group went to court in Ontario seeking an injunc-

tion to block the constitutional summit but dropped the action Friday after MacGuigan offered them the seat.

The conference will involve Prime Minister Trudeau, the provincial premiers, territorial government leaders and native leaders in an attempt to identify and define aboriginal rights for constitutional entrenchment.

The Prairie Métis have the support of Alberta Premier Peter Lougheed, who intervened personally with Trudeau, in their efforts to gain a seat at the conference. However, the Alberta government is one of the hardline provinces when it comes to recognizing native rights.

Alberta ministers have told native groups they are prepared to recognize native rights in provincial legislation but are opposed to entrenchment of rights in the Canadian constitution.

Jim Sinclair, a spokesman for the Prairie Métis told reporters the group wants the conference agenda to include a constitutional guarantee of a Métis land base and self determination.

The agenda doesn't specifically refer to those issues although native self government will be discussed.

The guarantee of a land base and self determination is also called for by the Native Council of Canada, which now effectively represents only those Métis living east of the Ontario-Manitoba border and non-status Indians.

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Enshrine rights: Allmand

By Bill Levitt
Canadian Press

Federal and provincial governments should "do what's right" and enshrine Indian self-government and aboriginal title to land, water and resources in the Constitution, former Indian affairs minister Warren Allmand said Friday.

The Constitution should also ensure future transfer payments to Indian governments and protect ancient treaties "updated to today's conditions," the Liberal MP said in an interview from his Montreal riding.

The federal government, provincial premiers, native and territorial leaders, meet here Tuesday and Wednesday to try to begin defining constitutional rights of Indians, Inuit and Metis.

Allmand said he reached his conclusions after listening to many hours of testimony from groups of Indians, Metis, non-status Indians and native women's organizations.

The former minister sits on the special parliamentary committee on Indian self-government, which has since October travelled to Alberta, northwestern Ontario, Manitoba, British Columbia and

Saskatchewan.

It's work is only half done but several MPs, including Allmand, were pushing for release of some recommendations prior to the two-day constitutional meeting.

The committee's Liberal majority voted down the proposal but Allmand said he feels he must speak his mind freely before the constitutional talks begin.

His statement's come amid native fears that the conference could fail before it begins unless they win more provincial support.

They say they may not have the support of enough provinces to entrench a clause in the Constitution requiring a continuing series of negotiations to resolve the question of what special rights Indians, Inuit and Metis have in the Constitution.

Without that clause, native leaders fear rights' negotiations may end Wednesday, with the governments having fulfilled the current requirement in the Constitution to hold one first ministers' conference on aboriginal rights by this April 17, within a year of the Constitution becoming law.

Minister confident government riding on right track now

On the eve of the constitutional conference on aboriginal rights opening Tuesday in Ottawa, Southam News chief Charles Lynch and correspondent Dave Todd interviewed Indian Affairs Minister John Munro. The following transcript has been edited.

Southam News: It seems that vis-a-vis the native people, we're talking about the North now, though not exclusively, no government has done anything that has really benefitted them in the last 30 years. Every experiment, and there have been some very brave ones, seems to have failed. What makes you think you're on the right track now?

Munro: Because the natives tell me we are. And the benefits are pretty obvious to natives and non-natives. I have a great deal more optimism than your comments would justify.

Southam News: Do you dispute that our efforts in the past have failed?

Munro: Our efforts have not been successful in terms of affording Indians a basis to share equally in this country's opportunities. No question they've failed.

Southam News: Is it reasonable to promise them that? Do you think it's possible?

Munro: Yes, I think it's possible.

Southam News: By segregation? Or by apartheid or by meddling? What's the answer?

Munro: I think the word assimilation has been thoroughly negated. And they don't want that, never will and resist it mightily. Integration is, perhaps, getting closer, except they're worried that that means having to acquiesce to cultural values of the non-natives. They're now talking about a type of sharing.

Indian leaders that I'm talking to, if they can get a kind of cultural sovereignty, an educational system that recognizes their traditions and values, and a high degree of self-government — something analogous in some respects to provinces . . . that would assure them and give them the confidence that they can . . . share in economic benefits on a more or less equal basis with other Canadians.

Southam News: Can it be sold

to the white majority in Canada — that for the first time we have possibly a provincial unit in the north, the Inuit unit, based on race, with special privileges for the majority in that part of the North?

Munro: I don't think we are going to have provincehood in the north for a long time, provincehood in the sense of provinces like the other provinces.

Southam News: You've agreed to partition up there. Are you worried about the racial aspect of it?

Munro: No, I'm not . . . I feel that's an unjustifiable concern based on the past behavior patterns of the Inuit people . . . Parliament has the final word in determining how much devolution they will permit to occur to a degree that will satisfy the Inuit people but still prevent a type of enclave or building a fence around a part of Canada that would exclusively serve one people . . . They say, establish a basis of trust, settle our land claim. That will give us the economic base upon which we can survive . . . We'll then try to negotiate the type of administrative setup and the powers it will have and the jurisdiction it will have in the process of devolution from the federal government.

Southam News: Do they trust you?

Munro: The majority of the executive committee of the Northwest Territories, both native and non-native, are of a political persuasion similar to this government. I can turn back in a rhetorical fashion. Do you think that type of favorable politicization would have occurred in the Northwest Territories if this government had been totally insensitive? I think there would have built an isolation and a type of alienation and confrontation that would have been thoroughly exploited by the NDP and Conservatives. Quite the reverse has occurred. That's some tangible

evidence of the degree of trust that's happened in the last two or three years . . . The majority of non-natives want to go slow on devolution to political institutions that don't reflect their values adequately as yet. They want some political guarantees in representation in those governments in the Northwest Territories spelled out before the federal government gives them the same type of political responsible government as the Yukon. So we've been responsive to that and put it all on the table and said it's yours when you're ready to take it. And they're going about it in a very, very enlightened fashion. And as soon as they've settled the boundary question and the land claims they'll pick up the offer. But it's an act of volition on their part.

Southam News: Is that the main reason the government wants the land claim matters settled first and then the question of devolution of political organizations — to safeguard the rights of the white minority?

Munro: Yes, and I think it's a realistic assessment that it's not practical to think you're going to have division until you settle the land claim or unless you get very close to it — because the resistance will build up by the Dene and the Inuit to having this type of devolution without land claims.

Southam News: You can argue that the government's whole approach (to land claims) is ultimately the extinguishment of native title.

Munro: I don't follow that argument; I never have — extinguishment . . . They get the land, they get millions of dollars, they win other guarantees in terms of political representation in institutions. So it's like you sell a house. I suppose you don't have to sell it, but you sell it, you get money for it, you give up the title to somebody else and you go out and buy another house. Is that extinguishment of title?

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Les Métis abandonnent leur requête

OTTAWA (PC) — Trois groupes de Métis des Prairies ont abandonné hier leur requête pour obtenir une injonction de la Cour afin d'empêcher la la conférence constitutionnelle sur les droits des autochtones, la semaine prochaine, parce qu'ils ont obtenu du gouvernement fédéral le droit d'assister à la rencontre.

Le ministre de la Justice, M. Mark MacGuigan, a accepté jeudi de donner un droit de représentation au Conseil national des Métis — qui représente ces trois groupes —, lors de la conférence de deux jours, a déclaré un porte-parole du conseil, M. Clem Chartier, à Ottawa.

Plus tôt vendredi, les avocats du conseil ont témoigné devant la Cour suprême de l'Ontario, la priant de ne plus tenir compte de leur requête, puisqu'une entente était intervenue hors cour.

Le Conseil des aborigènes, de même que les associations d'Amérindiens et d'Inuit, se verront accorder chacun deux sièges à la conférence sur les droits autochtones.

Quant au Conseil des Métis, nouvellement formé, il ne détient qu'un siège, étant ainsi considéré au même titre que les 14 observateurs et délégués, à la table des négociations.

• Gérard Pelletier et les Amérindiens

Des formules creuses et des chefs peu articulés

par Pierre Oulmet

OTTAWA — Pour Gérard Pelletier, ambassadeur aux Nations unies, les représentants des Amérindiens du Canada sont peu articulés et s'y prennent très mal pour faire valoir leurs droits auprès des pouvoirs politiques.

Les Amérindiens, a-t-il déclaré au cours d'une entrevue avec LE DROIT, cette semaine, empruntent des formules creuses et des concepts politiques dont ils ne saisissent pas la portée.

C'est pour cette raison, a-t-il ajouté, que les autochtones vivent encore dans des conditions fort inférieures à celles dont jouissent les Blancs.

En comparaison, il a loué les représentants amérindiens des Etats-Unis, qui «sont tous des types indiens, avec une bonne gueule et des diplômes universitaires», et qui emploient les techniques de Madison Avenue pour influencer aussi les médias américains «de façon fort habile».

Racontant comment des représentants des Amérindiens canadiens lui avaient rendu visite à son bureau de New York, il a déclaré: «Ils étaient six, et c'était intellectuellement navrant; ils me faisaient penser à ces (leaders) du mouvement syndical qui ont entendu des discours, mais sans les comprendre».

Pas structurés

Pour lui, les chefs autochtones ne sont pas «structurés» et véhiculent des idées comme la souveraineté ou les «droits aboriginaux» sans pouvoir les expliquer.

«Ils réclament les droits aboriginaux. Mais c'est quoi? Aux Etats-Unis, ils font la jonction avec l'écologie ou le droit à la différence...»

Gérard Pelletier a été invité à commenter la situation des Amérindiens parce qu'il a déjà travaillé à ce dossier

au moment où il était au secrétariat d'Etat fédéral, et puisqu'une conférence constitutionnelle sur les droits des autochtones aura lieu la semaine prochaine à Ottawa.

L'ex-ministre a reconnu qu'on pourra comprendre qu'il veut imposer aux Amérindiens «un modèle trop cartesian». Mais il a indiqué par exemple, que leurs chefs demandent qu'on leur rende la propriété de tout le territoire canadien.

«Ils y ont pas pensé!», s'est exclamé M. Pelletier.

Quant à la souveraineté, c'est une «formule creuse» que les Amérindiens ont empruntée. «Je ne vois pas comment ils n'ont pas de projet plus articulé. Cela ne se tient pas».

Accoucher à 30 sous zéro

Pelletier croit que les Amérindiens ne sont pas intéressés non plus par notre modèle d'Etat ou de société, mais plutôt par les résultats. «Ils n'ont plus du tout envie d'accoucher à 30 sous zéro. Ils l'ont fait pendant 50,000 ans et ils n'ont plus envie de faire ça».

D'après lui, ce sont les Métis qui sont le groupe le plus défavorisé, étant donné qu'ils subissent l'intolérance des Amérindiens. Cela crée également de graves divisions au sein du groupe, a-t-il dit.

A son avis, les autochtones se heurtent également à l'intolérance grave des politiciens provinciaux, surtout dans l'Ouest du pays. «Les politiciens ont atteint le fond du baril; ils ne veulent rien entendre».

En conclusion, l'ambassadeur a dit qu'il ne croyait pas que les problèmes des Amérindiens du Canada se régleraient bientôt, à moins que l'opinion publique n'en soit saisie par un événement qui serait diffusé largement par les médias. «C'est un panier de crabes», a-t-il déclaré.

• *Conférence constitutionnelle*

Entente avec trois groupes de Métis

OTTAWA (PC) — Trois groupes de Métis des Prairies ont abandonné hier leur requête pour obtenir une injonction de la Cour, afin d'empêcher la tenue de la conférence constitutionnelle sur les droits des autochtones, la semaine prochaine, parce qu'ils ont obtenu du gouvernement fédéral le droit d'assister à la rencontre.

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Représentation
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Le Conseil des aborigènes prétend de son côté représenter les Métis tout autant que les Amérindiens sans statut. Cependant, le groupe dissident que constitue le Conseil des Métis juge que la "vieille" association ne défend aucunement les revendications des Métis, au chapitre de l'autodétermination et des droits territoriaux.

Le Conseil des Métis fut officiellement institué au début de la semaine, à la suite d'une scission avec le Conseil des Aborigènes. Il représente les Métis d'Alberta, de la Saskatchewan et du Manitoba.

Après les autochtones, les francophones hors Québec?

OTTAWA — La conférence fédérale provinciale sur les droits des autochtones qui doit se tenir les 15 et 16 mars crée un précédent intéressant, aux yeux de la Fédération des francophones hors Québec (FFHQ) qui souhaite ainsi qu'une semblable conférence sur la situation et les droits linguistiques des francophones hors Québec soit organisée dans un avenir rapproché.

Dans un communiqué remis à la presse hier, Mme Jeannine Séguin, présidente de la FFHQ, a indiqué que le premier ministre Trudeau, le chef du Nouveau Parti démocratique M. Ed Broadbent et certains députés ont d'ailleurs appuyé l'idée d'inclure la question des droits linguistiques dans le cadre d'une conférence fédérale-provinciale.

Pour Mme Séguin, une telle conférence pourrait permettre de discuter le type d'aide que le gouvernement fédéral est prêt à consentir pour aider les provin-

ces à accroître de façon effective les droits et services à leur minorité francophone.

Ce serait également l'occasion, pour les premiers ministres, de faire part à la population canadienne des programmes qu'ils entendent mettre en oeuvre pour assurer le développement et l'épanouissement de leur communauté de langue et de culture françaises.

«Les francophones hors Québec se demandent, à juste titre, ce que certains gouvernements provinciaux ont fait, depuis la promulgation de la charte des droits et libertés en avril 1982, pour améliorer le statut de la langue française dans leur province respective», a souligné Mme Séguin.

A toutes fins pratiques, selon elle, la question des droits linguistiques reste donc d'actualité et il est à espérer que cette question sera abordée lors d'une prochaine conférence fédérale-provinciale, de conclure Mme Séguin.

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Natives can't hope for much at Ottawa talks

There's no agreement on basic issues for constitutional meeting

By HUBERT BAUCH
Gazette Ottawa Bureau

OTAWA — A capsule indication of the sort of complexities underlying the agenda of next week's constitutional conference on native rights is the problem of deciding who qualifies as a Metis.

Generally speaking, Metis are people of mixed blood: Part Indian, part white. But what percentage of which blood type must be represented to make the mixture certifiably Metis? Who rates as a descendant of Louis Riel and who doesn't?

There are conflicting opinions judging from the available statistics. According to the federal government, there are 100,000 Metis in Canada. According to the organizations that represent the Metis, there are 1 million and counting.

After prolonged negotiations between the Metis organizations and assorted levels of government over who is and who isn't a Metis, the discrepancy remains unresolved.

"It's a kind of horror story trying to resolve that," John Munro, the minister of Indian and northern affairs, said on the eve of the constitutional conference that should be a watershed in the shabby history of Canada's relationship with its native people.

It should be because this is the first time Canada's political leaders will sit down with the country's native leaders to discuss aboriginal rights in a constitutional forum. Six representatives of the three main native groups — Inuit, Indian and Metis — will join Prime Minister Pierre Trudeau and the 10 provincial premiers around a table at the Ottawa conference centre on Tuesday morning.

Unresolved question

But experience has shown that what should be isn't generally what transpires at these conferences — particularly when they proceed, as will this one, in open session under the glare of the TV lights.

On the critical issues, such as land rights, resource claims and political status, the parties are as far apart on the details of their respective proposals as they are on the Metis head count. Is it conceivable they can make any significant settlement during two days of talks in a conflict whose underlying grievances have

festered for more than two centuries?

Hardly. With about a maximum of 16 hours available for debate, the participants will barely have time to strike their respective postures.

And these are not the only items on the agenda. Not by a long shot. There are other complex issues to be dealt with, and most of them could well take up two days of thrashing around the conference table.

They include the unresolved question of the constitutional powers of provincial administrative tribunals and control boards; the elaboration of a unified family court system; the legal ramifications of interregnum between the appointment of lieutenant-governors; and outstanding questions relating to the contentious business of property rights.

Moreover, it appears the constitutional talks will be sandwiched between private first ministers' discussions on the economy. These may well overshadow the constitutional aspect of the meeting, and make the historic aboriginal rights talks the afterthought they were when the conference was first conceived.

That was in the denouement of the last constitutional conference in November, 1981, when the half-century wrangle over patriation of the British North America Act was finally resolved with a new amending formula and the truncated Charter of Rights.

Began to worry

The initial version of the charter provided for recognition of aboriginal rights with a clause that said: "The aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed."

Once they had struck their basic bargain with Trudeau to buy the charter, so long as they could override it with a simple majority vote in their legislatures, certain of the premiers, most notably Alberta's Peter Lougheed and Saskatchewan's then-premier Allan Blakeney, began to worry about the sweeping implications of the aboriginal rights clause.

In the end Trudeau and the premiers faced the public with their deal, having ditched the equal rights provision for women and the aboriginal right clause in the wee hours of their negotiations. By way of compensation, the first ministers offered

next week's conference, at which aboriginal rights were to be defined before they were entrenched in the constitution.

In the weeks following the Nov. 5 agreement, the public outcry against the dropping of the women and native clauses was such that the parties had to renegotiate through a frantic round of phone calls. Women's rights went back in and so did the aboriginal rights' clause — but this time subtly qualified by the insertion of "existing" into the wording of the clause, as in "the existing aboriginal rights and treaty rights" being recognized and affirmed.

This immediately touched off a debate among legal experts that has continued unabated in the year and a half since. Does the reference to "existing rights" mean rights at the time of the constitution's proclamation last April, or rights that exist at any given time in the future?

Does it mean, as native legal representatives tend to fear, that their rights are forever tied to last year's status quo or, as the federal government contends, that rights will evolve. Ottawa says "existing" refers to the date of any given court case in which the constitutional reference is applied.

Again, this is likely to remain an outstanding issue for some time after they've folded away the flags and stacked the chairs at the conference centre next week.

"It's the kind of thing that keeps lawyers rich for years," said Bill Badcock, who represents the organization of status Indians.

The thing to remember is that this conference was devised not because governments have arrived at a point where they are prepared to strike any concrete constitutional bargain with their native populations, but as an escape hatch to cover their embarrassment after the last conference.

At this point the most concrete result that can reasonably be expected next week is a date and a tentative agenda for further discussions.

The mistrust and bitterness that has colored the relationship between natives and white governments over the decades was reinforced in the weeks leading up to the conference by a leaked federal memorandum that suggested Ottawa should pursue a strategy of reducing native expec-



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tations and embroiling the provinces more deeply in the ongoing dispute over aboriginal claims.

Native organizations have been justifiably leery of federal attempts to fob the irritant of native claims off on the provinces which have, historically, taken a much more insensitive attitude toward native groups within their jurisdiction.

Ten years ago, following an extensive study, the federal government proposed a new native policy that basically consisted of turning over responsibility for native peoples to the provinces. It was unanimously rejected by native groups, and Ottawa was forced to drop the plan.

In the critical area of land claims, for instance, the natives have encountered a frustrating Catch 22 situation as a result of the constitutional federal-provincial division of powers.

Natives based their land claims on a royal proclamation issued in 1763 which declared, in essence, that natives have a right to their aboriginal lands unless they are ceded by treaties. Since then many treaties have been signed in which parts of aboriginal lands were turned over to the governments and others reserved for natives.

But this has led provinces to argue that such treaties do not include subsurface mineral rights which, it is claimed, are the jurisdiction of provinces under the BNA Act.

At present there are some 250 outstanding native land claims across the country, most of them in the western provinces. None is about to be settled next week.

Thornier even than the land claims question, which the federal government has been trying to deal with constructively during the past decade, is the emerging issue of native political sovereignty.

Aboriginal groups regard themselves not so much as associations as nations which they claim have existed since time immemorial. Along with their own territories they are demanding their own political institutions that reflect their traditional values, lifestyles and political systems.

Their attitude was exemplified by Chief Thomas Sampson of the Tsartlip Band in B.C., who greeted a parliamentary committee in Ottawa recently with the assertion: "We are speaking to you as government to government."

In discussing the implications of native sovereignty, he produced a definition that could have been lifted from the Parti Quebecois sovereignty-association handbook.

"This will not be racial or an ethnic franchise," he said, "but a distinct order of government in Canada whereby our first nation's government and the government of Canada can coexist and have a workable and harmonious relationship. Through this we can develop guaranteed, stable and workable financial arrangements."

After two decades of conflict over such notions in Quebec, the Liberal government in Ottawa is understandably reluctant to entertain them from a new quarter. Its tack has been to split the sovereignty issue from the lands claims question, dealing with the latter first in the hope that the former will work itself out.

Another crucial factor that augurs against any great accomplishment at the conference is the diversity of needs and demands among the various native groups.

The nation's 26,000 Inuit, for instance, are a largely homogenous racial and linguistic group occupying a well-defined territory. They have widely recognized land claims in areas where they comprise the majority of the population. As a result they are presenting the most advanced and feasible case for sovereignty.

Court injunction

The Metis, meanwhile, are still trying to sort out who they are.

During the weeks before the conference, they had a falling-out within their own organization over the question of representation at the conference. At one point it led to a court injunction to stop the conference altogether, but by the end of the week negotiations had resumed under federal conciliation efforts.

In between are 325,000 status Indians whose basic concern, as Cree Chief Billy Diamond put it, is to get "a clear, definitive statement of what aboriginal rights are."

The government view, expressed by officials this week, is that the best that can be achieved at the conference is the establishment of an ongoing process of constitutional negotiation that will enshrine native input into whatever rights are eventually spelled out in the constitution.

But will natives eventually have an equal say in determining their constitutional niche in Canada?

Native groups say it must be so. The government promises input, but isn't prepared to extend veto power. Again the discrepancy isn't likely to be resolved next week.

"At the conference everybody will be equal in the sense of being able to present a point of view and to haggle and so on," said Munro this week.

"But there are no votes at these things."

Quebec natives patch over divisions for summit

They won a crucial victory by persuading premier to give them a voice at talks

By JONATHAN MANN
Gazette Quebec Bureau

QUEBEC — Huron Chief Max Gros-Louis' broad and weathered face betrayed fatigue and relief this week after Quebec's native groups hammered out a last-minute consensus on their constitutional position.

As a prominent member of the task force representing the province's 52,300 natives, Gros-Louis worked hard to keep the fragile coalition from splitting apart. He had reason to be pleased.

For as they prepare to sit down next Tuesday with Canada's first ministers and native groups from other parts of the country to discuss how native rights should be written into the constitution, Quebec's Indians and Inuit have managed to patch over their deep divisions on fundamental issues.

The Aboriginal Peoples of Quebec Task Force has been beset by problems since it was formed last November to defend the constitutional interests of Quebec natives.

The 11th-hour effort earlier this week headed off a split over one of the most important questions facing them — the future of the landmark James Bay and Northern Quebec Agreement and the territorial claims hinging on it.

They solved the problem — for now — by deciding simply to set aside the problems raised by the James Bay agreement. But the issue is just one of many confronting the native groups.

Premier Rene Levesque handed them a major victory on Thursday when he announced that Quebec will turn over 17 of its 33 seats at next week's conference to native groups, giving them a direct voice in the meeting.

But that followed months of tense negotiations over whether Levesque (and thus Quebec's natives) would even attend the crucial talks.

Still bitter about the November, 1981, constitutional accord which left Quebec an impotent and isolated opponent of repatriation, Quebec refused to attend subsequent federal-provincial conferences, except those dealing with economic issues.

But after weeks of tireless prodding from native leaders who desperately need whatever support they can muster, Levesque grudgingly agreed to go to Ottawa because of what he called "the deep injustice

done to aboriginal people over generations."

It's ironic that Levesque is heading to Ottawa to show his recognition of native problems because his government has had a hand in creating more than a few of them:

- The Restigouche Salmon War brought hundreds of provincial police to the Micmac band's Restigouche reserve when its fishermen openly defied Quebec fishing quotas in June, 1981. Police descended on the band's Gaspe reserve, destroying fishing nets and firing tear gas at defiant residents.

- The James Bay agreement has received only reluctant compliance from the provincial government. Loose contract language allowed Quebec to delay implementing health-care and sanitation provisions while an outbreak of gastroenteritis killed two Cree children.

Stumbling block

- Quebec's Secretariat for Government Administration in the Amerindian and Inuit Milieu, created in 1978 to improve relations with natives, has instead earned a reputation as a stumbling block. Secretariat chief Eric Gourdeau didn't help matters by telling an interviewer — with accompanying gestures illustrating his point — that young Indian women should remain on reserves until they begin developing "firm breasts."

But whatever his government's record, Levesque *will* be in Ottawa. With the PQ cabinet reportedly split over whether he should be making any steps towards re-opening dialogue on the constitution, native leaders have justifiably seen his attendance as a clear victory.

While Levesque, they point out, has little to gain by going to Ottawa, Quebec's natives have everything to gain.

Their task force — which represents 35,000 status Indians, 5,300 Inuit, and 12,000 Metis and non-status Indians — has called for constitutional recognition of 15 principles.

Two of the most important ones mirror traditional PQ demands — recognition of the native peoples' status as separate nations with the right to self-determination and the right to veto constitutional amendments.

Task force members have hammered away at provincial representatives for recognition of rights to self-determination and consent, but Levesque has refused to budge.

Ironically, one area where he has

been most receptive to native demands is the James Bay agreement.

Under the agreement, the province's Cree and Inuit gave up all future claim to any Quebec land. In return, the federal and provincial governments agree to pay \$225 million and provide a number of benefits including hunting, trapping and fishing rights; native-controlled health and educational institutions; and economic development measures.

For all their difficulties in getting the governments to comply with its provisions, the agreement is viewed as a valuable accomplishment by Cree and Inuit leaders, giving their peoples Canada's only major modern land-claims settlement.

"The James Bay agreement contains a lot of rights for the Crees and Inuit and we want to see them constitutionally protected," said Cree Grand Chief Billy Diamond.

Levesque told native leaders that the province is ready to recognize the James Bay settlement as a treaty, thereby protecting it under existing constitutional guarantees.

But other native groups with claims to the 400,000 square miles covered by the pact are determined to prevent that.

They argue that a clause in the James Bay agreement which extinguishes any other claims to the area would be an irreparable step backwards if it receives constitutional protection.

Acquired rights

"I don't blame the Cree and Inuit for wanting to protect the agreement, but they're not the only ones with claims to that land," said Gros-Louis. "If the agreement is included in the constitution, those claims will be over."

Gros-Louis, Diamond and other native leaders spent long hours drafting a compromise on the issue, but failed to satisfy both the Inuit and Crees who hope to protect their acquired rights, and the Attikamek, Montagnais and Algonquin who still hope their other claims to the land will be recognized.

The meeting ended with a last-minute compromise among the native leaders, who will simply ignore the deep rift between them as they head to Ottawa.

They'll work instead for their common goals, leaving the long job of deciding the future of Quebec natives' most controversial accomplishment for another day.

Metis win seat at native-rights meeting

OTTAWA (UPC) — A group representing 240,000 Prairie Metis yesterday won the right to participate formally in next week's first ministers' conference on native rights in the Constitution.

In a deal that ended legal action threatening the entire meeting, the federal government agreed to give the Metis National Council 14 delegates and one seat at the conference table, with full speaking privileges.

The Metis were to have been represented by the Native Council of Canada (NCC), but broke with that group when it refused to back

Metis land claims. About 20 per cent of Canada's Metis still belong to the NCC.

"The Metis, as a people, feel we are strong enough to fight for our own rights," said MNC official Clem Chartier.

The Association of Metis and Non-status Indians of Saskatchewan, the Metis Association of Alberta and the Manitoba Metis Federation Inc. had sought an injunction to block the March 15-16 conference if they could not participate.

They argued Prime Minister Pierre Trudeau had violated their

constitutional rights by not inviting them to the conference. The Constitution recognizes the Metis as an aboriginal people, along with Indians and Inuit.

Metis official Jim Sinclair said the Metis — people of mixed Indian and white parentage — would try to have the conference agenda include their demands for a "land base" and "self-determination."

In Winnipeg, Premier Howard Pawley and Manitoba Metis Federation President Don McIvor said they had agreed to negotiate land claims instead of fighting the issue in court.

No rushing, please

The Canada Act of 1982, which brought the constitution to Canada and established the Charter of Rights, required that within a year the Prime Minister and the provincial premiers convene. Representatives of the Yukon and Northwest Territories would participate in discussions concerning them.

The bill also required that on the agenda of this conference there be an item "respecting constitutional matters that directly affect the aboriginal peoples of Canada, including the identification and definition of the rights of those peoples to be included in the Constitution of Canada". The Prime Minister was instructed to "invite representatives of those peoples to participate in the discussions on that item". Included among the aboriginal peoples for the first time were the Métis — people of mixed Indian and white blood.

It took most of a year for federal and provincial representatives and native leaders to draft the topics for discussion. On Tuesday and Wednesday the conference will meet in Ottawa. The desperate fear of the native peoples is that the first ministers will treat these two days as the end of the discussion when — if there is to be justice — it can be only the beginning. They point out, unhappily, that Prime Minister Pierre Trudeau has already introduced a second topic — the economy — which could distract the attention of meeting and public from native problems.

They see the time thus spent:

Tuesday morning and afternoon, first statements by each participant. Tuesday evening,

on Mr. Trudeau's suggestion and with the acceptance of the premiers, a dinner meeting to discuss the economy (when native leaders had hoped to lobby premiers). Wednesday morning, discussion of native issues. Wednesday afternoon, closing statements. The end.

It took Canada years, and a final concentrated year of bitterness, to bring the constitution home. Two days for the native peoples? It would be cruelly unkind; impossible.

During the past week The Globe and Mail has published a wide-ranging examination of the native people's problems, prepared over months by reporter Rudy Platiel and others. Problems as diverse as Canada's 10 provinces and two territories — involving about 292,000 Indians recognized by law with reserves and treaties, about 23,000 Inuit also recognized by law but without reserves and treaties, and perhaps a million non-status Indians and Métis without rights.

These peoples do not even agree among themselves on what constitutes rights, let alone with whites. They have a real fear that the whites will present them with what they view as rights, and what the native peoples would view as wrongs.

What, for example, are land rights? Whites think in terms of land ownership, many native peoples in terms of land use. There are already 250 formal land disputes, and could be 1,000. And who benefits from the land's resources?

To pretend it could be handled in two days would be the final injustice.

Metis win a place at Constitution talks

By JEFF SALLOT
Globe and Mail Reporter

OTTAWA — A group representing Prairie Metis has won a place for itself at next week's constitutional conference on aboriginal rights, prompting it to drop a legal challenge to the conference.

The Metis National Council withdrew its application for an injunction in the Ontario Supreme Court yesterday after Justice Minister Mark MacGuigan said the federal Government will give the group a seat at the meeting of federal and provincial first ministers. The two-day conference in Ottawa opens Tuesday morning.

The Metis National Council was formed last week when provincial Metis groups from Alberta, Saskatchewan and Manitoba split from the Native Council of Canada.

The NCC was originally recognized by Ottawa as the umbrella group that would speak on behalf of Metis, who are of mixed Indian and white ancestry, and so-called non-status Indians — those of Indian ancestry who do not fall under federal Indian Act provisions, such as the right to live on reserves.

The NCC will not lose its representation at the conference and will continue to speak for non-status Indians and for Metis from outside the Prairie provinces. The Metis National Council says 75 to 80 per cent of Canada's Metis are from the Prairies.

The two other aboriginal rights groups that will be at the conference table with Prime Minister Pierre Trudeau and the premiers are the Assembly of First Nations, representing status Indians, and the Inuit Committee on National Issues, representing northern Inuit.

Federal recognition of the Metis National Council also gives the breakaway group delegate credentials for 14 people and observer seats for five others. Only one delegate at a time, however, will be at the conference table with the first ministers.

The Prairie Metis split from the Native Council of Canada because Metis leaders from the three provinces felt the umbrella group was not pushing hard enough to have the conference agenda include discussion of a land base for Metis.

James Sinclair, a spokesman for the Metis council, said his group would try to get the land issue added to the agenda.

The Constitution says the aboriginal people of Canada are the Indians, Inuit and Metis, but it doesn't define Metis. "There is no objective definition. It is subjective," Clem Chartier, another leader of the Metis council, told a news conference. "You are who you feel you are and who you say you are. It's inside you."

As part of the accord on constitutional reform in 1981, Ottawa and nine of the provinces agreed to a first ministers' conference to define aboriginal rights.



MICHELE TREMBLAY

Le Conseil national des Métis aura un siège à la conférence sur les droits DES AUTOCHTONES

Le Conseil national des Métis du Canada s'est assuré hier un siège à la table de la conférence constitutionnelle sur les droits des autochtones qui débute à Ottawa mardi matin.

Au terme d'une querelle interne les opposant au Native Council of Canada, les Métis du Manitoba, de la Saskatchewan et de l'Alberta s'étaient refusés du Native Council qui regroupe tant des métis que des Indiens sans statut. Du même coup, ils se sont retrouvés sans représentation à la conférence constitutionnelle.

Ils ont donc immédiatement formé une nouvelle organisation appelée le «Métis national council» et ont commencé à réclamer un siège à la conférence. Après avoir été officiellement reconnu comme organisme la semaine dernière seulement, le Conseil des métis a déposé et plaidé devant la Cour suprême de l'Ontario, une requête en injonction réclamant que la conférence des premiers ministres soit annulée, à moins qu'ils soient représentés directement à la table des négociations.

Le jugement devait être rendu hier, mais la question fut réglée hors cour, alors que le ministre de la Justice, Mark MacGuigan leur accordait le statut de groupe participant à la conférence.

Le groupe disposera donc désormais d'un siège à la table principale et 14 sièges de délégués à la conférence que présidera le premier ministre Trudeau à Ottawa, mardi et mercredi.

Les trois autres groupes représentant les Indiens, les Inuits, de même que Native Council conservent leurs propres sièges.

Autour de cette même table, nous retrouverons les onze premiers ministres, de même que les

représentants du Yukon et des Territoires du Nord-Ouest. Précisant que les Métis veulent demeurer membres de la Confédération canadienne, le porte-parole du groupe, Jim Sinclair a déclaré hier que le Conseil national des Métis se battra pour obtenir un territoire délimité et un gouvernement autonome.

Grâce à leur gouvernement autonome, les Métis veulent obtenir la juridiction exclusive sur les services sociaux, la justice, le développement économique dans ce territoire qui deviendra le leur.

Selon Sinclair, il faudra de nombreuses années avant que ce processus ne se concrétise totalement, mais il estime qu'il est essentiel que les Métis deviennent autonomes sur leur propre territoire si on veut leur permettre de se développer de leur propre manière, à leur propre rythme.

«Sinon, dit-il, nous continuera à remplir 80 pour cent des cellules des prisons, à accaparer plus de 80 pour cent des listes de Bien-être social et à développer notre statut d'extrême pauvreté.»

«Nous ne demandons pas qu'on nous donne une partie du centre de Toronto ou de Montréal, mais bien des territoires au nord de la Saskatchewan, regroupant des communautés isolées qui correspondent mieux à nos besoins», a expliqué Sinclair au Journal.

Mais qui sont les Métis?

«De dire que ce sont les Indiens au sens strict serait inadéquat. Ce à voudrait dire qu'il ne reste à peu près pas d'Indiens au Canada», a déclaré un autre porte-parole du Conseil des Métis, Clem Chartier, ajoutant que c'est surtout une question de cœur. C'est subjectif, vous êtes ce que vous sentez que vous êtes.»

LES DROITS DES AUTOCHTONES

Trudeau et les premiers ministres fumeront-ils le calumet de paix?

■ Un an et demi après la conférence constitutionnelle de novembre 1981, le premier ministre Trudeau et ses homologues provinciaux se retrouvent mardi et mercredi autour de la même table circulaire du centre des Conférences à Ottawa, où le Québec a perdu son droit de veto il y a un an et demi.

Les principaux interlocuteurs seront les mêmes : Trudeau, Lévesque, Davis, Lougheed, Bennett, Peckford et compagnie.



GILBERT LAVOIE

(de notre bureau d'Ottawa)

C'est un peu à contrecoeur que ces hommes se retrouveront dans cette enceinte historique, mais ils n'avaient pas le choix : l'article 37(1) de l'entente conclue en novembre 1981 les forçait à se réunir à nouveau au cours de l'année suivant son entrée en vigueur, pour discuter des droits constitutionnels des autochtones.

Le premier ministre du Québec, M. René Lévesque, sera présent parce qu'on ne lui aurait pas pardonné de sacrifier les droits des autochtones québécois aux querelles Québec-Ottawa. Mais il ne prendra pas une part active aux discussions. Ses collègues des provinces de l'Ouest, qui avaient fait biffer les droits des aborigènes dans l'entente de 1981, ne sont guère enthousiastes à l'idée de rouvrir ce dossier.

Outre les premiers ministres et les représentants des administrations du Yukon et des Territoires du Nord-Ouest, quatre groupes autochtones seront représentés à la table de négociation :

— Les Indiens inscrits, c'est-à-dire ceux qui sont inscrits à titre d'Indiens conformément à la loi sur les Indiens. Ils sont actuellement 292 700 au pays.

— Les Inuit, c'est-à-dire les habitants autochtones de la ré-

gion arctique du Canada, y compris le nord du Québec et le Labrador. Leur population s'élève à 25 300.

— Les Indiens non inscrits, c'est-à-dire les personnes d'ascendance indienne qui ont perdu le droit d'être inscrites en tant que telles. Le dernier recensement en a dénombré 75 110.

— Les métis, c'est-à-dire les personnes dont les ancêtres sont à la fois blancs et indiens. Ils sont environ 98 200.

Trois associations représenteront ces groupes à la conférence : l'Assemblée des premières nations parlera au nom des Indiens inscrits, le Comité des Inuit sur les questions nationales, se fera le porte-parole des Inuit, et le Conseil des autochtones représentera les métis et les Indiens non inscrits. Il faut noter ici que les métis des Prairies contestent la représentativité de ce groupe.

Les enjeux

À long terme, les Indiens inscrits désirent obtenir la formation d'un gouvernement indien autonome; les Inuit aimeraient voir la création d'une province dans leur territoire; les métis de l'Ouest ont des revendications territoriales et les Indiens non inscrits veulent reconquérir leurs priviléges perdus.

La conférence de cette semaine ne saurait satisfaire toutes ces revendications. Il semble toutefois y avoir un consensus sur une revendication importante des Indiens non inscrits, soit qu'aucun Indien ne perde son statut en raison du mariage, comme c'est le cas actuellement pour les femmes indiennes. Il est aussi question de la mise sur pied d'un programme de rétablissement pour permettre à celles qui ont perdu leur statut et à leurs enfants, de recouvrer leurs droits.

Sur un autre sujet, les autochtones ont demandé la suppression du mot « existant » qui qualifie leurs droits, dans le texte constitutionnel actuel, et son remplacement par la mention précise de « titres autochtones ».

y compris le droit de ces peuples à un territoire et des eaux de réserve. L'enchâssement d'un tel texte aurait un impact direct sur les négociations touchant les revendications territoriales. On ne prévoit pas d'accord sur ce point.

Autre sujet important des discussions : le retrait du texte constitutionnel de deux alinéas (art. 42-1 e-f) qui prévoient le rattachement aux provinces existantes de tout territoire, ou la création de province. Les autochtones veulent l'abandon de ce texte, qu'ils voient comme une menace à leurs revendications territoriales.

Le rôle des autochtones dans les amendements constitutionnels à venir sera également discuté. Ceux-ci demandent un droit de veto sur les propositions d'amendement qui les concernent, mais Ottawa et les provinces refusent. On peut s'attendre à l'enchâssement d'une garantie de consultations, mais pas à l'octroi d'un droit de veto.

À quelques exceptions près, la conférence de cette semaine ne fera qu'ouvrir les discussions sur les droits des autochtones. Avant de se quitter, les participants devront donc s'entendre sur l'enchâssement dans la constitution d'un mécanisme prévoyant la tenue de nouvelles négociations au cours des prochaines années.

Toutes ces discussions poseront un problème politique de taille aux premiers ministres. En théorie, ils n'ont pas besoin du consentement des groupes autochtones pour prendre des décisions quant aux amendements à apporter à la constitution. En pratique, ils leur faut tout de même certains appuis. Comme le fédéral et les provinces ne s'entendent pas sur plusieurs sujets et que les autochtones eux-mêmes sont divisés, la conférence de cette semaine pourrait se terminer dans un fouillis indescriptible.

Des décisions politiques difficiles attendent les premiers ministres. Ils auront besoin d'une bonne qualité de tabac dans leur calumet de paix...

raymond
giroux

Sur le dos des autochtones?

La conférence constitutionnelle sur les droits des autochtones qui débutera à Ottawa, mardi, devrait idéalement donner lieu à un accord rapide et complet sur le type de relations qui doit exister entre les habitants originaux du Canada et les immigrés blancs qui s'y sont installés peu à peu depuis 1534.

Mais laissons-là les rêves. Les divergences philosophiques et politiques qui séparent les participants à cette rencontre, sans oublier les montants d'argent incalculables en jeu, laissent prévoir, à l'avance, un échec que seul le processus de la négociation permanente pourra peut-être corriger un jour.

Double échec, peut-on dire, autant sur le fond que sur la forme. Il ne faut pas oublier, comme le rappelle l'anthropologue Rémi Savard dans le dernier numéro de la revue *Recherches amérindiennes*, que les autochtones ne connaissent qu'un seul Etat, "l'Etat colonial. Et toute leur approche, poursuit-il, consiste à tenter de sortir d'un carcan qui fait que leur existence est contrôlée par des puissances extérieures".

Le pouvoir blanc canadien est-il prêt à reconnaître cette interprétation de l'histoire à travers le prisme des Indiens, des Inuit et des Métis? Admettra-t-il facilement qu'au fond, toute chose étant égale, "nos" autochtones, premiers occupants du sol, se retrouvent dans la même situation que les peuples africains d'avant la décolonisation?

Le gouvernement péquiste s'est parfois laissé tenter par les excès de vocabulaire: en principe, tout souverainiste québécois ne peut qu'applaudir au désir de tout peuple de reconquérir son autodétermination. Mais tout aussi vrai qu'on finit par se brûler à force de jouer avec le feu, le Québec a dû reconnaître qu'il n'est pas question, pour sa part, d'admettre le droit à l'autodétermination des Amérindiens et des Inuit.

La réponse que le gouvernement a faite aux demandes fondamentales des quelque 85 000 autochtones de la province démontre bien les limites de la souveraineté qu'on est prêt à concéder.

"Le Québec reconnaît que les peuples aborigènes du Québec sont des nations distinctes qui ont le droit à leur culture, à leur langue, à leurs coutumes et traditions, ainsi que le droit d'orienter elles-mêmes le développement de cette identité propre", a répondu le gouvernement dans un texte dit secret qui circule ouvertement parmi tous les intéressés.

Mais trois lignes plus loin, la porte se referme: "Ces droits doivent s'exercer au sein de la société québécoise et ne sauraient par conséquent impliquer des droits de souveraineté qui puissent porter atteinte à l'intégrité territoriale du Québec."

Ce texte, pourtant, n'a pas empêché les autochtones d'accepter l'invitation québécoise de participer de plein droit à la conférence constitutionnelle en occupant 17 des 33 sièges auxquels la province a droit, invitation assortie d'une reconnaissance de la liberté de parole des personnes choisies.

Pourquoi une telle proposition? Il faut reconnaître, comme l'ont fait les chefs indiens, cette semaine, la générosité de l'offre, car les autochtones "québécois" seront les seuls à pouvoir s'exprimer librement, hors des contraintes imposées par la présence d'associations dites nationales qui ont souvent troqué des droits contre des priviléges, avec le gouvernement canadien.

Mais outre la bonne foi, le geste peut également s'expliquer par le dilemme dans lequel s'est enferré le gouvernement en refusant de reconnaître la nouvelle constitution canadienne. Le jeu du premier ministre Trudeau, dans ce contexte, paraît d'une clarté limpide.

Il tentera tout ce qu'il pourra pour coincer le Québec entre son refus de signer la loi constitutionnelle et sa bonne volonté envers les autochtones, et si possible forcera le jeu à sa limite: ou vous acceptez de participer à des amendements à la constitution en faveur des premiers habitants du pays, dira-t-il, ou vous refusez et passez à ce moment pour des "méchants" blancs colonisateurs qui refusent de s'incliner, à cause de leur étroit nationalisme, devant des droits fondamentaux.

Si Québec réussit à éviter le piège de l'amendement constitutionnel, il lui restera quand même à résoudre la question de la participation à la poursuite de la négociation. Amérindiens et Inuit lui poussent dans le dos pour qu'il s'implique à fond, car les querelles entre anglophones et francophones les laissent totalement froids.

M. René Lévesque jouera une partie délicate, son homologue Pierre Trudeau également. Mais on peut se demander si le demi-million d'autochtones légalement recensés que compte le Canada tireront le moindre profit de cette rencontre.

Constitution: les métis des Prairies annulent leur recours

OTTAWA (d'après PC) — Trois groupes de Métis des Prairies ont abandonné, hier, leur requête pour obtenir une objonction de la cour, afin d'empêcher la tenue de la conférence constitutionnelle sur les droits des autochtones, la semaine prochaine, parce qu'ils ont obtenu du gouvernement fédéral le droit d'assister à la rencontre.

Le ministre fédéral de la Justice, M. Mark MacGuigan, a accepté jeudi, de donner un droit de représentation au Conseil national des Métis — qui représente ces trois groupes —, lors de la conférence de deux jours, a déclaré un porte-parole du conseil, M. Clem Chartier, à Ottawa.

Plus tôt hier, les avocats du conseil ont témoigné devant la Cour suprême de l'Ontario, la priant de ne plus tenir compte de leur requête.

Le Conseil des aborigènes, de même que les associations d'Amérindiens et d'Inuit, se verront accorder chacun deux sièges à la conférence sur les droits autochtones.

Quant au Conseil des Métis, nouvellement formé, il ne détiendra qu'un siège, étant ainsi considéré au même titre que les 14 observateurs et délégués, à la table des négociations.

Le Conseil des aborigènes prétend de son côté représenter les Métis tout autant que les Amérindiens sans statut. Cependant, le groupe dissident que constitue le Conseil des Métis juge que la "vieille" association ne défend aucunement les revendications des Métis, au chapitre de l'auto-détermination et des droits territoriaux.

Le Conseil des Métis institué au début de la semaine, à la suite d'une scission avec le Conseil des aborigènes, représente les Métis d'Alberta, de la Saskatchewan et du Manitoba.

A focus on native rights

For Canada's native peoples, next week's long-awaited constitutional conference on native rights promises to be the formal start of a process to right wrongs that date back four centuries. Beginning with the 16th-century French settlement of Quebec, and continuing well into our own time, the native peoples have been shunted aside, pushed from their lands and threatened with cultural extinction.

Today, 300,000 Indians, 25,000 Inuit and between 200,000 and 1 million Metis are pressing home their claims to a renewed stake in this country. And when Canada's political leaders meet next week in Ottawa, to consider native rights, they should dedicate themselves, firmly and publicly, to the long process of helping rebuild the country's native communities.

The native leaders are coming to Ottawa with sharply diverging political agendas. Some native communities want the constitution amended to assure them of the right to self-government institutions, but within the Canadian confederation. Other, more radical, communities want to be fully recognized as nations in their own right, co-equal with the Canadian nation.

And yet the case has not been made that the new Canadian constitution in fact needs to be further amended to meet the actual needs and the aspirations of the native communities. Land claims, development rights, cash settlements in lieu of land, and a healthy measure of native self-government can surely all be negotiated within the country's current political framework. In any event, such complex issues will certainly not be decided at next week's get-together.

But even if the Canadian constitution is not amended by so much as a comma, next week's conference will have served a vital purpose if it fo-

cuses public attention on the native grievances, and prompts the federal and provincial governments into speedier action on native claims.

When a native leader like Chief David Ahenakew says, "We haven't joined Confederation yet," he's expressing the depth of frustration and alienation that many native people feel. And, however extravagantly, he's underlining their determination to survive and flourish.

Chief Ahenakew's feelings are not hard to understand. Many native people live in communities where unemployment, apathy, welfare and social problems are only too common. The infant mortality rate among native children is 2½ times the national average; suicide among young Indians is six times the average. And such problems will continue to erode native communities, until they acquire the power to run their own affairs, and the land and money to do the job.

The time has come for Canadian governments at all levels to find ways of making Confederation more attractive, for the native peoples, without losing sight of the needs of the country as a whole.

Reconciling native claims to traditional modes of self-government with basic Canadian democratic principles will not be easy. Nor will balancing native claims to territory and resources with our current political boundaries and our national economic priorities. But ways must be found, and quickly. For too long, the Indians, Metis and Inuit have had but a precarious stake in this country.

Ultimately, Ottawa and the provinces will be pushed to recognize valid native claims by the moral strength of the native peoples' case, and by the power of enlightened public opinion. The constitutional conference on native rights marks a historic first step in that long-overdue process.

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Getting to grips with native rights

That's what the first ministers' meeting Tuesday is supposed to do — but don't hold your breath

By Tony Belcourt Special to The Star

OTTAWA — In many ways, the next round of talks on Canada's Constitution could be the chance of a lifetime for aboriginal peoples. In some ways it could be the start of something good, in others it could present a set-back for years to come.

When Canada gained complete independence from Britain through patriation of the Constitution last year, one guarantee given to Indians, Inuit and Metis was that "existing" aboriginal rights would be recognized and that there would be a first ministers' conference within a year to define those rights.

That conference, with the premiers and Prime Minister Pierre Trudeau, gets underway in Ottawa on Tuesday.

The work to prepare for this conference started last summer. In June, 1982, Trudeau met with the leaders of the three national aboriginal groups — the Inuit Committee on National Issues, the Native Council of Canada and the Assembly of First Nations. Since then there have been a number of meetings and by constitutional standards, the progress has been typically slow.

Trudeau began the process in earnest last July by writing to all the premiers and the two territorial government leaders outlining the points that were raised in his meetings with aboriginal leaders. He also proposed a procedure of three stages for meetings to prepare for the conference.

The first was to have private meetings between the federal government and each aboriginal group individually and the federal government and each province privately. These meetings were to work out some agenda items for the second stage.

Deciding the agenda

In the second stage, senior officials — deputy ministers and chief negotiators from the native organizations — would meet to exchange information and discuss the definition of aboriginal rights. Those meetings were held last fall in Winnipeg, Ottawa and Montreal between October and early December.

The third stage was a series of meetings

between ministers responsible for aboriginal rights or justice or federal-provincial relations and representatives for each native group.

All of these meetings have been held primarily for one reason — to decide on an agenda for the first ministers' conference. In reality, though, they are more than that. They are the time when government officials find out what the aboriginal people want on the agenda and what they mean by issues such as self-government, cultural and language rights or special representation in Parliament.

The origins of aboriginal rights were established in international law 400 years ago and formed the basis of settlement in the colonies in North America. One of the examples of that theory which caused the King of England to recognize aboriginal rights in the Royal Proclamation of 1763, can be found in an order issued by Pope Paul III in 1537 which said in part:

"Indians are truly men . . . they may and should, freely and legitimately, enjoy their liberty and the possession of their property; nor should they be in any way enslaved"

The early contact between aboriginal people and European settlers was not always peacefully governed by those principles however, at least not until Indians resisted intrusions on their lands and forced treaties and agreements.

The Indians may not have understood the European concepts of international law, but they did maintain their rights which amounted to the same thing as European legal definitions — freedom, a form of ownership and a form of sovereignty and laws to govern themselves.

Understanding what is meant by aboriginal rights has always been a difficult question for most people. When Indians, Inuit or Metis talk about land rights or language rights or hunting rights, then almost everyone has an idea of what that means — but does it mean the same thing to each group of people?

In many ways rights mean the same thing to everyone, but when it comes to applying those rights so that they can be enjoyed or so that people can benefit by them, then definitions and perceptions can change. It depends on the history or culture of each aboriginal group, just as it is different for any nation throughout the world.

In the last three months, there has been a lot of debate between aboriginal representatives and government officials but most of it has been in the form of the officials questioning native representatives on what they mean or how they think each aboriginal rights item would work.

There are about 20 items on the agenda, some put there at the request of native groups, others by governments. More than half of the issues are political. They include:

A Charter of Rights for Aboriginal Peo-

ples including a preamble; the entrenchment of aboriginal title; a land base for the Metis; treaty rights including the Royal Proclamation of 1763 and removal of the word "existing" from the present clause which recognizes aboriginal rights.

Also included in this list are other political rights such as equality for men and women, self-government, guaranteed representation in Parliament and the provincial legislatures and the amending formula including a consent clause. Participation in international issues and the repeal of Sections 42 (e) and (f), which concern the extension of provinces into the territories are also items on the political list.

There are four economic related items: Mobility rights; hunting, fishing, trapping and gathering; affirmative action programs and the delivery of services. There are two social issues: Language and culture and customary family law.

So far during the meetings of native representatives and top-level government officials, there is general agreement at least as far as the governments are concerned, that the list of issues and suggested agenda items is too long, although they do not rule out that all of the items should at least be raised.

The other area where there seems to be agreement is that there should be a thorough discussion of general principles with a view to adding them to Part II of the Constitution, which is the section dealing with aboriginal rights. These general principles they call the "preamble." Native groups want the whole section called a Charter of Rights for Aboriginal Peoples.

Separate sections

Native representatives argue that aboriginal rights should be kept separate from the current Charter of Rights and Freedoms which apply to all Canadians and that the separate section should be a Charter of Rights dealing specifically with the special rights of aboriginal people. They say that this separate Charter could then be amended and added to without affecting other parts of the Constitution.

They hope to get the governments to agree to stating broad principles at the beginning of an aboriginal Charter of Rights and then have sub-sections which would define those principles in more detail.

The Inuit Committee on National Issues proposes three broad principles: The recognition of the collective cultures and histories of the aboriginal peoples; the rights to self-governing structures within Canada; and, rights to economic resources and the protection of traditional livelihood.

The Native Council of Canada has suggested five general principles which are



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similar but are more specific. They propose that the preamble include: The right to guaranteed representation in all legislative assemblies; the inalienable right to the land and the resources of that land (in other words, the land and the resources could never be taken away or given up); the right to determine how and when the land and resources are to be developed for the benefit of the aboriginal peoples and in partnership with other Canadians for the benefit of Canada as a whole; the right of aboriginal people to preserve their identity and to flourish as a distinct people with a rich cultural heritage; the right of aboriginal people to educate their children in their native languages, customs, beliefs, music and other forms.

These principles are meant to be little more than an introduction to a section in the Constitution which would be separate and distinct from other parts. As an introduction, those principles are meant to be general statements which would not be used in the courts unless a specific law is unclear.

Native leaders want a clear introduction in a separate Charter for Aboriginal Peoples which will recognize their distinct rights as first Canadians. Although most government officials so far do not object to the idea, some are having trouble accepting the wording proposed because they think it is too specific.

Not only that, but the Inuit group and the Indian group have suggested different words. Getting agreement on an introduction is not a simple matter. The one issue which has surfaced over the years and appears to be more important than any other is the question of title to land.

The argument is that without land, aboriginal people would find it difficult if not impossible to exercise their political, cultural or traditional rights and livelihood. Aside from that, they were on the land before anyone else.

With the evidence of 500 years of history, native people today are ever fearful that the lands which they now hold or are negotiating will keep being reduced until there is nothing left. Aboriginal leaders want the evidence of the right to land firmly declared or entrenched in the Constitution. This right is called aboriginal title.

It was the Nishga of British Columbia who went to the Supreme Court of Canada in the early 1970s over the issue who are the most vocal about the need to establish aboriginal title in the Constitution. The fact that such a right has never been recognized in Canadian law was one of the reasons why the Supreme Court could not declare that the Nishga were the owners of the Nass Valley in B.C.

Recognizing the need

Some legal experts say that aboriginal title is something which comes from a right, so therefore, if rights are recognized there is no need to specify aborigi-

nal title because it is assumed that title is automatic. Others argue that rights come from an established title and also question the effect that the word "existing" as in the constitutional reference to the rights of aboriginal peoples.

The Inuit argue that the rights and title of aboriginal people extend beyond the land itself to the sea. In the words of one Inuk representative: "The north is the one place in the world where you can walk on water nine months of the year."

To establish aboriginal title in the Constitution, the Inuit are proposing a section in the suggested Charter for Aboriginal Peoples which specifies that aboriginal rights are both collective and individual.

So far, the Inuit and Metis are after the same thing but are approaching the issue from different directions. The Inuit want constitutional recognition of traditional lands, the Metis want lands set aside.

It is here, in the debate about establishing land title in the Constitution, where the Metis representatives have set themselves apart from other aboriginal groups. They want a land base which they do not now have since they live throughout the south and not in any one territory or reserve.

The Metis say, recognize our rights to land in the Constitution and then we will negotiate where the specific lands will be. The Inuit are pressing for constitutional title to lands they now occupy.

The reaction from the governments so far is one of the clear signs of fear and unwillingness on their part to fully accept aboriginal rights without complete protection for the governments. It is also the most obvious sign of the basic conflict between aboriginal people and the governments.

'On Crown land'

It is land claimed by both native people and in the name of European kings that has kept people in Canada apart for centuries. The governments of today call all of the land which is not held by some title or deed as "Crown land" or land which belongs to the government.

If they are going to give their claim to some of that land to the aboriginal people, they want to have legal guarantees of the limits of the aboriginal title. Until the governments and the aboriginal people can come to some agreement on those specific limits, governments are unlikely to agree to establish aboriginal title in the Constitution.

In some ways, this debate has been going on for hundreds of years, in other ways the talks have just begun. The issue may be on the agenda for the first ministers conference on Tuesday but it is hard to imagine any agreement by then.

□ Tony Belcourt, the founding president of the Native Council of Canada, is an adviser on Indian affairs and a freelance journalist.

Indians pledge to reject results of rights talks

By Greg Bannister

A group of dissident Indian leaders from across Canada said in Winnipeg yesterday it will not accept the results of a constitutional conference on aboriginal rights to be held in Ottawa next week.

The dissident group has also threatened to withdraw from the Assembly of First Nations (AFN), an umbrella group representing status Indians, if the federal body participates in next week's first ministers' conference.

At a news conference here, the group, calling itself the Coalition of Indian Nations, told reporters it will send a delegation to Ottawa next week to try to prevent the conference.

The group members — chiefs from British Columbia, Alberta, Manitoba, Quebec and the Maritimes — oppose the March 15-16 conference because the provincial premiers will take part in the discussions.

They argue the talks violate treaties between Indian nations and Ottawa. The coalition, made up of about 30 chiefs, claims to speak for more than 70,000 status Indians. They say a further 170 bands across Canada, which do not belong to the coalition, have decided not to take part in the talks.

Spokesman Chief Alex Christmas, of Nova Scotia, said the Assembly of First Nations does not represent all the views of Canada's Indians.

Christmas criticized the AFN for "unilaterally" making the decision to participate in the conference on behalf of all status Indians.

Chief David Quilt of British Columbia, alleged the AFN was "bought off" when it accepted about \$500,000 in federal money to organize Indian participation in the conference.

Chief Bill Traverse, of Manitoba's Jackhead Band, said he and eight other chiefs from the province consider the conference to be a "complete violation of treaty rights." Traverse and the other eight Manitoba chiefs are expected to travel to Ottawa next week to lobby against the conference.

Traverse also said members of the coalition oppose the conference because Indians have yet to be recognized as equal participants in the talks with veto rights to be debated.

Coalition spokesmen also said they would consider other steps such as an advertising campaign and/or court action to halt the conference.

Québec cède la moitié de ses sièges aux autochtones

(D'après PC) — Québec a décidé d'accorder aux autochtones qui vivent à l'intérieur de ses frontières plus de la moitié des 33 sièges qui lui seront alloués à la conférence constitutionnelle sur les droits des aborigènes, la semaine prochaine à Ottawa.

Le premier ministre René Lévesque a fait cette annonce hier à l'issue d'une rencontre avec les représentants du groupe de travail des peuples aborigènes du Québec, le Chef huron, Max Gros-Louis, le Grand Chef cri, Billie Diamond, et la présidente du Inuit Council on National Issues, Mary Simon.

Des 33 sièges de la délégation du Québec, 28 seront occupés par des représentants et cinq par des observateurs. M. Lévesque a précisé que les cinq sièges d'observateurs et 12 sièges de participants seront accordés aux autochtones.

Le premier ministre a par ailleurs indiqué que les représentants des autochtones seraient libres d'exprimer leur point de vue sur chacun des sujets à l'agenda, même s'il vont à l'encontre de la position québécoise.

Le Québec, ont souligné MM. Diamond et Gros-Louis, est la seule province qui a accepté de donner tant de poids à la présence des autochtones.

"Il est incroyable, a dit M. Diamond, que le premier ministre Lévesque nous permette de nous exprimer librement à travers la délégation québécoise."

"On a demandé au Québec de ne pas parler pour les aborigènes du Québec, a renchéri M. Gros-Louis. Ils nous ont donné le droit de parler

pour nous sans faire partie intégrante de la délégation du Québec."

M. Diamond a noté que cette décision signifiait que dès le départ de la conférence, MM. Lévesque et Trudeau allaient probablement s'affronter sur cette question.

Ce modus vivendi implique que les autochtones du Québec auront à eux seuls plus de participants autour de la table que les organisations nationales autochtones à qui le fédéral n'en a accordé que 15.

Autres rencontres

Les représentants des autochtones et ceux du gouvernement vont de nouveau se rencontrer durant la fin de semaine et lundi en soirée à la veille de la conférence pour tenter d'établir un maximum de points de vue communs sur les items à l'ordre de jour.

M. Diamond s'est montré confiant d'obtenir l'appui du gouvernement du Québec sur bon nombre de questions.

Mme Mary Simon a précisé qu'il était probable qu'on en arrive à des accords avant la conférence quant à l'inclusion dans la constitution d'une charte des droits des aborigènes, sur l'égalité de statuts entre hommes et femmes autochtones, sur la question des métis et du titre indien.

Le premier ministre Lévesque a confirmé que des discussions seraient en cours jusqu'à la dernière minute et que les délégués gouvernementaux s'abstiendraient, dans la mesure du possible, de s'opposer aux points de vue des autochtones sur les questions fondamentales.

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Talks to seek solution on aboriginal title issue

By RON ROSE

Native Indian leaders will meet with the heads of the federal and provincial governments in Ottawa next week to try to find answers to questions that are as old as Canada itself.

The forum will be the First Ministers' Conference, convened as a consequence of the Constitution Act adopted last year.

The act recognizes and affirms existing aboriginal and treaty rights of the native people.

But aboriginal rights were never defined at the time of Confederation. The enigma has plagued Canada since it was created as a Dominion by the proclamation of the British North America Act in 1867.

The issue of Indian rights was scheduled for review as one of the compromises that brought agreement from all the provinces except Quebec to last year's patriation of the Constitution.

The biggest question in the minds of Indian leaders revolves around the word "existing" in the declaration of aboriginal rights.

What aboriginal rights exist in British Columbia, for instance, where provincial governments through the years have refused to accept the concept?

The question has come up over and over again in

a series of preliminary meetings between Indians and federal and provincial ministers, and it will be right up front when the Indian leaders face Prime Minister Pierre Elliott Trudeau, Premiers Bill Bennett of B.C., Peter Lougheed of Alberta, Bill Davis of Ontario and the others.

Recognition of aboriginal rights was proposed in an early draft of the Constitution Act, but it was deleted during hard bargaining between federal and provincial government leaders.

After strident protest from native leaders, it reappeared with the qualifying tag, "existing."

There has been some talk of an Indian boycott of the sessions to be held Tuesday and Wednesday at the government conference centre in the old Canadian National Railway station in downtown Ottawa.

Some Indians from Alberta and New Brunswick have said the conference will be a sham and they won't take part in bartering among the provinces.

But there'll be big delegation of B.C. Indian leaders, who will insist that rights be defined before the conference moves on to setting up procedures to deal with other native issues such as discrimination

against Indian women, self-government of nations within a nation and the possibility of Indian representation in Parliament.

The Assembly of First Nations, representing registered or status Indians across Canada, promises that 1,000 chiefs will be there, watching the wrangling.

Recognized for the first time under the Constitution Act, Metis and non-status Indians were to be represented by the Native Council of Canada, but the Metis faction — the descendants of French-Canadian voyageurs of the fur trading days and Indian women they met on their travels — has launched a last-minute bid in the Supreme Court of Ontario for separate representation at the talks.

Non-status Indians are those who have been stricken off the federal Indian register because of marriage of an Indian woman to a white man or for other reasons.

The position of B.C. Indian leaders has been clear since shortly after the First Ministers' Conference was scheduled.

In a declaration last year, James Gosnell, president of the Nishga Tribal Council and designated chief spokesman by B.C. Indians, said the B.C. delegates will insist on a satisfactory definition of aboriginal title.

Manitoba to negotiate Metis claims

By Greg Bannister

The provincial cabinet has agreed to negotiate land claims with the Manitoba Metis Federation, provided the federation holds off on a lawsuit filed against the government in 1981.

The offer to negotiate, which was to be announced by Attorney General Roland Penner and federation officials today, was made Feb. 17, ending several years of impasse.

The offer represents a policy change by the province, which is committed to settling the land claims of Manitoba's treaty Indians.

The previous Progressive Conservative government refused to discuss land claims with the federation, saying they did not represent the interests of the entire Metis community, and withheld funding from the federation for two years.

Metis leaders attending a two-day constitutional conference here yesterday said the agreement to negotiate land claims "indicates to us the provincial government is saying the Metis people have a legitimate position."

Ferdinand Guiboche, federation vice-president responsible for land claims, said "this is the first time in the history of the Metis people that we have had anything in the way of a substantial commitment from the province. . . . Hopefully, we can have the agreement to commence negotiations signed by the end of March."

Federation president Don McIvor also was pleased with the government's offer. McIvor accepted the offer in a March 3 letter to Penner.

McIvor stressed to conference dele-

gates that the federation's decision to hold off on the suit doesn't mean they will withdraw the statement of claim.

"It's our ace in the hole in case everything else fails," he said.

The federation, which claims to represent about 120,000 Metis and non-status Indians in Manitoba, filed the statement of claim against Ottawa and the province to challenge the constitutional validity of laws which they say deprived the Metis of their land rights.

The claim asked Court of Queen's Bench to determine the validity of some 16 federal and provincial laws passed over the last 113 years. The federation argued that the Manitoba Act of 1870 guaranteed some 566,000 hectares (1.4 million acres) of land would be set aside "for the benefit of the families of half-breed residents" in the newly-created province of Manitoba.

The statement of claim asserted the Metis failed to receive or were deprived of those rights by other laws and their descendants continue to suffer today because of it.

McIvor said the federation also had a commitment from the province to place the matter of Metis land claims on the agenda for next week's first ministers' conference in Ottawa.

Manitoba is involved in negotiating settlements for about 26 Manitoba Indian bands which claim provincial and federal governments have not lived up to their treaty obligations.

Earlier this year, a one-man provincial commission delivered a report to the province on the issue and negotiations are expected to get under way before the end of the month.

Prairie Metis split with native council

By Greg Bannister

A split between the Native Council of Canada and three Metis groups from the Prairies widened yesterday as Manitoba Metis leaders talked of forming a rival national body to attend next week's first ministers' constitutional conference.

Don McIvor, president of the Manitoba Metis Federation — which claims to represent about 120,000 persons — said the three Prairie provinces will unite to form the Metis National Council.

McIvor said the three groups were uniting to get a seat at the talks because the Native Council of Canada awarded both of its two seats to non-status Indians.

The groups have won a little more time to try to resolve their differences with Ottawa.

A panel of three Ontario Supreme Court justices, who agreed yesterday morning to squeeze an injunction hearing into the divisional court's afternoon schedule, adjourned the hearing until this afternoon at the request of both sides.

The Alberta, Saskatchewan and Manitoba Metis sought the order to block Prime Minister Trudeau from opening the conference of premiers, native and territorial leaders until Metis were represented at the table.

The two-day conference, which begins Tuesday in Ottawa, is being held to define the special rights that Indian, Inuit and Metis want entrenched in the Constitution.

The three justices, R. F. Reid, J. B. Southy and H. Krever, who had delayed the court hearing 45 minutes while talks continued, adjourned the hearing until 1 p.m. CST today.

The Prairie Metis are dissatisfied that Trudeau chose the Native Council of Canada, a national association, to represent Metis and non-status Indians at the conference.

The Metis groups, which claim to represent 200,000 people and 80 per cent

of Canada's Metis — people of mixed Indian and European ancestry — feel that the native council doesn't recognize their aspirations.

Counter-suit possible

The prime minister, who, under Section 37 of the Constitution, is solely responsible for inviting aboriginal people to the conference, granted two conference table seats each to the native council and the national Indian

and Inuit associations.

One of Ottawa's main concerns is a possible counter-suit by the native council if the Metis are given one of its two conference seats without agreement from both sides.

Ferdinand Guiboche, Metis federation vice-president, said the split between the Prairie Metis groups and the remainder of the native council members was caused by the question of land.

"The NCC didn't agree with our position on Metis land claims," he said. "They (NCC) didn't feel we were deserving of a land base and were worried we would hurt their position."

Metis leaders from Manitoba, Saskatchewan and Alberta broke away from the native council Wednesday, claiming the organization — created to represent both Metis and non-status Indians — had become dominated by non-status Indian representatives who were not interested in the problems of the Metis people.

"We were putting up a false front for that few months so the public would have had a unified position," said N. "I couldn't stand it any longer. We were not a united people."

While delegates to a two-day delegation constitutional conference were given copies yesterday of a position paper on Metis rights to be included in the Constitution,

the draft paper, which will be argued possibly amended during the conference which ends today, will form the basis of submissions made on behalf of the Metis.

Among the things singled out for inclusion in the Constitution are: the right of the Metis to exist and develop a nation with its own heritage and languages.

The draft paper also argues that Metis should have a right to collective ownership of land and resources, including surface and sub-surface rights.

The Constitution, the paper argues, should also guarantee Metis special rights to hunt, fish, trap and gather or harvest plant life.

As well, it states the Constitution should confirm the right of Metis to establish some form of self-government.

Finally, the paper argues the right of Metis people to have constitutional guarantees to operate their own social and economic programs.

Ongoing talks a must, Indian leaders argue

By David O'Brien

Manitoba Indian leaders will seek one main concession during the two-day first minister constitutional conference on aboriginal rights next week in Ottawa.

They want the triple of ongoing talks entrench the constitution to guarantee job of identifying and defining the rights will continue at future conferences.

Indian leaders across Canada will then lobby for a range of legal rights, including that to make and veto constitutional amendments that affect them, Jim Bear, chief of the Brokenhead First Nation and a member of the constitutional committee of the Native Assembly of Chiefs.

The meetings today and Wednesday are the native rights since the guarantee of those rights was included in the constitution.

The constitution's provision calling for a convention within one year of the act to define the rights of aboriginal peoples.

Bear said during discussions

sion at the University of Winnipeg yesterday the constitution doesn't provide for future meetings.

He said trying to resolve Indian problems in two days is like trying to study the economic crisis over lunch.

Justice Minister Mark MacGuigan, who is conference chairman, has already said future talks will be necessary, but Bear said he wants more than a verbal commitment.

Suspicious of Ottawa

Indian leaders, he said, are suspicious of the federal government and fear the conference might be used to turn native peoples against the provinces, which have never had jurisdiction over Indian affairs.

Bear said the Manitoba government, the only one to include native leaders in its Ottawa delegation, has been supportive.

Indian nations ultimately will seek entrenchment of rights that would give them virtual self-government, said Bear.

A parliamentary subcommittee has been established to define "self-government" and its report isn't due until September.

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TWO DAYS NOT ENOUGH PREMIER SAYS

Meeting 'Won't Decide' Native Issue

By IRIS PHILLIPS

Premier Jim Lee says it is "unrealistic" to believe the aboriginal rights question can be disposed of during the first ministers meeting in Ottawa March 15-16.

"The magnitude of this will require a longer period of time than just two days" he said.

The Native Council of Prince Edward Island presented their position paper on aboriginal and constitutional rights to the premier and government representatives Wednesday.

One of their requests was that the premier reaffirm his earlier commitment the upcoming first minister conference be the beginning on an ongoing process that will continue until native rights are recognized an entrenched in the Canadian Constitution.

Premier Lee said he supports this request and will be asking at the meeting next week that the other provinces agree to take part in an ongoing process.

Premier Lee said he felt the brief from the native council was one of the better briefs on the subject he had seen for some time.

"They were able to identify in clear language what they see as their aboriginal and constitutional rights," said the premier.

The premier said the brief outlined principles of the natives peoples and that the ongoing process would involve the prioritizing of these principles.

He said the first minister's meeting would give the province an opportunity to discuss the number of issues raised in a national forum.

The Island like the other provinces will be making an opening statement on the matter and although P.E.I. has only 2,000 native people, "numbers don't mean a thing," said Premier Lee.

"We are one province out of 10 whose position will be enunciated on the rights of natives peoples. Numbers do not make a difference to the rights of individuals and the rights of native peoples," he said. "The concern is just as great for their rights."

The premier said there are a number of rights the native people would like to see entrenched in the constitution but these again would have to be looked at and the implications involved for the whole country assessed.

And he said he agreed with the "principle" that some kind of native rights should be entrenched in the constitution, but suggested that because he agreed with the principle it did not necessarily follow that you "agree with everything".

He noted for instance the native council had indicated a principle of seeking support for the recognition that the native people have aboriginal title to the land and resources of Prince Edward Island.

He explained because the native people feel they have a right to these land claims it did not necessarily mean they wanted P.E.I. to be turned over to them.

He said he felt that possibly native claims had been somewhat misinterpreted and that it would take time to develop a clearer understanding of their rights, and to solve the questions involved.

The Island Native Council also called for the province to guarantee two elected representatives in the legislative assembly each to be elected by the aboriginal people of P.E.I.

Premier Lee said this is a subject that has been raised previously. He said the native people are also seeking guaranteed representation in the House of Commons and the senate.

He said this again was in issue that would have to be discussed further and in more detail to determine the effect on the total country.

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Devine will meet FSI before Ottawa parley

Premier Grant Devine denied suggestions that a meeting Monday between himself and 17 Saskatchewan Indian band chiefs was an attempt to circumvent the duly elected Federation of Saskatchewan Indians (FSI).

The almost two-hour meeting between the premier and the Indian chiefs was called by Devine to discuss local issues of economic development for the province's Indian bands. To make it clear that the FSI speaks for Indians in the province, the chiefs gave Devine a letter requesting that he meet with the FSI next week in Ottawa before the start of the two-day constitutional conference on aboriginal rights.

Devine accepted the proposal and a meeting between Devine and FSI representatives has been scheduled for next Monday afternoon in Ottawa to discuss positions entering the conference.

"I totally accept that the FSI is the organization that speaks for Indian people," Devine said following the meeting. "I extended this invitation because I wanted to get a good solid feeling from the band level on issues of local con-

cern."

The meeting, which also involved Intergovernmental Affairs Minister Gary Lane, came the day after the FSI had released a letter condemning the way the Devine government has handled its relationship with Indian people.

The letter to Devine called the government's policies respecting treaty Indians as "incompetent and counter-productive," focusing specifically on the rocky relationship between Lane and the FSI.

While Devine said his government recognizes the role played by the FSI, he said that as part of a new economic development strategy with Indian people, the government wants to begin targeting money directly to bands.

The first step in that process appears to have already started. A portion of unclaimed money for third quarter funding to the FSI from the provincial government has been redirected straight to individual bands for economic development program. In the past, all money to treaty Indians from the provincial government has been handled by the FSI.

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Dale Eisler

For those who believe there are lessons in history, you should pay close attention to the fight over who will be at the table for next week's constitutional conference in Ottawa. There is an undeniable irony in the fact that, at this point, there will be no Metis taking part in a meeting that is supposed to deal with entrenching Indian, Inuit and Metis rights in the new constitution.

To get an idea of how far we've come on the issue of native rights, you need to go back 105 years. At that time, someone named Louis Riel was elected as an member of Parliament for the Manitoba riding of Provencher. But, when it came to Riel taking his place on the floor of the Commons, he never made it. As the leader of the Metis people of Western Canada who wanted to govern their own affairs, and the head of a provisional Metis government in Manitoba, Riel was stripped of his seat in a resolution passed by the other MPs.

Twice Riel was re-elected to the Commons, but never was he allowed to represent the people who elected him. The issue of Riel and this seditious march for Metis rights was finally settled in 1885 on Dewdney Avenue in Regina. It was there that Riel was hanged.

But as the past century has proved, the issue was not settled with Riel's death. It was only suppressed. The Metis people weren't assimilated like everyone thought, and the demands for rights and control of their lives did not disappear.

In fact, the whole issue of native rights, land claims and self-government is only now being finally addressed. The constitutional conference of next week will represent a major point in Canadian history, in that Prime Minister Pierre Trudeau, the 10 premiers and Indian leaders will meet at the constitutional conference table.

But although the forum to discuss native rights has finally been established almost 100 years after Riel was executed, the fight to be heard still goes on for the Metis. As is the history of Indian politics in this country, the fight is an internal one between native groups, which as a result is deflecting attention away from tackling the ponderous questions of rights related to aboriginal people.

While it clearly says in the Constitution approved last year that the aboriginal people of Canada are Indians, Inuits and Metis, and that a conference on aboriginal rights had to be held within a year, the Metis will not be at the table. The problem is the result of a long-standing split between the Native Coun-

cil of Canada (NCC) and Jim Sinclair, president of the Association of Metis and Non-Status Indians of Saskatchewan (AMNSIS).

Although Sinclair was the first president of the NCC, which represents non-status Indians and Metis, he has never been a believer in its presence as a national organization. "When you form a national structure, you simply allow yourself to be manipulated by the federal government," explains Sinclair. "I've never been happy with the NCC because it represents a cross-section. All it amounts to is a melting pot for left-over Indians."

But, as one of the native groups invit-

ed to take part in the conference by Prime Minister Trudeau, the NCC was still going to be the vehicle that would give the Metis a seat at the conference table. That was until last week, when a board meeting of the NCC in Ottawa decided it would not allow the Metis one of the two NCC chairs at the conference.

The move came even though the NCC sent a Jan. 28 telex to Trudeau explaining a unanimous decision of its board of directors. In part, the telex said "the Metis position will then be presented (at the conference table) by a representative of the Metis constitutional committee of the Native Council of Canada."

Among the NCC directors who accepted the decision was Sinclair. Now, with the two-day conference to begin next

Monday, Sinclair and a newly-formed Prairie Metis group is planning a court injunction to block the conference unless the Metis are at the table.

In an effort to make their voice heard, Metis representatives from the three prairie provinces (where virtually all Metis people live) are meeting today in Regina to form a new organization. They hope that by being organized they cannot be ignored. Officially, Trudeau has washed himself of this issue, claiming it was an internal matter that had to be sorted out by the Metis and the NCC, even though the conference is set up so that it is Trudeau who specifically invites participants to take part. The refusal by Trudeau to step into the issue was relayed to Sinclair and AMNSIS in a telephone call from Gerard Veilleux, secretary to the federal-provincial relations office in Ottawa. It was also confirmed by deputy federal justice minister Roger Tasse.

But the battling as the conference approaches is not restricted to the Metis and the NCC. An apparent smoothing of relations between Saskatchewan Intergovernmental Affairs Minister Gary Lane and Chief Sol Sanderson of the Federation of Saskatchewan Indians seemed to dissolve Monday morning.

A meeting scheduled between the two sides, which only recently started talking to each other on the upcoming constitutional conference, evaporated when the FSI did not show up. Immediately, Lane accused Sanderson of "making a mockery" of next week's conference because the FSI would not sit down and discuss positions with the Saskatchewan government.

The FSI position on this is simply that as status Indians seeking sovereignty, it deals only with the federal government and to negotiate with the provincial government weakens its position. But, according to an FSI spokesman, the federation was not at the meeting because it was not informed there would be a meeting until late last Friday afternoon, and Sanderson had other commitments that couldn't be ignored.

What all this has done is create a tide of uncertainty heading into a conference that will deal with issues already charged with emotion. After all, the fight for Indian rights is nothing new.

More than a century ago Riel was demanding a form of self-government and fighting for a chance to be heard. When you see what is unfolding today, it seems that the more things change, the more they are the same.

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FSI letter critical of government

Long standing arrangements between the provincial government and the province's Indian population have been "severely damaged," over the past year, according to Chief Sol Sanderson of the Federation of Saskatchewan Indians (FSI).

In a letter to Premier Grant Devine that was to be delivered Monday night, Sanderson said the "chronology of recent events has been characterized by ignorance and disrespect" by the provincial government of principles that governed Indian-government relations in the past.

Sanderson told Devine the government "has been the unfortunate recipient of appalling poor advice and mishandling of provincial-Indian governmental affairs by the minister responsible and by his senior officials."

"It is difficult to imagine more incompetent and counter-productive policy and administrative handling of matters than those which have been displayed by those charged with the task of advancing and fostering our Indian-provincial relationship."

While Sanderson was not in attendance when the letter was released publicly at a news conference in Regina Monday night, officials with the FSI confirmed that the comments were aimed at Intergovernmental Affairs Minister Gary Lane and his departmental officials.

A press release issued at the news conference said the FSI plans to participate in the upcoming first ministers' conference on aboriginal rights "in good faith contrary to Mr. Gary Lane's speculation of our alleged planned walkout."

Speaking to reporters earlier in the day, Lane said he was annoyed Sanderson didn't show up for a Monday morning meeting planned to discuss Saskatchewan's position on constitutional matters at the conference starting next Tuesday in Ottawa.

"I don't know whether Mr. Sanderson is setting the stage for a walkout at next week's meeting. There's been some indication that may be a distinct possibility," Lane said.

The meeting with Sanderson had been planned for three weeks but had been cancelled by Sanderson Friday night, Lane said.

The press release issued by the FSI said that "notice of the meeting called by Gary Lane was given at 4:45 p.m. on Friday."