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PUBLIC HEARINGS

# Exploring the Options

Overview of the  
Third Round



Royal Commission  
on  
Aboriginal  
Peoples



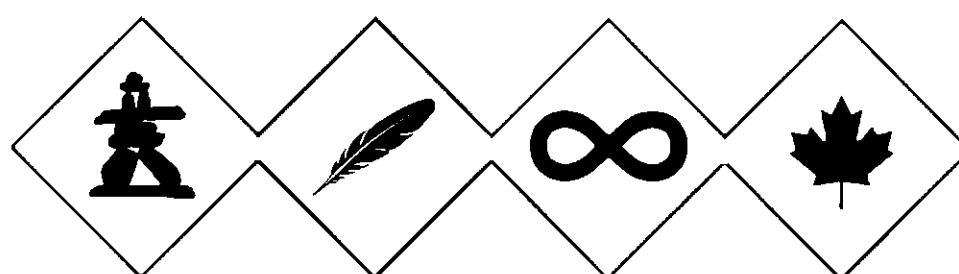




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# Exploring the Options

## Overview of the Third Round



November 1993



**Royal Commission  
on  
Aboriginal  
Peoples**



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# **The Royal Commission on Aboriginal Peoples**

## **Co-Chairs**

René Dussault, j.c.a.

Georges Erasmus

## **Commissioners**

Paul Chartrand

J. Peter Meekison

Viola Robinson

Mary Sillett

Bertha Wilson





# Preface

◆ The Royal Commission on Aboriginal Peoples is nearing the end of its public consultations, and we are looking ahead to the preparation of our final report. By the time our fourth and final round of hearings ends, we will have heard more than 2,200 groups and individuals in more than 112 communities address the issues in our mandate. We thank all of them for appearing and for the care and thought that went into their presentations.

Our final round of hearings will take place in Ottawa and in other major cities in November and December 1993. The first week will be devoted to the presentations of Canada's national Aboriginal organizations. In the days that follow we will hear submissions from among the 142 organizations – most of them Aboriginal – that were funded to conduct research under the Commission's Intervenor Participation Program and from a substantial number of non-Aboriginal organizations that we encouraged to appear to help provide a balance of views on the issues we have to consider.

In this preface to the overview of what we heard in Round Three of our hearings, we outline the work that lies ahead of the Commission and indicate some of the questions we are trying to resolve. We offer this as a form of progress report to the many people and organizations that have taken an interest in our deliberations.

We have begun the process of bringing together what we have learned and the information we

have received in order to develop policy proposals for our final report. Commission staff are undertaking an intensive review of all the material available to us in each area of our mandate. This material includes testimony from our hearings; briefs and letters from Canadians who did not appear at the hearings; proceedings of the national round tables arranged by the Commission; research findings and recommendations from groups funded under our Intervenor Participation Program; and conclusions drawn from previous research and government reports. It also includes findings from more than 200 research projects and 130 community studies that the Commission organized as part of its own research program.

From this information Commissioners and staff will be able to identify the key issues and options for each major area of concern. We plan to submit these options and the analysis behind them for review at a series of testing seminars with Aboriginal stakeholders, knowledgeable experts, and representatives of governments. Following this testing process, we will review the potential solutions and decide on our recommendations. When we are satisfied that we have proposals that are appropriate and realistic, they will form the basis for our report.

As we have been told many times, holistic solutions are required to cut through the tangle of inter-related issues that affect Aboriginal peoples in Canada today. None of the areas of the Commission's mandate can stand alone. A part of our task in the coming months will therefore be to develop integrated solutions that

can resolve the current confusion surrounding such issues as Aboriginal governance, social development and economic renewal.

## Reports and Publications

From the outset we made it clear that we would not wait until our final report to make public our views on some crucial issues. We did so in our commentary, *The Right of Aboriginal Self-Government and the Constitution*, which we issued in February 1992 as a contribution to the constitutional negotiations leading to the Charlottetown Accord. We returned to this subject in August 1993 with the publication of another paper, *Partners in Confederation: Aboriginal Peoples, Self-Government, and the Constitution*, where we concluded that there are persuasive grounds for believing that the Constitution already includes an inherent right of self-government and outlined the steps by which this right could be exercised.

In addition to the hearings, our consultations over the past 18 months have included round tables on urban issues, justice, health services and social issues, economic development, and education. These events brought together a broad range of experts and stakeholders to consider issues in these specific areas as they affect Aboriginal people and communities and to discuss approaches that should be taken in the future. To date we have published reports from the round tables on urban Aboriginal issues, on justice, and on health and social issues.

We organized special consultations on suicide and on residential schools and during Round Three devoted two weeks of special hearings to questions surrounding the relocation of Inuit families to the High Arctic in the 1950s. These subjects will be addressed in interim or special reports in the coming months. We are preparing an interim report on the issue of extinguishment, the federal policy requiring First Peoples to give up their Aboriginal rights over land as a condition for gaining more clearly

defined rights over a specific territory. We are also preparing an interim report on violence in Aboriginal communities as a result of the testimony of Aboriginal women who shared their personal experiences with us during public hearings and *in camera* sessions.

Along with our final round of hearings, we have arranged a special consultation with leaders of Canada's historical mission churches for November 1993. In May of 1994 the testing seminars to review proposals for our final report will begin. We plan to complete our deliberations by the end of 1994.

One part of our mandate was to make Canadians more aware of Aboriginal issues and to help them understand why a new relationship is needed between Aboriginal peoples and other Canadians. The reports, overviews of hearings and other material we have published are intended to assist in achieving this objective. We have also sought to raise public awareness about Aboriginal issues and the Commission's work through newsletters, videos, and cable television broadcasts of our hearings, as well as through the news media.

## Promoting Dialogue

Looking back, we can see a process of evolution in the hearings held to date. They began with a painful delineation of the situation of Aboriginal peoples and their communities today, then moved with increasing emphasis toward offering solutions and developing new approaches for the relationship between Aboriginal and non-Aboriginal people in Canada.

The discussion papers we published after Rounds One and Two were designed to assist intervenors preparing for our hearings and to enhance Canadians' awareness of Aboriginal issues. In *Framing the Issues* we summarized the issues brought forward in Round One and asked questions that would help us resolve the many issues in our mandate. We asked, for example, how a strong sense of Aboriginal identity can be



maintained in a changing environment. How can the efforts of Aboriginal people to achieve individual and community healing be recognized and supported? How should the treaty obligations entered into by governments be honoured in today's circumstances? How can the Constitution and Canadian federalism accommodate Aboriginal peoples' demands for greater political autonomy?

The second discussion paper, *Focusing the Dialogue*, moved on to propose a framework for considering issues and developing solutions. This was in the form of four 'touchstones for change' or basic themes that seemed to encompass the concerns raised at our first two rounds of hearings. We defined these basic themes as self-determination, self-sufficiency, healing, and a new relationship between Aboriginal and non-Aboriginal people. Each touchstone affected the others, and all were deeply interdependent – reflecting the holistic perspective so common in Aboriginal communities.

In *Focusing the Dialogue* we asked whether these touchstones should become the Commission's guiding objectives as we work to develop recommendations that will bring change to Aboriginal people's lives. As this document, *Exploring the Options*, indicates, there was general acceptance of this approach in Round Three from Aboriginal and non-Aboriginal intervenors alike. A number of intervenors used the four basic themes to help organize their submissions. Some accepted the concept but wanted to add to the Commission's list. The two additional touchstones specifically suggested were equality for women and equity of treatment and services for Métis people and for Aboriginal people living off-reserve or, in the case of the North, away from their home communities.

The discussion papers have played a useful role in promoting dialogue around the general issues and principles involved in our mandate. This preface spells out some of the more specific

questions that still lie ahead, as we move to translate the general principles expressed in the touchstones into practical recommendations that will make a positive change in the lives of Aboriginal peoples and of all Canadians. We are confident that the dialogue on Aboriginal issues that we have initiated will continue, and we look forward to receiving further input from both Aboriginal and non-Aboriginal people.

## A New Relationship

Early in the life of the Commission we came to the conclusion that tinkering with government programs or with the law would be insufficient to achieve real change in the circumstances that we as Commissioners have seen in journeying to Aboriginal communities or to respond adequately to the aspirations of Aboriginal peoples. What is required is a new relationship between Aboriginal and non-Aboriginal people in Canada.

We accept what we have been told again and again in our hearings: the new relationship that is needed must be a partnership based on equality and mutual respect between the Aboriginal and non-Aboriginal communities. The principles of assimilation and control that governments have applied to Aboriginal people for more than a century must be rejected. Governments must honour the outstanding treaty and constitutional obligations that were agreed with Aboriginal peoples but that have been frequently ignored. The practices of non-Aboriginal society that demean Aboriginal people and that often sought to destroy their institutions must end. Aboriginal peoples must find ways to maintain their culture and traditions, restoring confidence and wholeness to their societies, while facing the challenges of a global economy.

A key to this partnership is the recognition and acceptance of the collective rights of Aboriginal peoples and communities. This is important, not only for the purpose of self-determination but also for what it implies in terms of respect,

by non-Aboriginal society, for the dignity of individual Aboriginal people. If the rights of Aboriginal peoples as a group continue to be treated as inferior, this cannot help but affect how Aboriginal people are treated as individuals.

We emphasize that the recognition and respect required for a new relationship are mutual. Non-Aboriginal people and governments must acknowledge the rights and concerns of Aboriginal peoples that have been ignored in the past. Aboriginal people, in turn, need to understand the concerns of the people and communities with whom they share the territory of Canada. The two groups must work together to chart a path out of the current situation. Both must become partners in rebuilding the relationship.

Our objective over the next year will be to move from the touchstones to devise practical yet far-reaching recommendations that will benefit all Canadians. This will require exploring the options, making choices and suggesting priorities from the many ideas and proposals that we have received in the course of our work.

To take an example, one of the big issues we face is how to foster sharing of land and resources between Aboriginal and non-Aboriginal people. Many Aboriginal people assert that they retain title to land from which they have been unlawfully displaced. Many non-Aboriginal people think that all lands and resources are either privately owned or belong to the Crown. A way must be found around these conflicting positions, one that enables both Aboriginal and non-Aboriginal people to benefit from the land, as they did in their early years together in what is now Canada.

We know that some of our recommendations may fall short of the aspirations expressed by the individuals and groups we met. Others may be seen by some Canadians as a serious challenge to the status quo. Any attempt to reconcile conflicting positions and to offer solutions that will be seriously considered will force people to

rethink long-held positions. Moreover, many of the issues brought before us cannot be easily resolved. Much of the work needed to achieve political autonomy, healing and self-sufficiency in Aboriginal communities will take time and can be done only by Aboriginal people themselves. The test of our recommendations will be if they can serve as a starting point, offering a new foundation on which Aboriginal and non-Aboriginal people can build and clear guideposts to the future.

## Some Practical Questions

We have many practical questions to address over the coming months – too many to list in this preface. We think it would be helpful, however, to provide some further examples that illustrate the approach we will be taking and that may also serve to stimulate further dialogue.

We will look at the visions of a new relationship that are offered by Aboriginal and non-Aboriginal Canadians. But we will also be looking at the mechanisms that should be developed to promote Aboriginal self-determination in Canada and to allow for co-operation between the two groups. What are the most workable approaches? Should there be different approaches in areas with a majority of Aboriginal people as compared to other areas? What models should be followed in larger cities where Aboriginal people form a small minority of the total population?

We outlined some ideas about steps that can be taken to achieve self-government in *Partners in Confederation*. Other approaches to this issue and other sources of this right will also be considered in our work. But there will be many practical questions to solve on the journey to greater political autonomy for Aboriginal people. A variety of answers will be needed because of the diversity of needs and objectives in Aboriginal communities. What kinds of institutions should we foresee? What kinds of powers would they have? How should the



practical difficulties of transferring powers from existing institutions be resolved? Will there be particular difficulties for small Aboriginal communities as they move toward greater autonomy? How are citizens of Aboriginal communities to be defined, and what appeal process should be available to persons not accepted as citizens?

Today there are many distinctions between different groups of Aboriginal people, based on such factors as the *Indian Act* or on place of residence. The Métis people, the Inuit, and Aboriginal people living off-reserve or, in the North, away from their home community have all made strong demands for equitable treatment. Should differences of treatment continue to apply? If different groups of Aboriginal people are to continue to be treated differently by governments, on what basis should this practice continue? What are the implications of extending federal government programs for Aboriginal people to serve the whole Aboriginal population rather than just part of it?

Over the course of this century millions of non-Aboriginal people have migrated from rural to urban areas, turning Canada into a primarily urban nation. Today the same migration is occurring among Aboriginal peoples; in fact, the majority of Canada's Aboriginal population already lives in urban areas. Many Aboriginal people have expressed their desire to retain their culture and to resist assimilation even in the heart of cities that are primarily non-Aboriginal in population. They want self-determination in an urban setting.

What models for Aboriginal self-determination in urban areas are most likely to serve these objectives? What difficulties will these approaches create for existing institutions and relationships? How should these difficulties be resolved? How can Aboriginal peoples gain more influence and control in local governments and in other non-Aboriginal institutions meant to provide them with services? To what

extent should services to urban Aboriginal people be distinct and under Aboriginal control, and to what extent provided as part of general government programs?

We have heard many concerns from Aboriginal women about violence in their communities and about the need for equality in societies that have become male-dominated. Some women have argued that the need for healing should take precedence in their communities, even if it means delaying the move to self-government. What should be done to ensure that the rights of Aboriginal women are protected under new and existing Aboriginal governments? What mechanisms will ensure the full participation of Aboriginal women in creating the new institutions of self-government? Can the need for healing be addressed along with the desire for self-determination, or must one of these objectives come first?

There is consensus, reflected in the touchstones, on making self-sufficiency one of the key objectives for Aboriginal communities. The vision sees economic development, training, control over resources, and the creation of Aboriginal enterprise replacing unemployment and economic dependence. What are the factors essential to the achievement of self-sufficiency? What should this concept mean for individuals, for families and for the financing of communities and of Aboriginal governments? To what extent should self-sufficiency be founded on the land and resource base controlled by Aboriginal people in the future, and what are the implications for their use of that base?

We will be closely examining issues related to the financing of self-government. To what extent should Aboriginal governments, like other governments in Canada, receive transfer payments? How should this financial relationship evolve? Should Aboriginal governments be expected to raise revenues from their citizens? To what extent should these governments share in the taxes that most



Aboriginal people already pay to other levels of government?

We are conducting research into such questions in every area of our mandate, because we know that we must present practical recommendations, grounded in reality. But at the same time, we know that the current relationship between Aboriginal and non-Aboriginal people in Canada is fundamentally flawed.

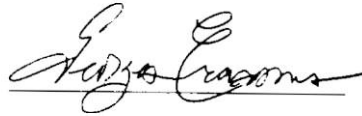
Non-Aboriginal Canadians have benefited immensely from the resources of this country. However, their relationship to the land, their understanding of Canada's history, and even the way they conduct their political processes have suffered from their lack of appreciation of the

Aboriginal dimension of North America. Aboriginal peoples, long marginalized by the attitudes, laws and institutions of the dominant society, are increasingly aware of their roots and their rights and will become further alienated without concrete measures to restructure the relationship with Canada.

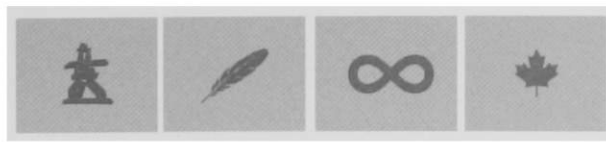
Our challenge as a Commission is to present a vision of a future relationship that makes sense to both Aboriginal and non-Aboriginal Canadians and to devise the practical means for achieving it. This is, indeed, a challenge for all Canadians.



René Dussault, j.c.a.  
Co-Chair



Georges Erasmus  
Co-Chair



# Introduction

◆ In its third round of hearings, lasting from April to June 1993, the Royal Commission on Aboriginal Peoples once again crossed Canada to hear a wide variety of Aboriginal and non-Aboriginal interveners speak to the issues in its mandate.

This round began and ended with two unusual sets of hearings in Ottawa at which the whole Commission was exposed to testimony about the High Arctic relocatees, the group of 17 Inuit families transported by the federal government from northern Quebec and Pond Inlet to Grise Fjord and Resolute Bay in the 1950s. The Commission heard from Inuit people who were relocated and from government officials who were involved with their relocation and is preparing a special report based on these hearings. The full Commission also devoted a week of hearings to issues related to the Mohawk and neighbouring non-Aboriginal communities, in the aftermath of the Oka crisis of 1990. These hearings were the first opportunity since the crisis for both sides to talk in public about their relationship.

During the third round the Commission visited 35 communities and held 58 days of hearings. It heard from 454 organizations and from some 167 individual interveners, of whom 41 per cent were women. Although the Commission visited some smaller communities such as Terrace, B.C., Hay River, N.W.T., Orillia and North Bay, Ontario, and Restigouche, Quebec, it spent considerably more time in urban areas than in

the previous rounds of hearings. In this round the Commission visited both Montreal and Vancouver for the first time. By the end of the third round, the Commission had held a total of 154 days of public hearings in 112 communities over three rounds of hearings in 1992 and 1993.

A deliberate attempt was made in this round to encourage the participation of non-Aboriginal organizations and individuals, in order to balance the substantial amount of testimony already received from First Peoples and from Aboriginal groups. Non-Aboriginal people were 16 per cent of the total number of individual interveners in Round Three, about the same ratio as in Rounds One and Two, but the proportion of non-Aboriginal groups that took part rose from 12 per cent at the earlier hearings to 19 per cent.

Round Three also saw the first interventions based on consultation funded by the Royal Commission's Intervener Participation Program (IPP). This is the first program to assist interveners to appear before a royal commission since the Northern Pipeline Enquiry headed by Justice Thomas Berger in the 1970s. A total of close to \$8 million in IPP funding was made available to interveners – mostly to Aboriginal groups – through a selection process chaired by the Honourable David Crombie and carried out independently of the Commission.

For most of the third round the Commission followed the same pattern as at previous hearings, splitting into three panels to keep the

hearings less formal and to cover more ground. At many hearings the Commissioners were joined by a Commissioner of the Day drawn from the local community. Hearings normally began and ended with a prayer in an Aboriginal language, led by an elder. The schedule of hearing locations appears in Appendix A.

Like the overviews of Rounds One and Two, this volume seeks to summarize the main themes and issues raised during the third round of hearings and to convey a sense of the dialogue that took place between interveners and the Commission. Its purpose is to assist individuals and organizations who have an interest in Aboriginal issues and in the Commission's mandate that goes beyond the limited press coverage of its hearings, in the spirit of the Commission's commitment to public education and a broad public dialogue.

This overview was prepared on the basis of briefs, transcripts and daily summaries of the hearings and personal attendance by the writer at the hearings. Reference is made to the hearing location when interveners are cited; the appendix provides information on acquiring transcripts of the hearings, which are available in electronic form.

Northern and Inuit issues are one of the areas being investigated by the Commission in the course of its work. To this end it travelled extensively throughout northern Canada in its first two rounds of hearings, to villages and towns from Davis Inlet in Labrador to Old Crow in the Yukon and as far north as Pangnirtung and Cambridge Bay. Only one northern community was visited during Round Three, Hay River in the Northwest Territories. Issues that relate to the North raised in Round Three have therefore been referred to throughout the overview rather than being dealt with separately.





# The Third Round of Hearings

◆ At the Royal Commission's first round of hearings in the spring of 1992, Aboriginal interveners drew an unrelenting picture of the social and economic situation of Aboriginal peoples in Canada today. They spoke eloquently and movingly of the problems of unemployment, addictions, abuse and family violence that were tearing their communities apart; of the devastating effects on language, culture and family life of having generations of Aboriginal children taken from their homes to attend residential schools; and of what they saw as continuing colonial control of their communities by non-Aboriginal Canadians and their governments.

Many of these problems were again exposed during the second round of hearings during the late fall of 1992, but they were accompanied by some signs of guarded optimism. Prior to the second round, the Commission published its first discussion paper, *Framing the Issues*. The hearings that ensued began to move from problems to solutions, but the evolution was gradual and dialogue with the Commission was limited.

Even more than in the first round, interveners emphasized the need for self-determination and for self-government. Many interveners had proposals to offer and a number put forward detailed outlines for self-government in their community or First Nation or for exercising Aboriginal control over services now in non-Aboriginal hands.

Before the third round of hearings the Commission published a second discussion paper, *Focusing the Dialogue*, in an attempt to develop a preliminary framework for assessing the many recommendations and proposals it was receiving. It based this framework on four main themes, or what it called four touchstones for change:

- **Self-determination** for Aboriginal peoples within Canada through self-government;
- Economic **self-sufficiency** for Aboriginal peoples;
- Personal and collective **healing** for Aboriginal peoples and communities;
- A **new relationship** between Aboriginal and non-Aboriginal people in Canada.

Echoing what had been expressed at the hearings, the Commission saw these four touchstones as being so closely interrelated as to be almost inseparable. Each depends on the other; the only successful way to build a new relationship between Aboriginal and non-Aboriginal Canadians is to take a holistic approach that embraces self-determination, self-sufficiency and healing.

Round Three of the Commission's hearings was the first opportunity to test the framework put forward in *Focusing the Dialogue*. The degree of acceptance was reflected in the substantial number of interveners who organized their submissions in line with the touchstones. There was enough support for this approach that it has

been used to organize this overview of Round Three.

There was even more emphasis than in the previous hearings on laying out the meaning of self-determination and self-government; on making the case for equitable treatment of Canada's Aboriginal peoples wherever they live; and on proposing new approaches to the problem of Aboriginal self-sufficiency.

While less attention was paid in Round Three than in earlier hearings to such issues as addictions, suicide and the enduring impact of residential schools, there was widespread and agonizing concern, expressed primarily by women, about how to deal with widespread problems of family violence, sexual abuse and male domination in Aboriginal communities. A number of women linked the problem of violence with their quest for equality and for full participation in the governance in their communities. The overview reflects these concerns by putting the section on healing, which includes the issues of violence and abuse, ahead of those on self-determination and self-sufficiency.

Although 41 per cent of the interveners in Round Three were women, the Commission felt that some women and women's organizations were not coming forward at its hearings, whether because they feared community disapproval if they spoke out in public, or because they did not wish to talk about social dysfunction in their communities in a public forum. At the request of these women, the Commission held a number of private *in camera* sessions in addition to its regular hearings. Shortly after Round Three ended, the Commission decided to publish a special interim report on violence and sexual abuse in Aboriginal communities, in which it will try to respond to the concerns voiced by women during its consultations across Canada.

In the public sessions in Round Three, women and women's groups were the strongest critics of the four touchstones put forward in *Focusing the*

*Dialogue*. Their criticism concentrated on the need for healing in Aboriginal communities as a precondition for self-determination and self-government, rather than as a process that could be undertaken at the same time as self-government was being implemented. As at previous hearings, women were critical of the largely male leadership of Aboriginal communities and insistent that self-government arrangements be subject to the *Canadian Charter of Rights and Freedoms* in order to protect women's equality rights. One of the pioneers of Aboriginal women's rights, Mary Two-Axe Early, recommended that the Commission's first touchstone should have been the equality of Indian women.

With the Charlottetown Accord now a matter of history, there was general acceptance that a new round of constitutional change to benefit Aboriginal peoples was unlikely to take place in the near future. Instead, the view that was increasingly advanced was that no further constitutional change is required for Aboriginal societies to become self-governing. If the right of self-government is inherent, then what is required is for governments to recognize that right. Some interveners suggested that the issue is not even recognition; Aboriginal communities should simply begin to exercise their inherent right of self-government. The Commission has addressed this question in a paper entitled *Partners in Confederation: Aboriginal Peoples, Self-Government, and the Constitution*.

The desire of treaty First Nations to use their treaties as the basis for a new relationship with non-Aboriginal Canadians was expressed even more strongly than at previous hearings, and not just on the prairies. This concept was put forward by the Mohawks at Akwesasne and Kahnawake, the Micmac at Moncton, and by some First Nations in British Columbia where treaties are only now beginning to be negotiated.

More than in the first two rounds, there was considerable emphasis on models of self-

government based on traditional Aboriginal institutions and experience. At Akwesasne, a Mohawk elder provided an outline of Iroquois history, of the wampum belts that symbolized the early Iroquois treaties with European settlers, and of the Great Law of Peace, on which the Iroquois Confederacy was founded and continues to be based. This presentation took up an entire day of hearings before the full Commission. Elsewhere the Commission heard proposals for governance based on traditional concepts such as the use of clans, representation by families, hereditary chiefs, clan mothers, and decision making by consensus rather than by majority vote. Many interveners favoured an upward delegation of powers from local communities in contrast to the top-down structures common in non-Aboriginal institutions.

The issues facing Aboriginal people in urban areas again received substantial attention in this round of hearings. The problems of urban self-government were discussed at length, as was the issue of whether services for Aboriginal people should be status-blind. This was a particular concern for Métis interveners in western Canada. There was consensus, however, that these services should come under Aboriginal control.

In addition to the discussion of the relationship between Aboriginal and non-Aboriginal peoples in Round Three, a number of models and case studies of successful initiatives were put forward. Much of this discussion arose as a result of the participation of non-Aboriginal groups in Round Three. Most of these interveners took a positive approach in suggesting ways to build a new relationship; a small number took a negative view. Many non-Aboriginal interveners were cautious, however, in the degree to which they endorsed Aboriginal self-government.

Jurisdictional disputes between federal and provincial governments over services and responsibilities for Aboriginal people were a

constant theme during Round Three. These disputes were cited most frequently during the discussion of urban issues, but they also cropped up with respect to treaty settlements, resource issues, economic development, the environment, the Métis community, and the provision of services to people living in reserve communities.

One particular area that had not been referred to frequently in earlier hearings was the problems facing people with disabilities and their families in Aboriginal communities. This was cited as an area of frequent jurisdictional conflict, and one where there are large disparities between services to Aboriginal people and to non-Aboriginal people in surrounding areas.

A large number of interveners cited the problems created for Aboriginal communities and services run by Aboriginal peoples because of government cutbacks – most notably, the federal decision in the 1993 budget, taken without consultation, to cease funding for new housing projects for Aboriginal people, except on reserves.

There was more discussion than in previous rounds about economic development and employment issues, which the Commission has grouped under the touchstone of self-sufficiency. This included examples of successful development, case histories of the activities of Aboriginal financial institutions, and an acknowledgment by some non-Aboriginal organizations that they had done too little in the past to encourage Aboriginal enterprise and employment.

Reflecting the frustrations of Aboriginal people living off-reserve, both the Native Council of Canada and the Native Council of Prince Edward Island recommended that the Commission add a fifth touchstone to its list, the concept of equity of access. The P.E.I. Council defined this as meaning that all Aboriginal peoples in Canada would be treated equally



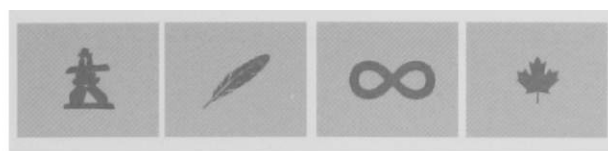
with regard to their rights, in regard to programs and in regard to self-determination as peoples. Some Métis interveners said that Métis issues should be addressed specifically in the Commission's recommendations and in the touchstones.

One of the strongest criticisms came from the Indian Association of Alberta. Its President, Regena Crowchild, contended that the language of *Focusing the Dialogue* implied that Indigenous peoples were subservient, not modern, and out of step with the mainstream in Canada. This group also rejected the term 'Aboriginal peoples' because they said this was a non-Indigenous concept. They contended that the Commission had misconstrued the meaning of the right of self-determination by equating it with the right of self-government within the structure of Confederation.

Several other interveners made a point of commending the Commission for its work. Linda Staats, a community educator who

appeared at Brantford, saw the Commission as an educational opportunity and therefore as a means to enhance cross-cultural awareness and to diminish prejudice. Ron George, President of the Native Council of Canada, urged that the Commission formulate a strategy to get its recommendations accepted and implemented. He recommended that its report set out actions to be taken for the short, medium and long term.

"Instead of asking what self government should look like," he told the Commission, "say how and when it should be implemented. Instead of asking what land claims or rights mean, say when and how land rights and needs should be met. Instead of asking whether or why Native languages and culture should survive, propose concrete measures to implement this goal, set out over a defined time frame for action."



# Healing

◆ The need for healing in Aboriginal communities was a major theme that emerged frequently during all three rounds of the Commission's hearings. Some interveners questioned whether Aboriginal peoples could even move forward to self-determination until they had begun to heal themselves.

Again in Round Three there was strong tendency to see healing as a holistic process and one that involves the family and the community, not just the individual. Intervenors emphasized the link between healing and Aboriginal cultural values and spirituality and talked of re-establishing traditional forms of healing in their communities. They asked that the restrictions on use of government funding for health and social services be removed so that these resources can be used to support Aboriginal approaches to healing.

A number of intervenors spoke of the need for personal responsibility with respect to healing. At the Orillia hearing, Cynthia Wesley, of the United Indian Council, urged that Aboriginal people move away from blaming their leaders, the *Indian Act* or the dominant society for problems in their community and encouraged their taking responsibility for peaceful co-existence internally. June Delisle, of the Bear clan in Kahnawake, spoke of the need for Aboriginal peoples to recognize that the solutions to their problems were their responsibility. They should stop blaming the past, she said, and take charge of their own destiny.

In Montreal, Jean-Charles Pietacho of the Montagnais community of Mingan, on the north shore of the St. Lawrence, spoke of the problems his community experienced in trying to heal because of the interference of the dominant society. Beginning with a moving picture of the anguish and pain felt by their community, and reflected in yet another suicide of a young person, he talked of the need for autonomy in individual and collective terms and of its consequences in terms of self-determination and self-government. The time has come, he said, for those with a paternalistic and dominating approach to leave Aboriginal peoples to apply the remedies that correspond to their values.

"It is up to us above all to take charge of the process of social healing which we must go through," he said. "The process of healing must be based on our traditional and spiritual values of respect, pride, dignity, sharing, hospitality and mutual aid." He said his community needs to lift the constraints that prevent them from practising their traditions. "Autonomy begins with the individual, then is built by the family, then by the community, and finally, through our relations with other nations. Frankness, honesty and transparency are the virtues of this process. Communication among ourselves is the cement."

## Aboriginal Communities

The economic and social problems of Aboriginal communities were frequently cited as

a backdrop for recommendations for economic development and for new approaches to social services. Several interveners talked of Aboriginal peoples living in third world conditions, and one questioned why money was being spent on foreign aid when those conditions existed in Canada.

Robin Bellamy, of the Saskatoon Friendship Inn, said the city now had an inner city culture for Aboriginal peoples, "a culture of prostitution, substance abuse, physical abuse, verbal abuse and poverty." Patrick Lavelle, of the Canadian Council for Aboriginal Business, said the statistics showed a continuing decline in living standards of Aboriginal peoples. He said Status Indian men and women die ten years earlier than other Canadians, infant mortality is 40 per cent higher for the Aboriginal population than for the rest of Canada, and 45 per cent of the Status Indian population has no high school education, compared to 17 per cent for non-Aboriginal Canadians.

In Calgary, Rosemary Brown, of the Committee Against Racism, spoke of how non-Aboriginal development had affected one traditional society, the Lubicon Cree. She said the imposition of oil and gas and later logging development on their traditional lands had ruptured traditional Lubicon ties to the land and brought about significant changes in inter-related economic, social, political and spiritual roles and relationships, particularly for women.

Families were transformed from units of production, in which everyone participated, into units of consumption that rely upon transfer payments and insufficient employment opportunity for income. Women are no longer able to contribute to the economic well-being of the family through production and find themselves trying to meet family needs for food and other essentials on welfare budgets. Social relationships that were forged within the context of a hunting, trapping and gathering way of life are under increasing pressure. Family breakups have increased and patterns of socialization are changing.

Ms. Brown said these changes have led to a dramatic increase in alcohol abuse and to a decline in respect for elders, whose skills and wisdom are no longer needed for economic survival. Tensions within the community have increased, traditional values of co-operation and sharing have declined, and money-centred values have inserted themselves into the Lubicon community's social fabric.

In Regina, John Hylton, a non-Aboriginal intervener, offered a number of reasons why current programs to deliver social services to Aboriginal people are not effective. He said non-Aboriginal programs often fail to take into account the unique language, culture, traditions and current life situation of Aboriginal people. There is often a knowledge gap and a lack of trust between service providers and Aboriginal clients, limited access to services and limited community ownership or support.

Mr. Hylton strongly recommended the creation of parallel programs run by Aboriginal people on the grounds that they were more effective in reflecting Aboriginal values, in attracting and keeping Aboriginal staff, and in gaining Aboriginal community support. The issue is not one of resources, he said, but of transferring current resources from non-Aboriginal control to Aboriginal organizations.

Many interveners made recommendations with respect to needed new services. These included the need for daycare and for services for people with disabilities in Aboriginal communities, as well as such services as crisis centres, shelters, homes for single mothers, and centres for healing and for addiction treatment. Intervenors criticized the practice of requiring Aboriginal people to travel long distances from their homes to gain access to services and called for a much greater variety of health and social services to be provided in their communities.

In Prince George, Barry Seymour provided a practical example based on plans being developed in the Friendship Centre to provide a continuum of services to meet an Aboriginal family's needs in a holistic way.



Mr. Seymour said healing must be the primary focus of social and health services. Healing “must confront the ‘denial mode’ currently in place within Native communities and political leadership. Self-sufficiency and self-government will not succeed if our people are not able to deal with the intense pain and complex issues which have lead them to continue the cycles of dysfunction and abuse.”

In Kamloops, Lisa Allgaier, a social worker from the Neskonlith Indian Band, said there should be a network created between off-reserve Aboriginal organizations and on-reserve governments in order to offer people off-reserve the option of access to services on-reserve. Until First Nations have equitable levels of service on-reserve, provincial governments should make preventive and support services available to on-reserve members

Canada’s discriminatory treatment of Aboriginal veterans after the Second World War was again raised during the third round of hearings. In Vancouver, Harry Lavalley, of the National Native Veterans Association, expressed anger and concern that Aboriginal people were denied their rights in Canada and that Aboriginal veterans had been deprived of their rights.

At Orillia, Leland Williams lamented the fact that Aboriginal veterans were dying without their rights being addressed. He estimated that post-war benefits amounted to \$10,000 for non-Aboriginal veterans, compared to \$2,400 for Indian veterans, and recommended that the difference be paid with interest. He noted in addition that land benefits given to Indian veterans were located on reserve land to which they were already entitled.

In Moncton, Herman Saulis of the National Native Veterans Association estimated that a non-Aboriginal veteran could have received benefits worth a total of \$74,000, compared to the \$2,320 actually provided to Aboriginal veterans. He also urged that Aboriginal veterans receive compensation for what they should have received in 1945, along with accrued interest.

## Aboriginal Women and Families

Problems related to violence and sexual abuse were raised in many of the interventions by Aboriginal women in Round Three. Often these issues were linked to questions of accountability and the desire of women to be equal participants in decisions affecting their future. Women saw their role in Aboriginal communities as central and questioned the hypocrisy of Canada advancing human and women’s rights abroad while denying Aboriginal women a voice in self-government negotiations. Women were also bitterly critical of the failure of Bill C-31 fully to restore their rights in terms of status and band membership.

Over the course of its hearings, the Commission has held a total of fourteen *in camera* sessions at the request of women’s groups and of individual women who were concerned about raising certain issues in public. The largest of these sessions was a special consultation in Victoria co-sponsored by the Commission and Naukana Women’s Association of British Columbia in June 1993, near the close of Round Three.

Over two days, 30 Aboriginal women from all over Vancouver Island shared traumatic personal experiences with an intensity and anguish unmatched at any previous Commission hearing. More than half of the group had experienced sexual abuse and violence in their lives. Several had suffered through their children being abuse or raped. A number spoke about negative encounters with elders, some of whom were the perpetrators of sexual abuse. Many said they had come into conflict with their own Aboriginal government or been told to keep quiet and not pursue issues involving the chief and council.

In public hearings, women raised many of the same issues that were discussed *in camera*. In Thompson, Barbara Nepinak of the Indigenous Women’s Collective said that Aboriginal women were being intimidated from speaking at the

public hearings in order to keep physical, emotional and sexual abuse hidden from public view. She said women and children did not have power in their communities, and that some women had been fired or denied welfare because of their political activities. By keeping women ignorant, she said, chiefs could maintain control.

Similar points were made at a round table in Prince George, where women contended that male-dominated First Nations leadership is failing to give women's and children's issues priority. In addition, women living off-reserve, particularly single parents, are not receiving benefits to which they are entitled.

In Montreal, the Quebec Native Women's Association (QNWA) made a lengthy presentation arising from an IPP project that linked the issues of family violence and women's equality. It cited a 1989 study by the Ontario Native Women's Association in which 80 per cent of Aboriginal respondents said that they had been victims of family violence, compared to 10 per cent for Canadian women as a whole.

The Association asked that the Charter continue to apply to Aboriginal governments until such time as one or more Aboriginal charters provide women with equal or greater protection. In Quebec, it stated, no band council has yet adopted an anti-violence regulation or code of ethics – a measure of the immense work to be done.

The QNWA rejected the view that traditions and culture could justify conduct that amounts to an abuse of power, along with the idea that women do not need power because they already have it. "To speak truth...means to denounce violence in all its forms...It means combating the lies suggesting that only collective rights are important and reducing individual rights – which are often fundamental human rights – to an infectious illness transmitted by whites of European origin".

The Association cited a number of problems that needed to be resolved, including lack of

support for victims of violence; conflicts of jurisdiction; lack of resources adapted to the needs of victims; and the inadequacy and delays of the justice system. It spoke of its efforts to make men more sensitive to the problem of violence and to train people in local communities who could act as interveners in situations where violence occurs. The QNWA emphasized that family violence in Aboriginal communities should be made a priority for all those involved.

"There is no time to lose. Violence, indifference and lack of action can only be interpreted to day as gestures of complicity. Violent acts are crimes against the integrity of the person, and a policy of zero tolerance should be firmly applied...While the means of rehabilitation may vary from one culture to another, a crime remains a crime and the criminal should be punished," the Association said.

At the same hearings the National Action Committee on the Status of Women also recommended that the Charter apply to Aboriginal governments and said that these governments should not have access to a notwithstanding clause. NAC disputed the contention that Aboriginal traditions of governments must prevail over the equality rights in the Charter, saying that not all traditions were worth reviving in the context of the twentieth century.

"Unless Aboriginal women are guaranteed the right to share equally with men the powers to develop the forms of self-government and the instruments required for dealing with poverty, conjugal violence, incest, the consequences of unemployment, the exclusion of Bill C-31 women and their children from their communities, there will be no significant improvement in living and social conditions," NAC said. "The organization of educational, health and other social and community services can only be successful where women share in the powers of planning and carry out those services."

In Hay River, Claire Anne Bouchard of the Women's Resource Centre spoke of a cycle of



violence in which women experienced psychological as well as physical battering, threats of abuse, sexual assault and destruction of their property. She said women find it difficult to leave their partners because of lack of resources, limited access to housing, reluctance to leave their community or family, and fear of being alone.

In North Bay, Carol Croxon of the Ojibway Family Resource Centre talked about the added problems of women in isolated communities trying to escape abuse. They may lack the money to fly out, relatives may try and persuade them to stay, and some women fear that the community will deny their children benefits. She pointed to the problems of self-esteem and to the way poverty contributes to women's oppression in Aboriginal communities.

At several hearings, questions were raised about the Aboriginal tradition of non-interference in cases where there was evidence of family violence. In Montreal, Marguerite Cardin, an elder with the Quebec Native Alliance, saw the problem as one that would not have occurred before the coming of Europeans because women were equal. She said the tradition of non-interference has to be balanced if a situation exists that is not right. Where abuse takes place it must be denounced.

The particular problems experienced by many Métis women were described in Edmonton by Melanie Omeniho, President of the Women of the Métis Nation: "Métis sisters are not given respect within the communities. Their own principles and values are often questioned by mainstream society who tend to sit in judgement of them. Many of our Métis sisters suffer from low self-esteem and self-worth...They are oppressed and generally find it difficult to access the resources required to help them."

Ms. Omeniho said that Métis women also want to be a part of the decision-making process. Their initiatives were found to be threatening to the male-dominated organizations that claim to represent Métis women, however, to the point

that they actively tried to exclude their female counterparts while negotiating self-government.

Several interveners underscored the need to make safe housing available for abused women and their children. The Atenlos Women's Group in London recommended that transition houses should allow such women time away from their home for up to a year. It also proposed that a portfolio with responsibility for women and children be created as part of band council government, with responsibility to develop education and support programs in the areas of spousal and child abuse.

In Sudbury, the problem of enforcing child support orders was raised by Margaret Jackson, a counsellor for Anishnabaseuk Native Children and Families. Ms. Jackson said the Support and Custody Enforcement Office, which was created by legislation in the 1980s to help single parents collect support payments for their children, had been quite unsuccessful in helping Aboriginal women, particularly if a father worked for a band council, because his wages could not be garnisheed. Ms. Jackson suggested that band governments establish their own system to ensure that child support in these cases was paid.

Other recommendation concerning women included the creation of healing lodges to address the problems of families in a holistic way; Aboriginal women's centres in urban areas to serve all status groups; outreach and family counselling services run by Aboriginal personnel; special attention to teaching parenting skills; and provision of funding for Aboriginal women to rewrite the history of their ancestors. Emil Bell of the Saskatoon Community Health Unit recommended that prostitution be decriminalized to make it easier to work with young Aboriginal women involved in prostitution.



## Children

Violence was also a key issue with respect to Aboriginal children. In Toronto, Rix G. Rogers, Chief Executive Officer of the Institute for the Prevention of Child Abuse, provided results of a survey on child abuse that highlighted the lack of services in Aboriginal communities and the competition between levels of governments and Aboriginal leadership. He spoke of the need to reduce violence at every level as a critical step for the process of healing to take place. This might be achieved by creating 'violence-free zones' at the level of extended families in Aboriginal communities, he said. The solution to child abuse requires a holistic approach, he concluded, but this is difficult at the level of government because separate departments have difficulty co-ordinating their work.

Several interveners denounced the practice of non-Aboriginal children's agencies apprehending children from Aboriginal families and communities rather than providing resources for prevention or making use of the extended family. In Saskatoon, Gay Caswell, of Victorious Women, spoke of the undue power of social workers and child welfare authorities to remove children from their families without due process and in apparent violation of basic rights under the Charter. She noted that 80 per cent of the children taken into care in Saskatchewan are Aboriginal.

Specific proposals were put forward in British Columbia for a federal Aboriginal Child Welfare Act that would involve transferring federal funds to First Nations agencies or governments, thereby eliminating the role of the provincial government. The Vancouver Aboriginal Child and Family Services proposed in Kelowna that federal funding also be provided for Aboriginal child welfare services in urban areas.

In Kamloops, a group of Aboriginal social workers referred to Indian child welfare legislation in the United States as a model for

this proposal. They suggested that bands that were not ready to deliver child welfare locally could contract with the province or an agency to deliver the service, while remaining in a position to evaluate programs based on their needs. First Nations control of Aboriginal child welfare would allow for other forms of programming besides protection, including healing, prevention, reunification and supportive services.

The need for child care services for Aboriginal children, and the obstacles involved in establishing them, were addressed by the Quebec Native Women's Association at the Montreal hearing. The Association spoke of the game of jurisdictional ping pong played between federal and provincial governments and of the province's failure to take account of the needs and priorities of Aboriginal communities. The QNWA said that since Quebec's policy is based purely on the number of women in the labour market, Aboriginal daycare centres are almost automatically eliminated from subsidy programs in urban areas. Child care is also affected by standards that are difficult to apply in Aboriginal communities, such as rules related to the training of child care workers.

The Association said there was a fundamental difference in philosophy between Quebec's policy and the approach taken by Aboriginal women. Quebec policy focuses on the needs of women needing child care, but Aboriginal women also see daycare as a means of preparing children to live in two cultures.

The need for culturally appropriate daycare centres was also advocated by Bill Butler of the North Bay Friendship Centre. He said they could help urban Aboriginal children learn about their lost culture through the use of Aboriginal games, storytelling, legends and teachings from 'aunties' and grandmothers, who were a traditional part of the child care network.

In Vancouver, Elizabeth Hall, of the United Native Nations, spoke of her work to help Aboriginal people who had been adopted apply

for Indian status and seek birth family members for reunion. She criticized the current adoption legislation for failing to take into account Aboriginal culture and the Aboriginal way of life, pointing to a long list of legal obstacles that make Aboriginal people unequal in matters of family and children's services and that interfere with adopted persons re-establishing contact with their original families.

Ms. Hall said that 99 per cent of Aboriginal children adopted in British Columbia have gone to non-Aboriginal homes. No agency has done anything to deal directly with problems that arise as a consequence.

At the Orillia round table on healing, Martha Francis of the Kettle and Stoney Point First Nation said that healing should include people like herself who were adopted into non-Aboriginal families and not brought up with their heritage. She described her own healing journey from the time when, as an adult and the mother of two children, she first learned that she had status. On her first visits to Aboriginal events she stood outside the circle. "I came to realize something of great value had been taken from me...these were my people but I knew nothing of their traditions, beliefs or history."

## Aboriginal Youth

Aboriginal identity was a primary concern for many of the young people who took part in the hearings in Round Three. This was expressed in terms of the need for cultural centres and youth survival camps, for more Aboriginal teachers in schools, for Aboriginal studies courses to be mandatory, and for the use of Aboriginal role models to help Aboriginal youth develop self-esteem. There was widespread concern about racism and a strong desire for Aboriginal youth to be involved in band councils and in decisions affecting their rights. As in the previous rounds of hearings, young people again expressed concern about the frequency of suicide and its effect on Aboriginal communities.

A wide range of Aboriginal youth took part in Round Three. They included a five-year-old Mohawk boy who gave a fluent and confident recitation in Mohawk of the lengthy opening prayer at a hearing in Akwesasne; elementary students at the same hearing who provided a comprehensive analysis of the problems facing their community; and high school and college students who took part in five youth round tables at different locations across Canada.

At a youth circle held in Lethbridge, Tobias Provost, of the Peigan First Nation, spoke of the lesson he had learned from his grandfather: "Before you go out there and talk to people, you have to know who you are. You have to know your history. You have to know your ceremonies. You have to know your language. You have to understand the relationship between the European and the Indian people, what they have done...But at the same time we have to know who we are as Indian people. We have to look through the eyes as Indian people."

Trisha Janvier, a Chipewyan student in education, talked about negative stereotypes and the need to have youth stay on the reserve to be educated. She said the Alberta curriculum should incorporate Aboriginal culture, history and language. "First of all, the students have to get to know themselves. This can be done by taking the whole student and nurturing all aspects of their being – the physical, the emotional, the spiritual and mental. In the present system only the mental and physical aspects [are] equally emphasized. Teaching from this perspective, the child or student will know themselves, and this will create self-esteem and will empower them to be healthy and happy individuals."

At a Prince George round table, Jason Thomas, of the All Nations Youth Council, spoke of recapturing the traditional role of Aboriginal youth in their communities, "a tradition of providing ideas, creativity, energy and the moral judgement to question our leaders." He said Aboriginal youth should be seen as ambassadors



in overcoming mainstream bigotry and racism. They should be trained in concepts of governing that do not perpetuate the legacy of male violence and male leadership now found in Aboriginal communities under the *Indian Act*.

Mr. Thomas noted the amazing degree of social and political integration achieved by Aboriginal cultures. In this context, he said, "Aboriginal people around the world are beginning to see that they have something more in common than simply being victims of ethnocide – the destruction of their cultures...Through existence, these people are actively involved in the process of ethnogenesis – the forging of new cultural identities and social relationships."

At a youth round table at the St. Mary's reserve near Fredericton, Jeffrey Ward, an Aboriginal representative on the New Brunswick Youth Council, talked about the loss of Aboriginal languages and recommended that they be taught to Aboriginal and to non-Aboriginal students in schools. He commented on the difficulties of respecting the spiritual aspect of Aboriginal culture: "Spirituality is a 24-hour day-to-day thing. You live your spirituality. It is not only one day a week where you go to church. It is not a one-day thing." At a Regina round table, young people commented on issues of AIDS, alcohol and drug abuse, and the federal restrictions on funding for Aboriginal post-secondary education. They called for Aboriginal youth to participate in the process of self-government by being represented on Indian, Métis and non-Aboriginal bodies from the local to the national level. Delmer Majer, a Métis youth, urged recognition of the distinctiveness of youth as young Métis or Cree or Saulteaux or Inuit rather than just their Aboriginal ancestry, as a means of enhancing self-esteem.

Another participant, Lyle Daniels of Saskatoon, urged that sport be seen as a major priority for Aboriginal young people and as a means to develop team work, self-discipline and life skills. He said racism in the athletic community and

the lack of resources in Aboriginal families are factors in the limited participation of Aboriginal youth in sport. The solutions he offered included sensitizing coaches and officials and the development of a holistic approach to athletics that would allow Aboriginal youth an easier transition into mainstream sport.

In Montreal, Alwyn Morris, a former Olympic athlete from Kahnawake, made the case for the creation of an Aboriginal Sports Secretariat for Canada. Its mandate would be to lobby governments and other institutions on behalf of Aboriginal sport and to encourage Aboriginal organizations and communities to give priority to the development of fitness, sport and recreational activities. Mr. Morris said Aboriginal peoples should demand an equitable share of resources from all levels of government devoted to services and facilities required for fitness, sport and recreation.

## Health Services

Aboriginal health services were again a major concern in Round Three, with emphasis on the need for greater Aboriginal participation and control; greater use of traditional Aboriginal approaches to healing; and the need to make Aboriginal culture an integral component of health care delivery. Support for this approach came from non-Aboriginal as well as from Aboriginal interveners.

In Vancouver, Reah Joseph, of the Native Brotherhood of British Columbia, provided a comprehensive review of Aboriginal health issues, including the need to create partnerships in the health field between the Aboriginal community and health institutions in the dominant community. She referred to Aboriginal concepts of health, such as the Gitksan Wet'suwet'en holistic approach that places spirit at the centre and comprises physical, mental and spiritual well-being. Goals for health should be linked to all other areas that affect well-being, such as land claims, employment and housing, she said.



At the same hearing Dr. Phil Hall of the British Columbia Medical Association (BCMA) also spoke in favour of a comprehensive approach to health that links physical and mental illness to the loss of self-respect and of personal and cultural identity. He said the basic causes must be addressed. "One cannot treat loss of identity with surgery or a pill, not even with counselling, although this may help somewhat. The real cure comes from within. The learned helplessness must be unlearned and the pride of self must be grasped again."

The BCMA recommended the creation of a provincial Aboriginal Health and Social Services Commission, made up of Aboriginal leaders, to address social and health care problems and possible solutions. It called for Aboriginal representation on hospital boards and the inclusion of Aboriginal people on health care teams in hospitals as providers of social and spiritual support to Aboriginal patients. It also recommended creation of a chair of Aboriginal Health Studies within the Faculty of Medicine of the University of British Columbia, with an Aboriginal physician filling the chair.

In Moncton, the Canadian Association of University Schools of Nursing spoke of its efforts to educate nurses for their role in Aboriginal communities and to encourage Aboriginal students to enter nursing and other health professions. It said that the principles of primary health care now being incorporated into university courses are similar to those of the circle of life or medicine wheel that guides health care of Aboriginal people.

At a round table on healing in Orillia, Yvon Lamarche, of the Georgian Bay Friendship Centre, spoke of putting even more trust in traditional medicine. He suggested the ideal model would be one that aimed to bring western medicine into the healing circle rather than the reverse. He said community centres should be strengthened as places of healing and that the role of spirit medicine people in Aboriginal communities should be enhanced.

In its Vancouver presentation, the Native Brotherhood of B.C. spoke of the shortage of Aboriginal health care workers in all categories in British Columbia. It reported a survey showing about 900 Aboriginal people working in the health field, including community health workers and professionals. This represents a ratio of 6 per 1,000 Aboriginal people, compared to 33 health care workers per 1,000 population in the province as a whole.

In Edmonton, Anne Marie Hodes reported on an Aboriginal health career plan that began at the Faculty of Medicine at the University of Alberta in 1988 and had just seen its first Aboriginal doctor graduate. She said that the faculty had 12 Aboriginal students enrolled, more than all other faculties of medicine in Canada combined, as a result of an aggressive recruitment program and a decision to reserve two of its 120 first-year places each year for Aboriginal students. Forty Aboriginal doctors are now practising in Canada; the faculty intends to graduate another 14 by 1998.

At Orillia, Sharon Douglas of the Rama First Nation criticized the speed with which her community was being asked to take over control of health care under the federal health transfer program. She said the resources for planning are inadequate, the 12 months she has been given to complete a holistic community health plan is unrealistic, and too little time has been provided to train health staff or to develop community support. Similar concerns were voiced in North Bay by Claire Campbell of the Lawrence Commanda Community Health Clinic. She was concerned that the transfer being developed by the Nipissing First Nation did not cover the needs of Aboriginal people living off-reserve and that the program being inherited was underfunded.

Gloria Thomas spoke in Brantford about a Community Health Review currently under way at the Six Nations Reserve. Issues she identified included the lack of resources for long-term health planning and the need for First Nations

to take control of all health services, including some that are now inaccessible, such as mental health and hospital care. She said changes in federal and provincial laws are needed to establish the authority of First Nations health boards.

A number of Métis interveners asked that Métis people be given the same benefits as those provided to First Nations, saying that the current arrangements make some Aboriginal communities "more equal than others." In Hay River, Gary Bohnet, president of the Métis Nation of the Northwest Territories, noted that medical benefits in the N.W.T. are in most cases not treaty rights but matters of policy. For this reason, he said, "all it takes is the political will and the resources to allow the Métis to have the same health benefits as the Dene and the Inuit peoples of Canada."

A number of specific issues relating to Aboriginal health were discussed in Round Three. In every case, interveners underscored the importance of Aboriginal culture in finding solutions.

Paul King, Chief Psychologist at the North Bay Psychiatric Hospital, spoke of mental health services in Aboriginal communities. Noting that there are only two Aboriginal psychologists in Canada, he said the current model, in which mental health services are separated from Aboriginal culture, is a recipe for disaster. He called for a partnership aimed at ensuring that Aboriginal professionals are trained in mental health and remain at the reserve level. One option would be to train Aboriginal crisis intervention workers living on reserves and provide backup for difficult cases at hospitals.

In Vancouver, Alan Kennard of the Vancouver Native Health Society criticized the Medical Services Branch decision to shut down its Joint National Committee on Aboriginal AIDS Education and Prevention. He warned that the danger of tuberculosis for Aboriginal people is rising, particularly in urban areas; the down-

town east side of Vancouver already has the highest incidence of tuberculosis in Canada. People with AIDS are particularly vulnerable.

"We have every factor here necessary to produce a TB epidemic – AIDS, poverty and homelessness," he said. "Tuberculosis and AIDS could be the deadliest combination to Aboriginal people since smallpox."

Several interveners spoke of the rise in diabetes to epidemic proportions among Aboriginal peoples in the last 15 years. At Kahnawake, Dr. Louis Montour, a Mohawk physician at the Kateri Tekawitha Hospital, described an experimental program of diabetes prevention based on education and intervention in the schools. The hospital is seeking funds to enable it to train health workers from other Aboriginal communities in this form of prevention.

At the Toronto hearing the Canadian Diabetes Association said diabetes now occurs in Aboriginal people at two to three times the rate of non-Aboriginal people. It said the care and prevention of diabetes in Aboriginal people "is challenged to incorporate traditional practices and values which are not necessarily within the scope of understanding of the non-Native physician."

At Prince George, Marlene Thio-Watts outlined an alternative system of health care delivery called the Healthiest Babies Possible Pregnancy Outreach Program, intended to assist in preventing low birth weight babies. She said many Aboriginal women are isolated and poor and suffer from low self-esteem and emotional pain. Many also lack medical coverage. The service reaches out to this group, using peer counsellors located at the friendship centre rather than health professionals in hospital or office settings. Women are encouraged to maintain frequent contact by receiving a weekly milk supplement.

Ms. Thio-Watts recommended making health care accessible to Aboriginal people by providing a one-stop store-front health centre



with no appointments required, using a holistic approach that includes family planning, parenting, treatment for substance abuse, and spiritual healing. With respect to family violence, she suggested using peer support models such as 'godparent' or 'sistering' approaches used in isolated ethnic and black communities in eastern Canada and the southern United States.

The outreach program is on the front line to identify and support women at risk for alcohol abuse and other negative lifestyle behaviours during pregnancy, Ms. Thio-Watts explained. Parents of children with fetal alcohol syndrome or fetal alcohol effects need help and support, not criticism, she said; all the pregnancy outreach programs across British Columbia cost less than the \$1.5 million required to support one child with fetal alcohol syndrome over its lifetime.

In Calgary, the National Native Association of Treatment Directors emphasized the need for a holistic approach to treating alcohol and substance abuse aimed at meeting the physical, psychological, emotional and spiritual needs of Aboriginal clients. Pat Shirt, president of the Association, said substance abuse is the greatest single health problem for Aboriginal people. He spoke of its social ramifications in terms of domestic violence, family breakup and criminal behaviour. While acknowledging that Aboriginal peoples have been victims of colonization and cultural genocide, he said that they could not afford to waste time debating the causes of substance abuse. What is important now is to discuss how to change that victim identity to a survival identity.

"We emphasize that while we, as a people, were victims we are also survivors. We emphasize that we are a strong, resilient people and that we can change our lives and our communities so as to restore our dignity and self-respect," he said. Mr. Shirt recommended that the federal government move toward global funding to support treatment for substance abuse and that

government consider the costs to the health care and justice systems of alcohol and drug abuse when allocating funds for treatment and prevention.

## **Persons with Disabilities**

The needs of Aboriginal people with disabilities were raised as a major issue for the first time in Round Three. At Kelowna, Donna Goodwater, a councillor for the Okanagan First Nation, presented a video about her efforts to gain access to social services for her daughter, a special needs child. She said she had been caught in a jurisdictional quagmire and that the present system promotes poverty. As one example, Ms. Goodwater noted a dispute between the Department of Indian Affairs and the Medical Services Branch over whether a food supplement was a dietary need or a health need and who should pay for it. Based on her experiences, she also recommended that an ombudsman be appointed in each province to deal with complaints regarding the delivery of Aboriginal social services.

In Toronto, John Miller, of the Ontario Association for Community Living, deplored the federal government's lack of response to the recommendations of the House of Commons Committee on Human Rights and the Status of Disabled Persons with respect to services to Aboriginal peoples. He said that Aboriginal communities are being punished under the current program of deinstitutionalization in Ontario. Because they had traditionally provided care in the community for people with mental disabilities, they were not seen as targets for the creation of new community services. He urged the creation of community-based services such as respite care for parents with a profoundly disabled child at home.

In Vancouver, Ian Hinksman of the B.C. Aboriginal Network on Disability Society (BCANDS) also noted jurisdictional problems between federal and provincial governments in providing services for Aboriginal people with



disabilities. He said the disparity of services forces individuals with disabilities to leave reserves and move to urban areas to gain access to services that are otherwise not available.

Sue Gabriel, a member of BCANDS, gave a personal account of her experience after becoming disabled in a car accident in 1990. When she returned home to the Seabird Island reserve there was no homemaker service available, and she had no wheelchair access to the house she received from the band.

Florence Wylie, also of BCANDS, said some persons with disabilities, such as those registered under Bill C-31, felt they were being treated as third-class citizens by their own people. She urged that Aboriginal people with disabilities be included in the process of change in their communities and called for implementation of the principles of the United Nations decade of development for people with disabilities.

At Terrace, Gerald Wesley of the Kitsumkalum First Nation contrasted the conditions between the town and his reserve community. He estimated that it would cost an average of \$1.2 million per Aboriginal community across Canada to provide sidewalks, paved roads and accessible housing for people with disabilities at the same standard as the average non-Aboriginal community.

## Education

Interveners again spoke of the problems of Aboriginal education in Round Three but offered several models for change and ideas for enlarging Aboriginal participation and control. As they had in previous hearings, interveners spoke of inadequate standards in schooling for Aboriginal young people and of inadequate funding, of schools insensitive to Aboriginal needs and culture, and of racism and prejudice among teachers and students. They called for more Aboriginal control over education and less direction by the federal government, more Aboriginal teachers and programs and more

cross-cultural education for non-Aboriginal educators.

In Thompson, Sydney McKay, a Vice-President of the Manitoba Métis Federation, said schools in northern Métis communities were 30 years behind the rest of Canada and spoke of students being given "social passes" to get them through high school. He said many Métis students were pushed into lower priority courses and away from university entrance programs. In Toronto, Audrey Mayes, of the Southern Ontario Métis and Non Status Indian Association, called the present education system a Catch-22 situation for Aboriginal students. They need education for economic growth and development but at the same time the overt and systemic racism of the education system is probably the main reason for Aboriginal students dropping out.

Dr. Eber Hampton, president of the Saskatchewan Indian Federated College, told the Commission in Regina that Canada had failed in its effort to destroy Aboriginal identity, culture, language and institutions through education, but that it had done great damage to Aboriginal people in the process.

"Aboriginal education as assimilation has always, everywhere failed, and failed miserably and failed destructively," he said. "I believe it is one of the central causes of the problems you have seen in your travels. And the suffering that you have seen in your travels has been an education with all good intentions that was misguided. Aboriginal education for self-determination controlled by Aboriginal people succeeds."

A major concern during Round Three was the obstacles to Aboriginal education presented by federal funding policies and administration. Interveners said federal funding for reserve schools is lower than the amounts spent in neighbouring non-Aboriginal school systems on a per-pupil basis. Teacher salaries are substantially lower, and it is hard to obtain resources for new schools or for children with special needs.

Both Aboriginal and non-Aboriginal interveners acknowledged the need for new approaches and for greater Aboriginal control of education. Some provided concrete evidence of the benefits of educating pupils in their own communities rather than transporting them to attend non-Aboriginal schools away from home. In North Bay, John Nakogee, Director of Education for the Attawapiskat First Nation, said the dropout rate for his community's students, which had run at over 40 per cent when they attended southern high schools, had fallen to zero since the community opened its own high school.

At Hay River, Richard Nerysoo, Minister of Education, Culture and Employment for the Northwest Territories, outlined steps being taken by the government of the Northwest Territories to improve Aboriginal education. These included the involvement of elders, wide use of Aboriginal languages in instruction, especially up to Grade 2, and a program of teacher training aimed at having Aboriginal people make up 50 per cent of the N.W.T. teaching work force by the year 2000. Secondary school facilities had been transferred to smaller communities in order to retain existing students and attract people to come back to school, and the N.W.T. is examining further extension of Aboriginal language instruction.

Mr. Nerysoo said education levels were the greatest barrier Aboriginal people face in joining the wage economy in the N.W.T. He said 75 per cent of Aboriginal students now leave school before completing Grade 12, but high school enrolments were rising dramatically. He expected the Grade 12 graduation rate to rise from 24 per cent in 1991 to 42 per cent in 1997.

In Brantford, Linda Staats, a community educator, called for a national education treaty based on the Two Row Wampum and for a national public education strategy developed with full First Nations input. She said First

Nations should have the freedom to design and deliver their own programs rather than administer those of the federal government and should be able to certify Aboriginal teachers and institutions rather than having to rely on provincial criteria.

Once Aboriginal people control their own education, Ms. Staats said, the educational process will begin to contribute to the healing, self-sufficiency and self-determination that must characterize their future survival and development. With these tools in hand, Aboriginal people will no longer feel they are wards of the state, with all that entails.

In Montreal, the Quebec Association of Protestant School Boards recommended that Aboriginal peoples be given full responsibility for design and delivery of their own educational system. It called for more Aboriginal input at the school and school board levels where education continues to be provided through a non-Aboriginal board and recommended that school boards across Canada review their relationships with band councils and open their doors to co-operation.

Isabelle Impey of the Gabriel Dumont Institute noted in Saskatoon that by the next century, one-third of the school children in Saskatchewan will be Métis or Aboriginal. She called for the immediate establishment of a Métis Education Act, which would ensure that programs for Métis children are "decided... developed and delivered by the Métis"

A number of proposals and initiatives to make education relevant to Aboriginal students were outlined by a consortium of educators at the hearing in Calgary. These included the creation of Aboriginal education departments at the two major school boards, Aboriginal representation on school councils and the separate school board, hiring of Aboriginal staff and Aboriginal awareness programs.

Doreen L'Hirondelle said she was the first Aboriginal person hired to be an Aboriginal



education specialist with the Calgary Board of Education, a system with more than 6,000 Aboriginal students. She said the board has established a Native education department and an Aboriginal community steering committee, which held its first meeting in June 1993.

Vera Marie Crowchild, education co-ordinator of the Tsuu T'ina Band, questioned the record of Calgary schools at the same hearing. She said Tsuu T'ina students had been educated in the city of Calgary for more than 35 years, but not one had ever graduated from Grade 12 to go on to university. Joyce Goodstriker, superintendent of the Blood Tribe Education Board, said the large gap in funding between the reserve and the public school systems in adjoining areas is a violation of human rights. The Blood Tribe also has more than 400 off-reserve students for whom it receives no federal funding. All it could devote to these students was \$25 per year.

The problems of educating Aboriginal students in a non-Aboriginal school were discussed at length during a round table at Restigouche. Responding to questions from the Commission, representatives of District 14 School District in New Brunswick said that the district has about 500 Aboriginal students from the Restigouche and Eel River reserves, out of a total student body of 3,000, and that two of its 196 teachers are Aboriginal.

Chief Brenda Gideon-Miller of the Listuguj Mi'gmaq First Nation said that her community had decided to set up its own nursery and kindergarten program so that its children could be educated in their own language and culture.

"Your education system does not do that," she said. "We have got to take care of own, teach our own, nourish our own and feed our own, according to the way we see it... Unfortunately, that means budget cuts for [District 14] in realistic terms... It is going to mean loss of jobs in your communities, but how do you think we have been feeling all of these years?"

At the Orillia hearing, educators told of the formation of an Aboriginal Advisory Committee

at the Simcoe County Board of Education. They reported positive results in terms of retention and student success that had flowed from the appointment of an Aboriginal liaison worker to work with Aboriginal students at Twin Lakes Secondary School and their families. Another initiative reported at the hearing was the creation of a First Nations Study Centre on Georgina Island, in Lake Simcoe, intended to serve students and teachers in the York Region Board of Education and to provide specialized training for Aboriginal people.

At North Bay, Karen Commanda, librarian with the Nipissing First Nation, spoke of disparities in funding between First Nations and municipal libraries. The problem has become so acute that Aboriginal libraries have left the Ontario Library Service North organization. The OLS had refused to transfer the Aboriginal share of resources and, as a consequence, funding for Aboriginal libraries had ceased.

Another issue relating to libraries was raised in Toronto by Audrey Mayes of the Southern Ontario Métis and Non Status Indian Association. She cited the library in Iroquois Falls, which did not have a single book devoted to Aboriginal peoples, and recommended that books about Aboriginal peoples be available in libraries in all towns and schools.

## Residential Schools

Residential schools were a major issue in the earlier hearings because of the traumatic effects they have had on generations of Aboriginal people throughout Canada. The effort to impose non-Aboriginal values on children in these schools was blamed for the loss of Aboriginal language and culture, the loss of Aboriginal identity, and much of the social dysfunction that characterizes Aboriginal communities today. These themes were addressed again in Round Three, but in the context of seeking solutions and of the desire for healing expressed in many Aboriginal communities.



Ralph Phillips of the Cariboo Tribal Council said the first step was for the federal government to take responsibility for its policy of forced assimilation in the residential schools. He said the government was still denying that it had anything to do with the policy. "We have to overcome the spiritual bankruptcy that is the legacy of residential schools. We have to recover our spirituality so that we, as individuals, can trust ourselves and then each other."

The question of the churches' responsibility for residential schools was raised at Kamloops and at other hearings. Charlene Belleau said that "we have approached different churches to do different things, but...their level of denial is so deep that it is hard to get through." She said that some individuals within the churches are willing to take concrete action toward reconciliation but are being held back by their superiors.

At Prince George, Linda Prince, of Northern Native Family Services, said that the Catholic church should contribute directly to First Nations to pay for healing and therapy programs and services, as a result of years of abuse within the residential school system. In Montreal, Reverend Douglas Crosby, provincial of the Oblate Conference of Canada, spoke of the formal apology that the Oblates offered in 1991 and of their involvement in healing processes at various locations across the country. He said their appearing at the Commission was part of a commitment to a renewed covenant of solidarity with Aboriginal peoples, a commitment to speak out and to be actively involved.

At Terrace, Reg Percival, of the Nisga'a First Nation, noted the speed with which the provincial government and the church intervened to provide compensation to non-Aboriginal people who were abused in schools. He suggested they should move that swiftly when Aboriginal people are involved. Residential schools were intended to assimilate Aboriginal peoples into the mainstream society, he said. "Our position is that we no longer wish to be assimilated into Canada. We want to

define our own ways in terms of looking at our history, our language and our way of life."

## Post-Secondary Education and Training

Federal support for post-secondary education for Aboriginal students was again a matter of concern during Round Three, but the hearings also featured a large number of successful examples of post-secondary programs designed to meet Aboriginal needs. As in other areas of human services, there were consistent demands for greater Aboriginal control over post-secondary education, including proposals for an Aboriginal college or university.

Some interveners contended that funding for post-secondary education was a treaty right and part of the fiduciary responsibility of the federal government for Aboriginal peoples. Some suggested that no limit be placed on the amount of funding involved because of the emerging need for Aboriginal people as administrators and as professionals under self-government. Another suggestion was that a fair share of federal transfers to the provinces for post-secondary education be paid direct to Aboriginal institutions and to programs serving Aboriginal students. There was widespread concern that the federal government would not continue its funding for post-secondary education for status Indian students when the current programs run out in 1996.

At Lethbridge, Marie Marule of Red Crow Community College expressed concern with respect to the post-secondary student support program administered by the college on behalf of the Blood Tribe. She said the tribe had been assured that it could establish its own guidelines for post-secondary funding and that the amount provided would be based on need. This was not done, and as a consequence the tribe now faces a deficit of close to \$500,000. She said the number of students funded had risen by 37 per cent and then by 25 per cent in the past two years.

Ms. Marule criticized the federal government for failing to fund adult education, literacy training, and services for students with special needs in Aboriginal communities and for underfunding tribal institutions like Red Crow Community College. The government did not recognize the need for post-secondary support but in the meantime it had increased its funding for Aboriginal social assistance. She maintained that the capping of post-secondary education funding was intended to undermine a treaty right and to transfer the financial burden of the program to provincial governments.

Other interveners provided further information with respect to Aboriginal students now involved in higher education. Jason Goodstriker, president of the Native American Students' Union at the University of Lethbridge, said only 10 per cent of the 324 full- and part-time Aboriginal students at the university are under the age of 25. Three-quarters of the enrolment are women, of whom 65 per cent are single parents.

Mr. Goodstriker noted that in past year there had been four suicides among Aboriginal students at the university. He said Aboriginal students needed support programs along with funding to set up culturally relevant child care, health care services and peer counselling, and he called for the creation of Aboriginal student housing using the supervision of elders. Similar needs were expressed at other hearings, with particular emphasis on the needs of mature students.

In Moncton, David Peter Paul, of the North Shore Micmac District Council, reminded the Commission that 20 years ago there were only 60 Aboriginal people enrolled in post-secondary programs across Canada, compared to many thousands today. He disputed efforts by the Department of Indian Affairs to limit its responsibility for education to registered Indian children up to age 17. In Sudbury, figures provided to the Commission showed that the Aboriginal student population in the region had risen from 99 students in 1966 to 542 in 1992.

In Regina, Dr. Eber Hampton, president of Saskatchewan Indian Federated College (SIFC), looked back to the promises that Alexander Morris, Canada's Treaty Commissioner, made to chiefs and elders with respect to education. Morris's words were that "your children will be taught and then they will be as well able to take care of themselves as the whites around them." For Dr. Hampton, this was a promise not just of equity of access, but of equity of outcome. It is a standard the Crown cannot meet, he said, without the partnership of Aboriginal institutions and Aboriginal people.

Dr. Hampton urged the Commission to encourage the development of Aboriginal institutions. He noted that nowhere in the world is there a great Aboriginal university. "Canada has the foundation for a great Aboriginal university. SIFC is that foundation."

Dean Blair Stonechild described the growth of the college from six students in 1976 to more than 1,000 today. He said enrolment would have risen to over 2,000 students if the federal cap on Aboriginal post-secondary education had not been imposed. Half the teaching staff is Aboriginal, the largest concentration of Aboriginal faculty members in North America. But academic salaries are as much as 49 per cent below those at the University of Regina, with which the college is affiliated, because of a \$2,000 per student shortfall in SIFC's funding compared to the average for non-Aboriginal post-secondary institutions in Canada.

During Round Three the Commission heard a consistent message of success from people speaking for institutions that provide special programs for Aboriginal peoples or offer satellite post-secondary education programs to Aboriginal peoples in isolated communities. The examples included the following:

- the plan of the Saskatchewan Indian Federated College to expand its off-campus programs from 52 to 150 courses in the fall of 1993;

■ business and human justice programs at the Gabriel Dumont Institute, a Métis institution in Saskatoon, which has an 87 per cent success rate, compared to a 30 per cent success rate for Métis students enrolled in regional college programs;

■ community-based programs in the Northwest Territories, which are expected to graduate 100 Aboriginal teachers from small communities in the next three years;

■ a distance education program provided by the University of Quebec at Rouyn designed to upgrade the qualifications of Inuit teachers living and working in communities in Quebec's far north, from which 16 persons have just graduated;

■ distance education programs in nursing directed at Aboriginal students in remote communities; one such program, at the University of New Brunswick, involves 350 students;

■ the special program for Aboriginal students in medicine at the University of Alberta, referred to earlier;

■ the development of a specialized Aboriginal program in the School of Social Work at Laurentian University in Sudbury with the same status as the English and French programs;

■ the University of Manitoba's access program in social work for remote northern communities, in which 27 of the first 40 graduates were Aboriginal people, most of whom are employed in the North;

■ a seven-year, on-reserve program in Aboriginal leadership set up by the Canim Lake Band in British Columbia in co-operation with an American university, in which 21 students have just graduated out of the original 26 who enrolled;

■ growth of the First Nations law program at the University of British Columbia to the point where it now has 48 Aboriginal students.

At the Vancouver hearing Professor John Borrows, director of UBC's First Nations Law program, urged that Aboriginal communities be invited to participate in expanding traditional boundaries of knowledge. For example, the teaching of First Nations law should support assertions of the inherent right of self-government, contribute to the storehouse of legal principles that can be applied in criminal justice initiatives, and help Aboriginal law students learn ideas that are relevant to their people.

In Thompson, Flora Zaharia of Frontier College outlined its program of adult education based on the use of labourer/teachers who work alongside the people they teach at night. She criticized the current pattern of training in rural areas as being irrelevant to today's job market. In Aboriginal communities the job market reflects both western and traditional economies, but there is a noted lack of training for traditional economies.

In North Bay, Helen Mills of the North Bay Literacy Alliance cited the estimated 45 per cent rate of illiteracy among Aboriginal people and urged that literacy upgrading be provided as a right before students enter post-secondary education. If the issue is not addressed, she said, they are doomed to failure.

## Language and Culture

The importance of Aboriginal language and culture continued to be a major theme in the Commission's third round of hearings. For many interveners, this concern was closely linked to the renewal of Aboriginal tradition and spirituality. There was strong support for initiatives to provide more Aboriginal language training in schools, including the suggestion that parents as well as children should be involved in learning their Aboriginal language. Many interveners were concerned, at the same time, at the loss of Aboriginal language and culture and at obstacles confronting efforts at revival.



In Sudbury, Herb Nabigon, a professor of Aboriginal human services at Laurentian University, spoke of a cultural renaissance in which many Aboriginal communities are recovering their traditions – a process he called “rebuilding our lodge”. He linked the journey back into traditions with communities taking responsibility for their own members, through self-government.

Mr. Nabigon described the lodge of tradition as having four doors of different colours, which he discussed in turn. He said the east, red door represents the renewal of Aboriginal peoples and their visions for economic, political, cultural, and family development. Many Aboriginal people were striving to recover, spiritually and materially, from the devastation of reserve life. The south, yellow door represents the relationship that Aboriginal peoples formerly enjoyed with the Earth, and the time required by the process of regaining it, of weaning themselves off government handouts and again resuming the responsibilities of survival.

The west, black door represents the darkness of many Aboriginal people’s lives and their need for hope for the future and trust in their leaders, he continued. The north, white door represents the north wind and, in extension, the great power of spoken words to harm or to heal. Finally, the colour green represents Mother Earth, healing, balance, and listening, without which friendship, love, and eventually life itself are impossible.

In Prince George, Dr. Erling Christensen described how the Lheit-Lit-’en Nation had renewed itself and grown from fewer than 100 members and only one family still living on the reserve in the 1970s to a membership of 240 and 60 families today. He said the Lheit-Lit-’en path of renewal had been to recognize that what the community had lost was its traditional form of government, its culture, its language, and the relationship between the members of the community and with the elders.

This had led to the decision to combine contemporary and traditional methods of government, including the revival of language and culture, as the path to self-sufficiency. People in the community went through intensive efforts to determine its problems and the best solutions. Social, economic, and family issues had been reduced dramatically through this method of self-healing.

Dr. Christensen said that in the past year the community had turned away from the *Indian Act* culture and form of government and empowered an elders’ council to which the traditional chief is responsible. At the same time it was developing new sources of tax revenues and planning a number of projects for economic development.

At Kamloops, John Hart gave a comprehensive overview of the activities of the Secwepemc Cultural Education Society in the area of language and culture. The program includes a museum, a language department to promote the use of the Secwepemc language, programs in First Nations studies and First Nations research, and a partnership with Simon Fraser University that includes university-accredited courses in Aboriginal languages. The society also publishes educational material and a monthly newspaper.

Mr. Hart said the partnership with Simon Fraser University is a workable model, but that their final goal is to make the Secwepemc programs autonomous. He said their experience has demonstrated that Aboriginal control of Aboriginal education is a workable concept and one that can lead to improved performance of Aboriginal students.

Balanced against these expressions of cultural strength were the concerns of many interveners about the problems of recouping the loss of Aboriginal language and culture. A measure of the work to be done was suggested in a language survey at Kahnawake, which was reported by Edward Cross, Director of Student Services for the community. He said it had been assumed

that more than 50 per cent of Kahnawake residents were fluent speakers of Mohawk, but the survey demonstrated that only 10 per cent of the adult population spoke it fluently

Mary Lou Fox, an Ojibwa elder who appeared in Sudbury, also underlined the importance of preserving Aboriginal languages and the importance of elders to that struggle. She quoted the teaching of an elder who said that without the language, "we are warm bodies without a spirit." The worst thing that could happen to the Anishnabe people would be the loss of their language, because then the loss of their culture would follow. She observed that if ever an Aboriginal language is lost, it is gone forever, because Aboriginal people cannot go back to another country where their language and culture are intact.

John Steckley, a professor of Aboriginal languages at Laurentian University in Sudbury, also spoke of language as the key to Aboriginal identity. He recommended that Canada follow the example of the United States and give Aboriginal languages an official status. He supported the concept of the *Native American Language Act*, which the United States adopted in 1990 to encourage the preservation, protection, and development of Indigenous languages.

Professor Steckley stated that it has been demonstrated that children are more likely to succeed in school if they are taught to respect their Aboriginal language and culture. In Ontario, Aboriginal languages have the status of heritage languages, "which is kind of a secondary status to official languages" He believed that by granting official status to Aboriginal languages, their use would be encouraged not only in Aboriginal communities but also in urban areas, as is the case in New Zealand, where the Maori language is commonly heard in the major cities.

Concerns about the loss of language were matched by concerns about Aboriginal culture. In Brantford, Doug Maracle, of the Woodlands

Cultural Centre, stated that First Nations need their own institutions to collect, record, conserve, interpret, research, manage and communicate their culture. He accused the federal government of tokenism in its support for Aboriginal culture and provided figures showing government spending of \$95 per capita on cultural programs for non-Aboriginal people compared to only \$22 per capita being spent for Aboriginal people. He criticized cuts in support to Aboriginal culture and languages programs. First Nations should receive what he called "cultural equity" in support of cultural programs.

In Akwesasne, Barbara Barnes of the National Association of Cultural Centres also attacked the sharp cutback in federal funding that Aboriginal cultural centres have experienced. She saw these centres as essential catalysts in improving the health of Aboriginal people and as alternatives to situations that lead to alcohol and substance abuse. In her view, all possible ways should be pursued to bring communities back together. "Until we take firm steps to restore our cultural identity," she said, "cultural wholeness and the healing that we look for will not be achieved."

In Toronto, Marie Mumford spoke of the explosion of Aboriginal theatre and art taking place across Canada and of the obstacles involved in finding support. She recalled a statement made by Louis Riel at his trial: "My people will sleep for 100 years and when they awake it will be the artists who give them back their spirit."

Ms. Mumford spoke of the success of the national training school in Native theatre which her group, the Association for Native Development in the Performing and Visual Arts, launched in 1974. People trained at the school had played a role in the emergence of Aboriginal theatres across the country, such as Spirit Song in Vancouver, Native Earth in Toronto, and the De-Ba-Jeh-Mu-Jig Theatre in Manitoulin Island, she said, but after two decades the school still has no permanent source of funding.



She pointed out that in the ten years since Aboriginal Canadians began writing plays, they have won the Best Canadian Play award four times, and Thompson Highway has won the Best International Writer's Award. "We have proved ourselves in theatre. We have been recognized nationally and internationally yet we still cannot get dollars for training within our culture."

When she started to look for funding for the theatre school she had found there was no Aboriginal representation on the Ontario Arts Council, the Canada Council, Toronto Arts Council or Ontario Ministry of Culture and Communications. Today there is still no organization, no support and no cultural infrastructure for Aboriginal artists, she said, nor is there a First Nations art gallery or cultural centre in Toronto.

Ms. Mumford cited a young theatre troupe from Wikwemikong in Ontario, the Bajamajig Theatre Group, as an example of how the arts can help to bring Aboriginal culture to life. The group, composed of youth from 13 to 15 years old, took a story from a storyteller that had been passed on orally for more than 500 years. They performed their play in Ojibwa, even though many had not previously known the language, and toured to more than 30 reserves; more than 20,000 young people saw the play.

Sandra Laronde, of the same Association, made a number of recommendations based on consultation with seven circles representing different Aboriginal artistic groups. These included the creation of an Aboriginal cultural centre in Toronto; more Aboriginal materials for young children; bringing Aboriginal artists into classrooms; translation of books into Aboriginal languages; a writer's award from within the Aboriginal community; and an Aboriginal press.

At the same hearing, Elaine Bomberry of All Nations Talent Group spoke of the need to make the entertainment industry more aware about Aboriginal people in terms of their

language, dances, songs, and ceremonies. She talked of setting up a registry of Aboriginal actors in Canada modelled on a registry that exists in Hollywood to ensure that actors being hired for Aboriginal roles are in fact Indigenous Americans. A recent breakthrough was the announcement that a new Juno Award category is to be created for Aboriginal musicians starting next year.

In Vancouver, Karl Siegler of the Association of Canadian Publishers described the growth of the Canadian publishing industry since the 1960s and its development of an extensive program of Aboriginal books. He cited inadequate access to training, finance and federal support as obstacles that make it difficult for Aboriginal peoples to establish their own publishing houses. He noted that Canada has no publishing school for anyone, not just for First Nations, and expressed interest in having his association work with Aboriginal people to establish such a centre.

Greg Young-Ing of Theytus Books, one of the two Aboriginal publishers in Canada, said there is continuing discrimination against Aboriginal literature in Canada. Aboriginal people have been blocked from equitable participation in the publishing industry, leaving the door open for non-Aboriginal writers to create a body of literature based on ethnocentric and racist assumptions. He said that more recently a number of non-Aboriginal experts in Aboriginal studies have emerged whose work, while sympathetic, could have the effect of blocking Aboriginal writers and Aboriginal voice.

Mr. Young-Ing noted a sharp contrast between European methods of publishing and traditional Aboriginal methods of information documentation and knowledge, such as the use of oral tradition, drama, dance, totem poles, wampum belts and masks. The Aboriginal body of knowledge and literature contains valuable paradigms, teachings and information that could benefit the world family of nations. He recommended that special efforts be made to



support existing Aboriginal publishing houses and to encourage new ones. These should include additional sources of funding and a special fund to assist new publishing ventures.

In London, two interveners, both Aboriginal journalists, called for a greater role for Aboriginal newspapers and other media. Miles Morrisseau, of the Native News Network, spoke of the need to involve more Aboriginal people in both mainstream and Aboriginal media. He said having more Aboriginal media would help promote accountability under self-government and could play an important role in achieving self-sufficiency and healing.

Mr. Morrisseau criticized the existing media for their perpetuation of stereotypes, giving the example of a National Film Board vignette, broadcast on the CBC, that portrayed Aboriginal people as murderous barbarians attacking a Viking village. This was seen as a story worth telling, he said; the extinction of the Beothuk by Europeans was not.

Lynda Powless, a member of the Native Journalists' Association, also raised the question of accountability. She noted that there were more than 200 Aboriginal newspapers, radio and TV stations across Canada but that in many communities these media are controlled by band councillors or other small groups of persons with no training in communications.

The result, she said, is that all Aboriginal communicators "have felt the sting of their local politicians or power brokers." She said that Aboriginal journalists criticizing Aboriginal politicians have been banned from their homes, threatened with shutdown of their newspapers, banned from covering council meetings, and excluded from press conferences. Aboriginal politicians often regard Aboriginal media as personal threats and avoid them as much as possible. "There is no such thing as freedom of the press in Indian country," she said.

Ms. Powless also spoke of the limited training of many Aboriginal journalists. She proposed the

creation of an Aboriginal Communications Centre to train Aboriginal people in using their own languages and explaining issues effectively.

Both interveners spoke of problems of maintaining Aboriginal media on minimal budgets and with almost no federal funding. In Thompson, Ron Nadeau of Native Communications Inc. criticized recent federal cutbacks to Aboriginal broadcasting in northern communities as the silencing of Aboriginal tongues. He spoke of the possibility of using Aboriginal broadcast outlets for distance education and for language training but said that they lacked the resources for such initiatives.

As in previous hearings, the role of elders played an integral part in many of the presentations in Round Three. Intervenors wanted the counsel of elders to be available in schools, in prisons, in healing lodges and in governance. Hugh Dickie, at the London hearing, recommended that the Royal Commission bring its recommendations to a council of elders for their consideration and advice.

Elders again underscored the importance of preserving Aboriginal languages and traditions, including traditional healing. They recalled the damage to Aboriginal people of the residential schools and called for a new relationship based on the treaties and on the sovereignty of Aboriginal nations.

Dorothy Day, of the N'Amerind Elders Group in London, spoke of how life on the reserve had changed during her 78 years. Formerly there was no welfare, she said, and everyone worked for a living and was paid enough to live on. There were chiefs who resolved disputes; there was little crime and no police. There were no mass media and people entertained themselves together.

Today, she said, "the younger generation is much smarter than we old people were," and the government provides many more services. On the other hand, jobs are few, temptations many, and there is much more crime. Young people

need the school to learn their own language; her own grandchildren could not speak it.

Ms. Day said she would like to see Indian people taught that white people are not all bad. The white people were trying now to make restitution for some of the wrongs done to Aboriginal peoples. She said she preferred to pass over history, which was not the fault of the young people, and look forward to a good future. Through self-determination she hoped that Aboriginal communities could combine modern levels of public services with traditional social relations.

A number of interveners expressed concern about elders being forced to leave their communities because of the lack of supportive housing and paramedical services on reserves. At Orillia, Lenore Monague, seniors services

co-ordinator at the Christian Island Reserve, noted that many elders have already been separated from their families and communities when they were institutionalized in residential schools. There is fear in their eyes, she said, at the thought of having to leave the community to seek added support and care in their later years.

In Kelowna, the Commission toured the Pine Acres Home, a 41-bed facility run by the Westbank First Nation to serve non-Aboriginal as well as Aboriginal people with Alzheimer's disease. At the hearing, Larry Derrickson said that the home worked well, but noted that in areas such as assessment of long-term patients, funding was available for non-Aboriginal but not for Aboriginal patients. He recommended that there be equal treatment for both groups.



# Self-Determination

◆ Self-determination and self-government continued to be the first priority for many Aboriginal interveners in Round Three, as they had been at earlier hearings. In this round there were more specific suggestions and more precise proposals. A number of interveners dealt more directly with the issue of First Nations sovereignty than at the previous hearings. A number also drew attention to the international implications of Canada's relationship with Aboriginal peoples and of the support for Aboriginal rights to be found in international covenants of which Canada is a signatory.

The strong support for self-determination in Round Three was reflected in this statement by the Calgary Aboriginal Urban Affairs Committee: "It is through self-determination that a people preserve their collective identity... The key to the elimination of social, economic and health inequities is increased self-determination. To achieve harmony between all levels of government and the Aboriginal community, Aboriginal peoples must be fully involved in the policy development, program planning and service delivery relating to issues and concerns that affect them"

"Prerequisites to self-determination include an increased emphasis on education and recognition of Aboriginal rights. Maintenance of a strong Aboriginal culture within the multiculturalism of Canada, along with a respect of the rights of Aboriginals to maintain and preserve their culture within Canadian society, would enhance tolerance and understanding."

There was broad support for the view that governments could go forward with recognition of the inherent right of Aboriginal self-government, as they had promised in the Charlottetown Accord, without waiting for further constitutional change. This was not seen as a constitutional issue but as one of political will.

Aboriginal interveners were impatient with the reluctance of governments to move forward on the issues of self-determination and self-government. The most exhaustive statement of this view came in a three-hour presentation at Montreal from Grand Chief Matthew Coon Come and other leaders of the Grand Council of the Crees.

Chief Coon Come was strongly critical of the federal government for its insistence on the extinguishment of Aboriginal rights as a condition for the 1975 James Bay agreements. He maintained that the fundamental premise that extinguishment was necessary poisoned the relationship between Aboriginal peoples and government. This principle should go the way of the outdated concept of 'terra nullius' (the theory that North America was a vacant territory when European settlers began to arrive). "Canada's repudiation of the principle of extinguishment would be a dramatic step, and mark a new beginning in its fundamental relationship" with Aboriginal peoples, he said.

The Grand Council set its case in the context of developing international recognition of Aboriginal rights to territory and to self-



determination. This point was raised by several other interveners – notably Regena Crowchild, president of the Indian Association of Alberta, who appeared at Edmonton. She questioned the assumption that Indigenous people must somehow fit within Canadian society and maintained that their right of self-determination gives them options that include the right to secede.

“How Indigenous people choose to exercise their rights is a right in itself. It cannot be predetermined by the state in which the Indigenous people find themselves,” she said. “The right of self-determination is best viewed as entitling a people to choose its political allegiance, to influence the political order under which it lives and to preserve its culture, ethnic, historical or territory identity”.

“Canada does not and cannot extend the right of self-determination to Indigenous peoples. Indigenous people are waging a battle at the United Nations to have our right to self-determination recognized. The important word here is recognized. We already have the right. But, the right to exercise our right is not recognized by other state governments”

Ms. Crowchild stated that Aboriginal people have a right to self-determination based on their political society, culture, common language and customs, and historic continuity occupying territory over a long period of time.

“The right to self-determination means our right to determine our own future. It does not mean that we are forced to put ourselves within the legal straightjacket of Canada... For the Commission to recommend that the right of self-determination is to pursue self-government within the structure of Confederation is to misconstrue the meaning of the right of self-determination.”

A number of interveners in Quebec spoke to the issue of self-determination and noted Quebec’s reluctance to accept this principle for Aboriginal peoples even though Quebec wanted this right for its own people.

Romeo Saganash, vice-president of the Grand Council of the Crees, contended that the transfers of Cree territory to Quebec in 1898 and 1912 were illegal and made without Cree consent. He asserted that the Cree and other Aboriginal peoples had a prior right to the northern territory that makes up two-thirds of Quebec’s land area. The Cree do not wish to separate either from Canada or from Quebec, but as a distinct people they have the same right to determine their future status as does Quebec. He asked the Commission to declare clearly that if the Cree do not wish to be included in an independent Quebec, that is their right.

André Maltais, Associate Secretary-General of Quebec’s Native Affairs Secretariat, suggested that Aboriginal peoples have a selective view of emancipation: wanting to free themselves of federal guardianship and to attain their own territories while retaining privileges such as federal financing, tax exemptions, free public services, and special rights for traditional activities such as hunting and trapping. He said they should make a choice, because an approach that seeks to obtain the best of both worlds risks becoming a dead end.

“Most Quebecers and Canadians, who feel more and more they are overtaxed, are going to find it difficult to accept that an important group of citizens is exempt from taxation while at the same time benefiting from all the advantages of the overall society, with the addition of larger territories and of new powers,” he said.

## Self-Government

As the Commission noted in *Focusing the Dialogue*, self-government is seen almost universally by Aboriginal people as the way forward and as an essential element in the new relationship they envisage with the rest of Canada.

Although there was a diversity of approaches, there was strong consensus on the need for self-government. Many communities had developed

detailed approaches and models that they put before the Commission. Where interveners disagreed, it was mainly over the steps needed to achieve self-government and the priority that should be given to healing in Aboriginal communities relative to self-government – a notable concern in the presentations by Aboriginal women. Intervenors wanted Aboriginal communities to be able to move to self-government at their own pace, not to be delayed or forced to hurry by the federal government. Several expressed the view that Ottawa had retreated on its commitment to self-government since the failure of the Charlottetown Accord.

The most far-reaching discussion of self-government occurred at a round table in Winnipeg involving leaders from Aboriginal groups in Manitoba and from one non-Aboriginal group, the Mennonite Central Committee. Much of this discussion dealt with the process of achieving self-government through a non-constitutional negotiating process rather than the substantive issue of what self-government should look like.

The focus was on the problem of political will entailed in bringing governments to meaningful negotiations and on how to avoid situations where governments either refuse to negotiate – as occurred with the recommendations of the Manitoba Aboriginal Justice Inquiry – or insist on negotiating on their own terms.

The problem seen by the panel was how to address the imbalance in negotiating power between Aboriginal peoples and governments. Jack London, legal adviser to the Assembly of Manitoba Chiefs, noted that any negotiations are difficult to resolve unless there is some incentive or adverse outcome for failure to settle. He analyzed a number of sanctions or “shadows of authority” that lie behind any effort at negotiating and that may, to some extent, be available to reinforce the Aboriginal position. These included the possibility of civil disobedience, action in the courts, the use of

special institutions like the constitutional negotiating group that was involved in the Charlottetown Accord, and the electoral system. Public opinion could also have an influence, as could international opinion expressed through institutions such as the United Nations and its agencies.

Mr. London noted that negotiation with First Nations is particularly complex because it is multi-party on both sides and also multi-level. He suggested that the Commission could perform a useful service by explaining the important role of the courts in representing the “unempowered” interest of Aboriginal peoples, that is, in defending rights that cannot be advanced solely through the political system. However, the round table discussion also acknowledged the difficulties of leaving political decisions to the courts and the reluctance of the courts to tread too far in areas that should be decided by other means.

During the discussions the Aboriginal Council of Winnipeg pressed its case to represent the interests of urban Aboriginal people in negotiations concerning treaty and Aboriginal rights. Ernie Blais, the president, and other representatives of the Manitoba Métis Federation argued the need for separate institutions for Métis people in both urban and rural settings. Mr. Blais put the case that effective self-government be based on a constitutional amendment process rather than a non-constitutional process of negotiation.

Mary Staniscia of the Indigenous Women’s Collective said her organization had rejected self-government until such time as women had full and equal participation in the drafting of constitutional revisions and government policies and laws. She also spoke of the lack of resources for Aboriginal women in Manitoba to play a full role in consultations and decision making that affected them.

Grand Chief Phil Fontaine of the Assembly of Manitoba Chiefs spoke of the lack of political



will and of commitment to action from government as the missing ingredient in bringing about change. First Nations would prefer to sit down and negotiate change on such issues as gaming, child welfare, natural resources and the Aboriginal Justice Inquiry but were "virtually powerless" in bringing the province to the table.

Menno Wiebe, of the Mennonite Central Committee, endorsed the idea of a broadly based mechanism to oversee negotiations on self-government, citing the experience of his participation in the Lubicon Settlement Commission of Review. He noted that the federal government has a vested interest in the land claims process and that its roles conflict because of its responsibility for resource development as well as for Aboriginal people.

A Commissioner who took part in the round table saw the appeal to morality as powerful and as one of the few levers available to Aboriginal people in bringing governments to negotiate. Third-party tribunals have value, but difficulties have been experienced with the arbitration provisions built into some comprehensive land claims agreements.

A second Commissioner noted that governments used to give leadership, but now they are reactive and respond to pressure from interest groups or from public opinion. While the courts could give disadvantaged and disempowered people a voice through the use of the Charter, the only means to motivate governments is to mobilize public opinion on behalf of Aboriginal people. This is one of the roles of the Royal Commission.

Another round table on self-government, held at Orillia, focused on the need for grassroots involvement in the development of self-government. It featured an extended description of the development of community-based Indian government over the past eight years by the United Indian Council (UIC), an organization of nine First Nations located between Lake Ontario and Georgian Bay.

Two community workers described how the UIC is seeking to empower its communities and encourage input into the self-government process through schools, community meetings and kitchen conferences. Greer Atkinson acknowledged that it is a frustrating activity: "The *Indian Act* has bred a feeling of powerlessness; there's no self in the government we have right now." But Laurie Flinn, a colleague, spoke positively of the results: "When people were asked at first there was a shock, but once [they got] over that shock they realized that what they have to say matters and is important and they are starting to take ownership of self-government." She expressed concern that the federal government may want to abandon the community self-government process, despite its success in building confidence and hope.

Chief Jeff Monague of Christian Island First Nation criticized the self-government process in which the UIC is involved and called for government-to-government negotiations with First Nations rather than negotiations through the Indian associations. He said the federal bureaucracy had retrenched its position since Charlottetown – a view that was also expressed at other hearings – and that the Department of Justice is preoccupied with protecting the federal Crown rather than finding solutions.

Cynthia Wesley, Vice-Chief of the UIC, presented a detailed model for government that the Council developed through its self-government process. She saw self-government as a means to strengthen Aboriginal identity and self-respect and a way for First Nations to resolve their own social, economic, political and legal problems, but she said that Canada would continue to have obligations to First Nations peoples based on their historical relationship.

The UIC model showed authority flowing up from citizens and from individual First Nation governments to a UIC regional government and administration. Independent agencies would be responsible for such services as justice, policing, health, education, child welfare and economic



development. Federal, provincial and First Nations governments would have exclusive powers in some areas and overlapping jurisdiction in others. These overlapping areas should be regulated in the case of First Nations by means of the trust relationship with Ottawa, co-management agreements with the provinces, or by means of tripartite agreements.

Ms. Wesley spoke of a grassroots process for community involvement based on traditional approaches to building consensus using the clan system and of the need for community empowerment and the direct participation of First Nations in negotiations. She was critical of the federal government for wanting to impose time limits and not being prepared to wait for consensus building to take place. To date, the process had led to five sub-agreements being signed with the federal government, while further draft agreements and proposals had been submitted to Ottawa or to the province of Ontario.

The UIC recommended that governments adopt the spirit of the Charlottetown Accord as a political agenda and that the federal government's self-government policy be amended to reflect the Accord. Time frames should be realistic, and there must be a process for Canada and the provinces to roll back their jurisdiction as First Nations implement the powers of self-government.

In Saskatoon, the Saskatchewan Aboriginal Women's Council described the results of a project that showed a great distance between the leadership and the people with respect to self-government. Many of the women interviewed knew little about self-government, indicating a lack of communication on the part of the federal government and of band councils. The Council found that women felt powerless, feared repercussions if they expressed their views, and did not trust their leadership even if they liked the idea of self-government.

At Thompson, Freda Albert, of the Native Women's Association of Canada and the

Manitoba Indigenous Women's Collective, brought forward similar findings based on workshops held with women in northern Manitoba. She said the majority of Aboriginal women and youth who took part did not agree with the idea of self-government or did not know what self-government meant.

"In order for self-government to become a reality, our own leadership at all levels must change their ways, their attitudes, their behaviour and be more accountable to the people who elected them and start including them in the decision-making process," she said. "The youth and the women must be invited, encouraged, educated and supported to become part of the whole process." Later in the hearing Ms. Albert said that Aboriginal leaders are on a dangerous power trip and may want self-government in order to fill their own pockets. She recommended that self-government not be entrenched until all Aboriginal people knew what it would entail and until it had been decided on by the total Aboriginal population. This process, she said, would take more than 10 years.

The concept of Aboriginal governments as a third order of government was implicit in many of the models of self-government presented. It was mentioned specifically by such groups as the Native Council of Canada, in Moncton; the Split Lake Band and the Keewatin Tribal Council, in Thompson; and the Siksika Nation, in Calgary.

At Lethbridge, Tony Hall, a professor of Native studies, linked the question of extinguishment to the need to defend what he called the "Aboriginal interest" in Canada and rejected the concept that it was somehow possible to extinguish Aboriginal identity, title or culture.

"We in Canada should have arrived at the point where we could say we unequivocally, 'put aside this regime of Aboriginal extinguishment' which has often been the overriding element of policy in terms of the DLA's approach to First Nations people," he said. He offered as an alternative the

view that "there is within Canada a permanent, inalienable, inextinguishable sphere which we might refer to as the Aboriginal interest in Canada. We could conceptualize this in terms of areas of land;...in terms of spheres of jurisdiction;...in terms of linguistic and cultural vitality. The federal government has the responsibility to create a shield, a defence, so that other orders of government and corporate interests can't encroach upon this inalienable sphere."

The consequences of the failed Charlottetown Accord were discussed in Toronto by Regional Chief Gordon Peters of the Chiefs of Ontario. He noted that Ontario had agreed, in a Statement of Political Relationship, to establish a government-to-government relationship with First Nations and to recognize the existence of their inherent right to self-government, but that it had not been possible to give any substance to this political commitment. He criticized the federal government for adding to this problem by not offering its support and for leaving First Nations caught in a political dispute between the two other levels of government about what is going to happen in terms of the inherent right.

A number of Aboriginal interveners talked of taking a step-by-step approach to self-government, even if this was not their preferred alternative. In Calgary, Chief Strator Crowfoot of the Siksika First Nation described the process through which his band is trying to take as much control as possible from the federal government, while continuing to negotiate with the government to get them to change their policies. At Restigouche Chief Brenda Gideon-Miller, of the Listuguj Mi'gmaq First Nation Government, also spoke of taking this approach and commented that Aboriginal leadership cannot be "ten steps ahead of the people."

Many examples were raised at the hearings of jurisdictional conflicts between the federal and provincial governments touching almost every aspect of Aboriginal life and services, not just the question of governance. This issue was

raised by band councils and service organizations and by provincial and territorial organizations. They saw the federal government as seeking to offload programs on the provinces with little interest in consulting with Aboriginal peoples or organizations affected. The provinces, in turn, resist offloading because their budgets are strained and in order to make the federal government maintain its constitutional responsibilities. Aboriginal people were often caught in the middle, with the problem being most acute for Métis, for off-reserve Indian people and for Aboriginal people living in urban areas.

In Montreal, the Conseil des Montagnais du Lac St. Jean told the Commission that they recognize some advantages within the federal policy for self-government, including its flexibility and the greater degree of autonomy and of accountability it gives local bands and councils. But they also noted the problems created by the lack of constitutional recognition of Aboriginal government and by having to negotiate with the province where provincial jurisdiction is affected. In addition, the Montagnais criticized the federal government for being unwilling to link self-government to land claims settlements.

Chief Rémi Kurtness, speaking for the Montagnais, said their communities had taken control of all programs from the Department of Indian Affairs except for land surveys. As a next step they are now looking to a form of partial political autonomy that would allow them to pass their own laws independently of the federal government.

Only a few non-Aboriginal interveners spoke directly to the issue of self-government. In Kelowna, Sharron Simpson, Chair of the Central Okanagan Regional District, expressed support for a model of local self-government based on individual Aboriginal communities rather than nations and suggested that Canadians need further definition of self-government and self-sufficiency before they can respond to Aboriginal aspirations. Bill



McFarlane, of the Regina Chamber of Commerce, expressed concern that business could not accept another level of government issuing regulations and taxation on top of the three levels that already exist. In Montreal, the president of Hydro Québec endorsed the objective of Aboriginal self-government provided it is clearly defined, is compatible with existing laws and provides a balance between Aboriginal and non-Aboriginal interests.

One clearly dissenting view was put forward in Montreal by representatives of the Law Students' Constitutional Conferences in Canada. They proposed that the federal responsibility for Aboriginal peoples be handed over to the provinces and that Aboriginal communities acquire the rights and status of municipalities rather than of autonomous governments. They contended that Aboriginal self-determination is not required because it is not sought by all Aboriginal communities.

Citing the deplorable social conditions on reserves and the incidence of violence and abuse, the students maintained that Aboriginal governments should not have access to the notwithstanding clause to escape the effects of the Charter. They also contended that the right of self-government should be based on current circumstances rather than being treated as an inherent, historical right.

## Approaches and Models

A number of models for self-government and for self-governing institutions were outlined during Round Three. Some interveners put forward proposals; others described structures and institutions already in place.

The most fully developed of these models was the Métis Settlements of Alberta, a group of eight communities with 1.25 million acres of land that were established originally during the 1930s but reconstituted by the Alberta Legislature in 1990 with a broad mandate for running their own affairs. The Commission

spent a day at Elizabeth Métis Settlement, meeting with representatives of the eight Métis settlements and reviewing the experience of their self-government initiative.

Community members described the system of governance, which involves community councils in each settlement and a general council for the eight settlements, made up of representatives from the community councils. Significant efforts are made to achieve consensual and community-based decision making, they said. This includes the use of regular community meetings to adopt by-laws at the community level and a requirement that general council decisions be unanimous.

Ken Noskey, President of the Métis Settlements General Council, explained this approach: "Consensual decision making may be difficult, but we believe it is fundamental and part of our tradition. Unless the institutions which we are developing as vehicles for self-government incorporate at their heart the practices and processes which have been used by our people and which are familiar to them, we will not be able to create any popular base with which these institutions can build. Without the popular base, Aboriginal self-government will simply be the imposition of yet another form of outside control upon the people of our communities."

Dennis Surrendi, Commissioner for the Métis Settlements Transition Commission, established to assist in implementing the 1990 legislation for an initial period of seven years, offered this advice based on the experience to date: "One should always be careful in making requests of governments because sometimes they can surprise you and actually give you what you ask for...Before anyone aggressively pursues self-government or a self-determination option, make absolutely sure you know what it is you want and what the positive and negative aspects of your request might be. Otherwise you may be given the car of your dreams, only to find out that you can't afford to run it."



He noted the need for Aboriginal self-government to have some degree of financial self-sufficiency, but cautioned against expecting Aboriginal governments to pay their way entirely; to his knowledge there is no form of local government in Canada that does not count on substantial annual financial support – that is, subsidization – from either the federal or the provincial government.

Mr. Surrendi advised that agreements with governments should be ratified by a legislature to provide a higher degree of commitment than arrangements made with ministers or bureaucrats. On the Aboriginal side, negotiators should have a clear mandate. This may require review of the structure of Aboriginal organizations to ensure their spokespersons have a legal mandate to represent them.

Other approaches to self-government put forward also tended to adopt the bottom-up structure found in the Métis Settlements. They included the following:

■ **The Listuguj Mi'gmaq First Nation:** Chief Brenda Gideon-Miller described her First Nation's decision to extend its jurisdiction within its traditional territory, based on a mandate obtained from community members. She said in Restigouche that the Mi'gmaq Nation had recently come together and was now preparing a Commonwealth constitution and bringing together the Wabanaki Confederacy, an ancient union of nations from what is now Canada and the northeastern United States. The Mi'gmaq had recently prepared a protocol accord as the basis for their relationship with the governments of Canada, Quebec and New Brunswick.

■ **Mi'gmaq Self-Government:** In Moncton, the Native Council of Nova Scotia put forward a comprehensive Mi'gmaq constitution based on the principle of inherent self-government, the sovereign power of their nation, and its inherent jurisdiction over their territory. This proposal includes three branches of government and an elected assembly of delegates, a president, and

diplomatic representation. As initially applied to Nova Scotia the structure would allow bands to be semi-autonomous governing units within the global structure. The Council foresaw that the 13 existing bands would be part of the legislative body along with representation from the 12 zones of the Native Council that cover the province. In this way it would amalgamate the three political organizations now representing Mi'gmaq people in Nova Scotia. The Council also spoke of a continuation of the existing Mi'gmaq Grand Council with responsibility for foreign and intergovernmental affairs.

■ **Nunavik:** In Montreal, the Nunavik Constitutional Committee described the progress it has made since being elected in 1989 for the creation of a public, non-ethnic democratic assembly and government in its territory, the Inuit portion of northern Quebec. The total population of Nunavik is about 8,000, of whom some 9 per cent are non-Aboriginal. The intention is that this government take over functions that are now divided between various institutions created since the signing of the James Bay and Northern Quebec Agreement, such as the Kativik School Board, Board of Health and Regional Development Council. The committee asked that the federal government not penalize people in the region because the community had chosen a public rather than an Aboriginal government.

## Treaty Rights

As in the earlier hearings, interveners again made a strong case for treaties with Aboriginal peoples to be honoured and respected in the spirit in which they were originally signed, and for the federal government to stop insisting on the extinguishment of Aboriginal land rights as a condition for signing new treaties. They insisted that it was inconceivable that their forefathers could have signed treaties in the way that the government was now interpreting them.

One of the strongest statements was that of the Treaty 7 Tribal Council in Lethbridge, which asked that Treaty 7 be seen as an international rather than as a domestic document, and that treaty peoples be seen as a separate group rather than included with other Aboriginal peoples or even with Status Indians as a group. Before the Commission and in a video prepared with IPP funding, the Council cited the consistent claim of generations of its elders that First Nations agreed to share their land only to the depth of the plough. This made the Council question the legitimacy of the federal legislation in 1930 that transferred jurisdiction over natural resources to the provinces.

The Council urged that Canada acknowledge its treaty obligations as being legally binding on the Crown rather than trying to treat them as services that were made available just as a result of government policy. Canada should also establish a structure to identify the federal government's fiduciary responsibility to Treaty First Nations, such as a treaty rights protection office.

Asked about the cost of living up to the original spirit and intent of the treaties, Chief Roy Whitney responded for the Council that the cost to Treaty First Nations must be looked at and not just the cost to the government of Canada.

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

Chief Councillor Gary Metallic of the Listuguj Mi'gmaq First Nation in Restigouche noted that his people had always respected the treaties while the Canadian government had made a conscious effort to marginalize them, and asked at what point the treaties had changed from international to domestic instruments.

"When my forefathers concluded treaties with the British Crown we set out the parameters of the Mi'gmaq and the European relationship which did not include assimilation, integration or cession of land. The treaties were prepared by representatives of a foreign nation wishing to conduct commerce in our territory. The terms and conditions were discussed by the Mi'gmaq at their leisure, not at a point of a gun. There was no submission."

In British Columbia, the federal government's insistence that First Nations agree to the extinguishment of Aboriginal rights as a precondition for treaty negotiations was a particular issue because most of the province's land area is not yet under treaty. At Prince George, Chief Edward John, of the First Nations Summit of B.C., called the policy unacceptable, inconsistent with section 35 of the Constitution and a breach of the Crown's fiduciary duty to Aboriginal peoples.

Chief John argued that Canada's common law tradition had always recognized two distinct public law titles to land – Crown title and Aboriginal title – that are both to be accommodated and that legally co-exist. He said this was the key to an alternative approach to achieving certainty in which modern treaties should define the respective rights and obligations of the Crown, of First Nations, and of parties whose private titles and interests derive from either of them.

The First Nation perspective was that Aboriginal title is also the source of collective authority to protect, manage and make use of the lands, waters and resources of their homelands. "When government asks us to agree to surrender our title and agree to its extinguishment, they ask us to do away with our most basic sense of ourselves, and of our relationship to the Creator, our territory and the other peoples of the world. We could not do that without agreeing that we no longer wish to exist as a distinct people. That is completely at odds with our intentions in negotiating modern treaties," he said.



Like other interveners, Chief John criticized the federal government for refusing to include self-government in the B.C. treaty negotiations. He said this was inconsistent with their agreement to negotiate all outstanding issues with First Nations in the newly created B.C. treaty process.

Another treaty issue, raised by Professor Hall in Lethbridge, dealt with the Aboriginal role in the North American Free Trade Agreement between Canada, the United States and Mexico. He expressed concern that NAFTA could infringe on the deeper structure of Canada's treaties with First Nations or on the Aboriginal sphere of interest. Aboriginal peoples had been excluded from the negotiations, and he saw them being kept to one side while the federal government went ahead and negotiated for the lands and resources of Canada.

## Land and Land Claims

Treaty and land issues were closely linked in many of the interventions in Round Three, particularly in concerns expressed about Ottawa's policy of requiring extinguishment of Aboriginal rights as a condition for land settlements. Interveners pressed the need to settle long-standing land claims and to provide a larger and more equitable land base for Aboriginal peoples. Many saw land and the resources connected to land as the keys to economic development and self-sufficiency. Recalling the original promise by Aboriginal peoples to share their territory, some interveners called for solutions based on co-existence and co-management. There was strong opposition to the proposed First Nations Chartered Lands Act.

Chief Nathan Matthew, speaking on behalf of the Shuswap Nation Tribal Council, recalled at Kamloops that the chiefs of the Shuswap people had been expressing their concerns about lands, rights and jurisdictions to the government as long as 80 years ago. Progress since their meeting with Sir Wilfrid Laurier in 1910 had

been very slow. To develop fully, he said, his people need an appropriate land base.

Chief Matthew criticized the current land claims process for trying to diminish Aboriginal land title instead of presupposing it and for being too slow. The longer the land is used by non-Aboriginals, the harder it is to change the effects and conditions of use of the land. He proposed that negotiations begin with the recognition, not the extinguishment, of Aboriginal land title and recommended that Aboriginal interests in land and resources be protected while negotiations are in progress.

At the same hearing Bob Manuel, director of the Shuswap Nation Tribal Council, made the case that there are several levels of title to land in Canada. The first level, predating and underlying all others, is Aboriginal title. Above that is Crown title, which includes all of Canada but is a recent foreign import. Above that are fee simple and other forms of title. He said the federal government encourages fee simple title holders to fear confiscation and eviction in the case of land claims, but "Crown title doesn't do that, and I don't think Aboriginal title would."

In Toronto, Regional Chief Gordon Peters of the Chiefs of Ontario spoke of the creation of a land and resource base for Aboriginal people, including the right to tax non-Aboriginal people using their territory. He noted that Ontario is seeking to set aside 12 per cent of the land area of the province as endangered spaces in need of protection. In light of that policy, Aboriginal peoples are seeking to gain control of 5 per cent of the land base in Ontario instead of the 0.01 per cent that they now control. "Without expanding our territories and expanding our use and occupancy of our treaties and our traditional lands, we are not going to move too far," he said.

A non-Aboriginal group appearing in Toronto, the Task Force on Churches and Corporate Responsibility, supported the idea that governments should not issue permits or licences on unsurrendered land without the full support of



the Aboriginal community. Reverend Peter Hemel cited the group's experience with situations in which third-party interests took priority and the land rights of Aboriginal people took a back seat. A \$32 million fund had been set up to compensate logging companies for the timber they were unable to harvest in the South Moresby National Park Reserve, for example, whereas the Haida were still waiting for their land rights in that area to be settled.

Reverend Hemel noted that Aboriginal organizations had made a number of alternative management proposals around mining, fisheries, and forestry that took into account the economy of the non-Aboriginal community and the will to share, but that these management proposals had largely been rejected. He said there had to be a level playing field in terms of negotiations, and Aboriginal peoples had to be accepted as equal partners.

At Hay River, two non-Aboriginal interveners also offered support for Aboriginal land claims. Red McBryan, the deputy mayor of the town, saw claims as a means for Aboriginal peoples to move toward economic independence, but added that this should include responsibility to develop the land fully and to ensure proper management. Bill Gagnon, of the Hay River Chamber of Commerce, said his members generally supported settling land claims, provided they did not encroach on existing revenue-generating activities – that is, third-party claims.

A contrary view was expressed at Kelowna by Cor Van Dermeulen of the British Columbia Federation of Agriculture. He said that agriculture is under pressure because of the uncertainty surrounding land claims and treaty negotiations. The transfer of ownership or jurisdiction over significant amounts of Crown land and water to Aboriginal governments would have a significant impact on the farming community. Farmland values would decrease, and a large part of the provincial economy could disappear if farm families were dislocated.

In Terrace, Gerald Wesley of the Kitsumkalum Band emphasized the importance of land claims as a means of providing the financial resources to allow First Nations to carry on their own lives independently. But he also sought to reassure the non-Aboriginal population: "When claims come to the table for our people we don't want society as a whole to be scared of what might come down... We are not looking at making changes that are going to be severely adverse to non-Aboriginal people. We are not looking at chasing them out of this land. We're prepared to sit and talk to them and negotiate...as to how we can both co-operate together."

The proposed First Nations Chartered Land Act was generally opposed at the hearings, although it was supported by representatives of two First Nations whose chiefs were involved in its drafting. The proposed legislation provides a means for First Nations to manage reserve land outside the *Indian Act*. The bill was introduced in Parliament but not adopted before the federal election was called.

Les Healy of the Blood Tribe contended at the Lethbridge hearing that the proposed law threatened to undermine the nature and status of the treaty relationship, threatened communal land rights and would devolve the federal government's fiduciary responsibility. He noted that the Department of Indian Affairs had devoted funds to the development of the proposed law and its administrative structures, while funds for land management programs currently administered under the *Indian Act* had declined steadily.

In Lethbridge, the Tsuu T'ina First Nation also expressed strong opposition to the First Nations Chartered Land Act. Acting Chief Bradford Littlelight called it the most dangerous piece of proposed legislation to come forward since the 1969 White Paper and pointed to the development projects of his First Nation as proof that it was possible to do business under the existing *Indian Act* without jeopardizing the land. He

questioned the assurance that First Nations could opt in to the proposed law only if they wished. If even one First Nation opted into the proposed system, the government and the banks would begin to insist on this as a condition for doing business.

Regional Chief Peters, speaking in Toronto, said there was very little support for such an act in Ontario and questioned the federal government decision to have only seven communities deal with this issue. He said the Chiefs of Ontario believed that a fundamental change such as this, which could dramatically affect the lives of the people, should be subject to review by the community, not just agreement by leaders.

Chief Gerald Beaucage of the Nipissing First Nation, one of the chiefs involved in developing the bill, told the North Bay hearing that the proposed law was misunderstood and that there was a propaganda campaign by Aboriginal organizations and by lawyers trying to discredit it. At Kelowna, a lawyer for the Westbank First Nation, Misha Menczer, noted that the draft bill had recently been amended to remove one of the most heavily criticized provisions, which would have allowed individuals to use reserve land as collateral for loans.

Several bands and individuals brought forward specific instances of land claims not honoured by the federal government or of land and associated rights that had been taken away. The most striking was that of the Lubicon Cree, whose efforts to acquire a territory in northern Alberta have attracted international attention.

In Edmonton, Father Jacques Johnson reported the findings of the Lubicon Settlement Review Commission, an independent review body that reported in March of 1993. Its recommendations included calling for all surface and mineral royalties on the Lubicon territory to be held in trust until the Lubicon land dispute is resolved, and requiring that the dispute be referred to a third party such as the United Nations Human Rights Committee if it was not settled within a short period of time.

In Calgary, Rosemary Brown of the Committee against Racism, a non-Aboriginal body that has worked with the Lubicon since 1984, described their struggle as a touchstone of federal government and Aboriginal relations in Canada and as a symbol of centuries of resource exploitation and the denial of the right of First Nations peoples to self-determination. The Committee's brief focused on the social consequences of multinational resource development on Lubicon land and the destruction since the late 1970s of the traditional Lubicon hunting, gathering and trapping economy.

Chief Leonard Bastien of the Peigan Indian Band told the Commission in Lethbridge how governments had expropriated land and appropriated waters from the Oldman River, running through the Peigan reserve, without consent and despite the Peigans' objections. There had been no action on the court decision that the Oldman River dam be decommissioned or that the Peigans be compensated, and the government had provided no financial assistance in the Peigans' legal battle to protect water rights, despite its fiduciary responsibility for Aboriginal lands and waters contained within them.

He said the recently built dam would destroy the Peigans' fishery and change the nature of their sacred valley. "We, the Peigan, are left the poorest people in our territory, facing expensive litigation as the only remaining avenue to achieve our proper share of the water now being assigned to third parties who live farther and farther away... The conclusion which we draw from the history is that, when it was expedient in the interests of non-Aboriginal people that our reserve lands be expropriated, the land was taken, notwithstanding sacred promises agreed to and written down by the Crown. The Peigan have not mattered. We were ignored. Our rights were debased, in terms of providing wealth to non-Aboriginals and their governments."

At Thompson, Manitoba, the Commission heard from two First Nations who experienced forced relocation. Ila Bussidor of the Sayisi



Dene First Nation spoke of the relocation of her community from its traditional homeland around the Manitoba-Northwest Territories border to Churchill in 1956. A third of the community – some 100 persons – died during this period. She asked for their land claim to be honoured and called for a public apology from the federal government, along with compensation for the relocation and construction of a memorial at Churchill to the people who died.

Donald Saunders of the York Factory Band spoke of the effect on his community of being relocated to a site at York Landing, where they had too little room to expand and were far from their traditional hunting and trapping areas. The majority of the people did not complete the move, so that less than half the band members now lived on the reserve. The band needed a resource area and means of access to these lands for their membership.

Conflicting claims were put before the Commission with respect to reserve lands on Lake Huron taken over by the Department of National Defence in 1942, under the *War Measures Act*, to create Camp Ipperwash. In Sarnia, Chief Tom Bressette of the Kettle and Stoney Point First Nation said that DND had not fulfilled its promise to return the land, which was currently being occupied by band members. In London, Robert George said the government had stolen the land from his community, the Stoney Point First Nation, and that his people were forcibly moved and declared part of the Kettle Point Band. He said a majority of the families of his nation and their descendants had declared their wish to be members of the Stoney Point First Nation.

Another land issue in Sarnia concerned the Caldwell First Nation, which is recognized under the *Indian Act* but has been trying without success for more than a century to acquire a land base. Chief Larry Johnson accused the federal government of trying to eliminate the Caldwell people through a combination of enfranchisement and transfers of band members to other reserves.

## The *Indian Act* and Federal Administration

As in the previous hearings, Aboriginal interveners were almost uniformly critical of the *Indian Act* and of the federal administration of its responsibilities for Aboriginal peoples. There was particular concern in Round Three about the inequitable impact of Bill C-31 in restoring the rights of disenfranchised Indians and about the sharp distinction in services and funding between on- and off-reserve Aboriginal people.

No support was expressed for the *Indian Act* in its present form. Some interveners simply wanted to be rid of it. Chief Al Day of the Onoyota'a:ka First Nation – the Oneida – said in Sarnia that section 35 of the Constitution would be enough, and that the federal government should come to an understanding with the Iroquois Nations based on the Two Row Wampum treaty. Brian Seymour, Deputy Chief of the Kitselas Village Council, contended in Terrace that a special law for Aboriginal peoples was not needed. “Do we have an act for the black people of this country, for the French people of this country, for the disabled, women, children, elders, blue collar workers, white collar workers? Of course not. What we have are principles, a statement of how we will live and how we will respect those that are different,” he said.

The more common view was that the *Indian Act* should be phased out, but not overnight. Intervenors suggested that the Act be replaced by a treaty relationship; that it be dismantled according to a timetable agreed with Aboriginal peoples; that a separate federal department be set up to deal with the interests of off-reserve Aboriginal people because they are largely excluded from the *Indian Act*; that the Act be replaced by a national treaty; and that the *Indian Act* be changed to accommodate regional differences sought by Aboriginal peoples in different parts of Canada.



The Honourable Bob Mitchell, Minister of Indian and Métis Affairs for Saskatchewan, spoke at the Regina hearing about problems in the relationship between federal, provincial and Indian governments. He said that at the provincial level they did not understand what the federal government was doing or what its plans and objectives were with respect to Aboriginal peoples. The result was enormous frustration both for the province and for Aboriginal peoples.

Mr. Mitchell complained of the federal offloading of programs, such as a recent decision to cease paying social assistance benefits to Indian people during the first year after they leave the reserve. That was going to cost Saskatchewan \$20 million, a huge amount of money for the province. Another example was the federal cap on financial assistance for Aboriginal students, which had led to increased demands that the province could not refuse under its human rights law.

"It feels to me like we are in actual competition between the federal and provincial government, competition to load responsibility on each other, particularly financial responsibility. Competition for credit for doing something or not doing something...and none of this is to the advantage of the people involved – the Indian and Métis people."

At the Toronto hearing, Mark Laforme of the Indian Commission of Ontario described its role in trying to provide a level playing field for negotiations between governments and First Nations. He said it was difficult to deal with the federal government because it has policies in place that are restrictive and often unfair to First Nations communities. For example, it would not recognize the inherent right to self-government or accept a nation-to-nation relationship in any agreement.

Another example of jurisdictional difficulties cited by Mr. Laforme was the effort to develop an Anishnabe police service in the far north of Ontario. Although the area is almost exclusively

Aboriginal, the federal government is not prepared to negotiate for police services that go beyond reserves, and Ontario does not know whether it could recognize the authority of an Indian police force to police off-reserve.

Concern over the operation of Bill C-31, the 1985 legislation that provided for the reinstatement of people who had lost their Indian status, came primarily but not solely from women and women's groups. This concern focused on continuing discrimination against people whose rights had been opened up under the bill. In Montreal, Jackie Kistabish, president of the Quebec Native Women's Association, spoke of the battle for equality that led to the adoption of the bill in 1985. This experience has led her group to appreciate the fundamental importance of the Charter and to be aware that they could not count on band councils and the Aboriginal establishment to support their claims to equality; not a single Aboriginal leader supported their efforts to overcome the inequality of the *Indian Act* addressed by Bill C-31.

She said Bill C-31 was only a partial victory and still provided for unequal treatment as between Aboriginal women and men. This point was also made by the National Action Committee on Status of Women, which said the federal government had failed to provide Aboriginal women with the means to enforce their rights. "Most of the women who regained Indian status and their children remain shut out from their Native communities and are almost as disadvantaged as they were before." Both groups urged that women reinstated under Bill C-31 be allowed to return home with their children with full membership rights in their band. This meant that the federal government should provide the legal and material means for these women to resettle, including housing, health, education and social services.

Vickie English-Currie spoke to the same issue at a women's round table in Calgary. She said her research disclosed that in many bands, women were not entitled to much more than a treaty

card; she noted the particular problem of older women who did not want land or housing, but simply wanted to return to the reserve to be with their own people, rather than live in an urban highrise.

In Moncton, Ron George, president of the Native Council of Canada, criticized the decision, at the time Bill C-31 was adopted, to allow bands to control their own membership codes. He said this had led to almost half the bands in Canada passing restrictive band membership codes that may terminate membership entitlements for as many as 50,000 people who received only conditional membership from Ottawa. "We have now created a new category of bandless Indians. More internal refugees to add to the hundreds of thousands of non-status and non-reserve Indians cut off from collective recognition...It just seems like the colour has changed from white to brown, as to who the oppressor is in the case of these band code

Chief Fred Fraser of the Tsuu T'ina Band, speaking in Calgary, provided an example of the problem raised by the Native Council. He said the group he represents had been denied band membership by the Sarcee band and as a consequence could not live on-reserve or obtain benefits that flow from their Treaty 7 rights, such as health care, education, and economic development. He asked for official recognition of their band with federal status privileges, but expressed the fear that the courts will try to force them back to a reserve that will not accept them.

## Urban Issues

At the Vancouver hearing, Matthew Stewart, representing the National Aboriginal Housing Committee, cited 1991 census figures showing that 76 per cent of Canada's Aboriginal population now lives off-reserve. He estimated the proportion will rise to 85 per cent by the year 2000.

Interveners talked at length about the problems presented by the growing Aboriginal population in urban areas and the added difficulties of maintaining community services in an environment of federal indifference and funding cuts. Some suggested that the federal government was deliberately encouraging Aboriginal people to move away from reserves in order to reduce its financial obligations. The Commission received a number of models for urban self-government, including an outline of the first newly-created urban reserve in Canada, in Saskatoon.

A full day of hearings in Moncton was devoted to issues involving non-status, off-reserve and urban Aboriginal people. The highlight was the Native Council of Canada presentation of its IPP-sponsored research on the issue of self-determination for Aboriginal people in urban centres.

Ron George, president of the NCC, spoke of the breakthrough agreement at Charlottetown that would have implemented the inherent right of self-government with a guarantee of equity of access for all Aboriginal peoples. "We had hope last year. Now a year later, most of the services our volunteers have managed to patch together over 20 years have been cut back to starvation levels." Aboriginal agencies in urban areas had received cuts ranging from 10 to 40 per cent in one year, he said, with a promise in the federal budget of even deeper cuts for the future.

Mr. George deplored the fact that the Native Council been pitted against on-reserve Aboriginal people by federal funding formulas, when the constituents they serve originally came from reserves. He asked the Commission to support NCC proposals to allow Aboriginal authorities to participate in negotiating inter-governmental transfer payments and give them access to this form of funding. It was all right for *Indian Act* bands to maintain their present status, he said, but there had to be accommodation for other forms of government that Aboriginal peoples wanted to have recognized.



Mr. George disputed the present system whereby band members living off-reserve are counted for per capita payments to the band council without receiving any benefits. He said that off-reserve status people pay taxes but do not receive benefits in return and suggested that they be given tax credits to aid in raising funds for Aboriginal organizations if funding continued to be cut.

Bob Groves, adviser to the NCC, compared federal spending on Aboriginal peoples. He said the federal government provided \$7,439 per capita for people living on reserves in 1992, of which 80 per cent was controlled by band and tribal administrations, compared to \$539 per capita for off-reserve Aboriginal people, of which less than 10 per cent was under Aboriginal control.

In Saskatoon, the Commission spent a full day considering urban issues, including the problems of poverty, poor housing and lack of employment experienced by urban Aboriginal people. Several interveners urged that the federal government accept a fiduciary responsibility for Aboriginal people in cities, both on principle and because many of them were in cities because they had been unable to get housing or employment on their reserves.

Robin Bellamy of the Saskatoon Friendship Inn said Aboriginal people in the area where his service was located were living in an inner city culture of prostitution, substance abuse, violence and poverty. He also expressed concern about racism and said many people in Saskatoon were afraid to come from the suburbs to the inner city because of conditions there.

Representatives of the Winnipeg First Nations Tribal Council said that unemployment is chronic among the urban Aboriginal population in Winnipeg. Only ten per cent have permanent jobs, and people face discrimination as part of their daily interaction with mainstream society.

Edith Cloutier, president of the Regroupement des centres d'amitié autochtones du Québec,

spoke to the various options for delivery of services to Aboriginal people in urban areas. These included the extension of services from First Nations, the creation of an urban reserve or Aboriginal neighbourhood within a city, and the provision of services on the basis of a community of interest. The Regroupement recommended this model on the grounds that it is a realistic response to the actual needs of Aboriginal people in urban areas and does not require a large bureaucracy. Ms. Cloutier said such a choice would allow a gradual evolution toward greater Aboriginal control of different services and is compatible with the creation of territorial self-government for First Nations.

As in the previous rounds of hearings, there was substantial discussion of whether services to Aboriginal people in urban areas should be based on their status or be status-blind. Friendship centres uniformly favoured a status-blind approach, while Métis organizations in the West spoke of the need for distinct Métis services as part of their provision of Métis self-government. In Winnipeg, the First Nations Tribal Council provided another alternative as an urban organization of treaty Indians that has been given full rights of membership in the Assembly of Manitoba Chiefs with other First Nations. Its mandate is to develop programs and services and to work for the portability of treaty and inherent rights for Aboriginal people living off-reserve.

While Friendship Centres criticized budget cuts imposed by the federal government, some also had positive reports to offer. Wayne Helgason described how urban Aboriginal services had grown in Winnipeg since the Indian and Métis Friendship Centre became the city's first and only Aboriginal institution in the 1950s. He spoke of the centre's recent acquisition of a former Canadian Pacific railway station in downtown Winnipeg and plans for it to become an Aboriginal centre, including an Aboriginal health service. On the other hand, the Winnipeg Friendship Centre had suffered a \$300,000 budget cut as a result of Manitoba's



decision to eliminate all provincial funding for friendship centres.

The Director of the Ma-Mow-We-Tak Friendship Centre in Thompson noted the centre's success in acquiring a hostel, restaurant and office building as means of supporting its activities. In Kamloops, the Central Interior Friendship Society spoke of a similar evolution in its activities. Dan George, of the Prince George Native Friendship Centre, outlined a major downtown redevelopment being undertaken by the centre. Its budget now amounts to \$4 million, and its programs employ 75 full- and part-time staff.

A major new concern was the federal decision, just before Round Three of the hearings, to eliminate funding for new off-reserve Aboriginal housing, beginning in 1994. This decision – which interveners noted occurred during the International Year of Indigenous People – was strongly criticized. Interveners spoke of the growing need for urban Aboriginal housing because of migration to the cities; the successful performance of urban Aboriginal housing societies; the effect of the cut on Aboriginal employment; and the shortage of housing on-reserve, which is one of the factors driving Aboriginal people to urban areas in the first place.

Speaking for the National Aboriginal Housing Committee in Vancouver, Matthew Stewart said the decision is morally wrong, violates international covenants, and is contrary to the federal government's special constitutional relationship with Aboriginal peoples and populations. He maintained that access to affordable housing for Aboriginal peoples is an existing right under the Constitution and that the policy change discriminates against Aboriginal women and as between on- and off-reserve Indian people, despite Charter rules against discrimination.

On a per capita basis, he said, urban Aboriginal people have the single biggest housing problem in the country. They face long waiting lists, and

it is not uncommon for people to be spending 75 per cent of their income for shelter. Aboriginal people also face discrimination by non-Aboriginal non-profit housing societies, which see Aboriginal housing as a federal government responsibility.

In Hay River, Don Morin, Minister for the Northwest Territories Housing Corporation, spoke of the acute problems faced by the territories because of federal cuts in off-reserve housing. He said the N.W.T. is experiencing particular difficulties because very few of its Aboriginal population live on reserves, which have not been subject to the same cutbacks. The N.W.T. has particular difficulties because of its high housing costs and high population growth and because it has no old housing stock to repair, he said. In addition, it has more than 1,000 people who should not be in public housing but cannot leave because of the problem of obtaining mortgages in small communities.

In Saskatoon, Clem Chartier of the Métis Society of Saskatchewan predicted that the housing cuts would lead to the elimination of Saskatchewan's provincial Métis Housing Society, a key agency in developing Métis housing in different communities.

Recommendations with respect to Aboriginal housing included reinstating the off-reserve housing program; transferring CMHC's responsibilities to Aboriginal housing groups or tribal councils; and allowing Aboriginal financial institutions to invest in mortgages for subsidized housing now in the hands of CMHC. Chief Gerald Beaucage spoke in North Bay of a rent-to-purchase system that has resulted in the creation of a revolving housing fund by the Nipissing First Nation and better quality construction.

The problem of political representation of urban Aboriginal people was noted by a number of interveners. Various models of urban self-government were advanced, while Mayor Jan Reimer of Edmonton – a city with an estimated

43,000 Aboriginal residents – asked that her city be chosen for a pilot project in urban Aboriginal self-government. Doris Ronnenberg of the Native Council of Alberta, who also appeared in Edmonton, noted the model of local development organizations, which are being set up on a community basis in major U.S. cities. With ownership shared by governments and residents, their purpose is to take responsibility for such issues as job training, small business development, housing, health services, and light manufacturing.

In London, Tom Duxtater of the N'Amerind Friendship Centre spoke of the dilemmas facing urban Aboriginal people who want to continue being represented in the council of their First Nation but also want some form of representation as Aboriginal people in the urban setting. Urban Aboriginal self-government is for the most part non-existent, he said, and Aboriginal organizations that claim to represent urban Aboriginal people are not broad enough to do so; friendship centres by definition cannot represent this population because they are primarily service providers.

Jim Bear, president of the Aboriginal Council of Winnipeg, spoke of its mandate to pursue the creation of an urban Aboriginal government mechanism with jurisdiction in such areas as education, family and children's services, economic development, health, housing, justice and recreation. The Council's activities include an urban Aboriginal high school and development of a holistic Aboriginal health centre. The ACW is seeking to develop a working relationship with the main provincial Aboriginal organizations. It had also successfully assisted Aboriginal candidates running for school board in the last municipal elections.

In Regina, Dale Pelletier described the work of the Regina Aboriginal Human Services Co-operative, an organization to co-ordinate the work of eight agencies that have at least 50 per cent Aboriginal clients and 50 per cent Aboriginal people on their boards. The aim of the Co-operative is to enter into dialogue with

government, to implement a process for transferring government services to Aboriginal control, and to provide a mechanism for accountability.

In Saskatoon, Theresa Dust, a lawyer for the city of Saskatoon, explained the arrangement under which the Muskeg Lake Band is setting up a 35-acre reserve within the city, which it intended to use for industrial development rather than housing. It had acquired the land using funds received in a settlement under Saskatchewan's Treaty Land Entitlement process. She said most of this land would be converted to reserve status, although it would be known as an urban development centre to distinguish it from a traditional reserve. Ms. Dust said the Band intended to be the taxing authority for any business on the reserve and was negotiating to compensate the city for the resulting loss of tax revenues. Ms. Dust anticipated the creation of more urban reserves in the future as other bands sought to invest funds received under that process.

Recommendations on urban issues focused on the need for equitable treatment of urban Aboriginal people, the need to create Aboriginal institutions to provide services, and the need for more Aboriginal representation in existing institutions. The Calgary Aboriginal Urban Affairs Committee offered an extensive series of recommendations aimed at ensuring that urban services meet the needs of the Aboriginal population.

## Justice, Policing and Courts

Intervenors turned again during Round Three to the question of how far Canada should go in creating an Aboriginal justice system separate from the existing system. The most common view that emerged favoured some form of co-existence between the two systems. Considerable interest was expressed in applying traditional Aboriginal forms of justice. Concerns were again raised about high rates of



incarceration among Aboriginal people and the lack of cultural sensitivity in the justice and corrections systems. Several interveners reported significant progress in the area of policing, both in Aboriginal and municipal forces.

The link between Aboriginal justice and the inherent right of self-government was discussed extensively at the Winnipeg round table on self-government and is noted above. Some participants in the round table saw the creation of an Aboriginal system as lying so far in the future that interim measures were also needed to improve the existing system. It was also argued, however, that an Aboriginal system of justice could co-exist with the existing system and did not necessarily have to be separate. In this case Aboriginal people would be allowed to choose an Aboriginal form of justice if they came into conflict with the law.

The Commission asked for comments on whether to create a separate justice system for Aboriginal people or adapt the existing system to reflect Aboriginal values. A Commissioner noted that most of the justice initiatives put before the Commission's earlier round table on justice issues had dealt with diversion at the time of sentencing rather than with the weaknesses of the trial system for Aboriginal accused persons. Some of these difficulties included the alien nature of an adversary process; the cultural irrelevance of guilt and punishment as concepts for Aboriginal people; and the difficulties of judges assessing the credibility of Aboriginal people in court and of Aboriginal witnesses making negative statements that were contrary to their values.

Grand Chief Phil Fontaine of the Assembly of Manitoba Chiefs was sharply critical of the Manitoba government because it had shown no interest in addressing the recommendations of the province's Aboriginal Justice Inquiry. He said that a stalemate had emerged because governments were insisting on a compartmentalized process for reviewing the Inquiry's

recommendations and had decided that Aboriginal organizations did not need any financial assistance to take part.

In Kamloops, Charlene Belleau of the Cariboo Tribal Council suggested that the justice system had failed non-Aboriginal as well as Aboriginal people. She suggested that reform should be based on modifying the principles of the existing system to incorporate restitution, reconciliation and healing and that this should apply to both Aboriginal and non-Aboriginal people. In addition, there should be increased support for the development of Aboriginal-controlled justice structures and programs.

In Toronto, Joy Fontaine described a range of services now being provided by Aboriginal Legal Services of Toronto, including court workers and a legal clinic, and provided an overview of the agency's Community Council, which takes Aboriginal offenders out of the criminal justice system to be dealt with by members of their own community.

Ms. Fontaine said the Community Council is the only Aboriginal alternative justice system operating in an urban setting in Canada. She said its focus is the offender rather than the offence and that the Council's orders are intended to allow an offender to take responsibility for his or her actions, address the root cause of their conflict with the law, and reintegrate into the community. A similar model is being developed to address matters involving child welfare.

The response to an Aboriginal service committed to traditional values was positive, she said, and the Community Council had a very high rate of compliance, even though many of the people involved might not have showed up for trial in the regular system.

In Winnipeg, Superintendent Brian Krambl outlined efforts by the Winnipeg police department to respond to recommendations of the Manitoba Aboriginal Justice Inquiry. These include providing cross-cultural training to all



members of the department as well to new recruits, and the adoption of community policing with storefront offices in a number of city areas with large Aboriginal populations. He said the force had expanded the number of Aboriginal officers from 22 to 56 since 1991 and was aiming to reflect the proportion of Aboriginal people in the population at large, for a total of 75 officers.

Karen Pelletier described similar efforts being made by the Regina police department. She noted forecasts that 25 per cent of Regina's population will be of Aboriginal origin by the year 2011 and said it was vitally important that Aboriginal persons be represented across all levels of the community's agencies and services. The Regina force now has 3 per cent Aboriginal officers but is aiming for 12 per cent and will probably raise that goal with the growth of the Aboriginal population.

In Vancouver, the Aboriginal Tribal Justice Institute described its programs for training Aboriginal peace officers and tribal police. Jim Maloney, the president of the Institute, said there is a strong demand for the 35 to 40 trainees the Institute graduates each year. Standards are very close to those of the RCMP and municipal police forces, but there is heavy emphasis on incorporating Aboriginal cultural and spiritual values in the training.

## Métis Issues

There were consistent themes in recommendations by Métis interveners in the third round of hearings. They focused on the need to give recognition to the Métis under section 91(24) of the Constitution and made specific reference to ensuring equal access to services provided to other Aboriginal peoples; service delivery to be carried out by Métis organizations; enumeration to determine the Métis population more accurately; a Métis land base; and action to implement the Métis Nation Accord which was negotiated during the 1992 constitutional negotiations. Several models for self-government were put forward. As noted earlier,

the Commission spent a day reviewing the experience of Alberta's Métis Settlements. A number of Métis women who intervened emphasized their desire to see women take part directly in the Métis community's decision-making process.

In Thompson, Métis interveners provided an extensive overview of the situation of Métis people in northern Manitoba, based on research and consultation conducted as part of an IPP project. Sydney McKay of the Manitoba Métis Federation said Métis people in the region "are no better than a forgotten people. When we speak we feel we are not listened to. Many times the systems do not co-operate with us".

He said Métis people in the region had been pushed aside from mainstream Canada and were caught in a vicious circle of high unemployment, little money, and poor education. Métis youth had to travel great distances for education and often faced racism and culture shock away from their home environment. Schools in Métis communities had few resources and inexperienced teachers, and many Métis young people were streamed into lower priority courses rather than being given access to university level entrance programs.

Mr. McKay said the 1977 Northern Flood Agreement did not include the Métis people of northern Manitoba, even though Métis and other Aboriginal peoples have the same way of life in fishing, hunting and trapping and were all devastated by the northern hydro developments. Métis were very largely excluded when it came to economic and social benefits from employment on Manitoba Hydro projects, and most had received nothing in environmental compensation for damages to traditional Métis lands.

Freda Lundmark of the Métis Women of Manitoba also spoke of the problems of children as young as 13 being taken out of Métis communities to attend school. She gave a lengthy summary of problems facing the community in northern Manitoba, based on consultations with Métis women and youth.

These included concern about social conditions; lack of housing and daycare; the need for special education; and discrimination in health services, such as a \$50 user fee for medical transportation out of the region that is not charged to First Nations members. She underscored the need to affirm Métis and not just First Nations identity and the need for more Métis hiring in stores and other businesses.

In Saskatoon, Clem Chartier of the Métis Society of Saskatchewan (MSS) commended the Commission for responding to the Métis request to arrange for a comprehensive presentation in Round Three and for the Memorandum of Understanding it had accepted to create a working relationship between the Métis community and the Commission. He emphasized that a Métis land and resource base must be incorporated into the Commission's touchstones and called for a new relationship in which Métis would no longer be marginalized by governments.

This could not just be tinkering with the status quo by way of affirmative action or equity employment, he said. "We cannot achieve those four touchstones if there is not radical change in the make-up of this country. If governments are not prepared to do that then...they are just condemning us to more of the same."

Mr. Chartier spoke of the Métis seeking a legislative base under provincial law as an interim measure, followed by amendment to the *Saskatchewan Act* to make constitutional provision for Métis self-government. He insisted that as a people "we have a right to a homeland, self-government, economic development and the right to determine our own citizenship." As interim measures he recommended that Métis be given equitable access to existing government programs and that responsibility for programs be devolved. In time the Métis should receive royalty payments where resources are being taken from traditional lands and should become involved in co-management and joint ventures.

He said the Saskatchewan Métis have established a Self-Government Structuring Committee with a goal of implementing self-government for the Métis Nation in Saskatchewan within five years, to cover such areas as land and resources, health, education, justice and economic development. They were now referring to Métis "self-management structures", he said, because the province had become gun-shy about "self-government". The MSS envisaged province-wide self-government but saw this as depending on agreement from Métis communities. It also saw Métis communities in the northern part of the province becoming self-governing in a way that would displace provincial legislation.

Mr. Chartier said the MSS wanted to see the Métis Nation Accord revived as a tripartite framework agreement at the level of the Métis Nation. The constitutional amendments that were part of the Accord should be deleted while retaining the non-constitutional provisions that were unanimously accepted at Charlottetown.

In Edmonton, Cynthia Desmeules-Bertolin of the Métis Nation of Alberta (MNA) said the MNA is operating very much like a Métis government, even though it is incorporated under Alberta's *Societies Act*. As in Saskatchewan, she said, the MNA has asked the Alberta government for a special form of incorporation that would be distinct from the legislation for companies and charitable organizations.

In Edmonton, the president of Women of the Métis Nation, Melanie Omeniho, spoke to the need for Métis self-government to be more broadly based than the non-profit organizations that have lobbied for the Métis to date. She said lobby groups such as her organization and the Métis Nation of Alberta are useful but represent only a fraction of the actual number of Métis people within the province and therefore should not be the only arbiters of the structure for self-government.

Mario Paradis, of the Association of Métis and Off-Reserve Indians of Quebec, said there



should be an agreement with governments covering Métis in Quebec and other parts of Canada, areas not covered in the Métis Nation Accord. The Association's brief said that Métis status should have constitutional recognition, but that the form taken by Métis rights in different provinces should vary in order to accommodate the needs of different Métis groups. It said Métis should be entitled to the same programs and services now available to Status Indians.

## Governance and Accountability

Many interveners expressed interest in traditional forms of Aboriginal government and provided the Commission with models and examples during Round Three. They included several presentations on the use of the clan system as a basic element in consensual decision making. The basic concern with *Indian Act* governments was with accountability and the degree of power held by chiefs and councils, but several interveners looked forward to mixed systems that combined traditional and European forms of governance.

In Moncton, Lloyd Augustine of the Wabanaki Cultural Resource Centre maintained that the *Indian Act* had given band council governments dictatorial powers and called for a return to the traditional way of Aboriginal government. "We have to move away from the government the western culture has placed in our communities, a patriarchal system consisting of chief and council, a male-dominated system where harshness, unfairness and injustice are the norm...Indeed, we have strayed far from our traditional way. Away from the maternal system where love, concern, fairness and justice prevailed."

Jane Gottfriedson of the Aboriginal Women's Council spoke in Vancouver of the problems Aboriginal women face in trying to participate in the self-government process. She said

techniques were used to intimidate and silence women and spoke of corruption in band councils, lack of accountability and unfair decisions in administration. Freda Albert of the Indigenous Women's Collective, in Thompson, spoke in similar terms of the intimidation of women and of a framework of reserve dictatorship and oppression which, she said, had been enhanced by the signing of Alternative Funding Arrangements with the federal government.

In Orillia, Cynthia Wesley, Vice-Chief of the United Indian Council, called for a return to community-based government and was critical of the present structure of organizations representing Aboriginal people. She said they need to restore a co-operative relationship and start healing. "One problem of political organizations is the competitiveness that has got into them...they are all fighting each other to represent our interests. Chief and council, friendship centre, regional organization, national organization...none of those organizations appear to have very good relationships with each other," she said.

The problem of accountability was also addressed in Regina by Bernard Gordon, a Treaty 4 Indian who appeared on his own behalf. He urged that the *Indian Act* provision restricting off-reserve Indians from voting in band council elections be suspended. The *Indian Act* excludes off-reserve Indians not only from voting for their elected leadership but also from participating in the election of tribal councils, provincial Indian organizations and the Assembly of First Nations, which takes place through the chiefs and councils. Although band councils have the right to override the *Indian Act*'s restrictions, he said, off-reserve members are excluded from voting in 34 of the 71 bands in Saskatchewan.

Mark Douglas, as moderator, began a round table on self-government at Orillia by explaining the Anishnabe teaching of traditional government and its process of making decisions using



traditional clans. There were seven clans with seven principal speakers, each with the families in that clan sitting behind them, in their traditional councils. The process of decisions involved one clan raising an issue and addressing it to another – Loon to Fish, Fish to Crane, Crane to Bear, and so on. Each clan in turn would confer, add information, select from what had been said earlier, and pass the issue along. By the time the circle was complete, all perspectives on the problem would have been blended. After a break the same process would be repeated in order to blend the insights of all the clans on the question of what action should be taken to address the problem.

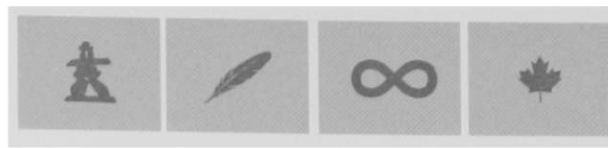
Mr. Douglas quoted an elder as telling him that “seven twice is eight” – that is, seven perspectives, working in harmony together to define the problem and the action needed, give rise to an eighth understanding. On our own, he said, we understand only one-seventh of a problem and one-seventh of what to do about it. Other races might perceive this as being slow, he said, but this process allowed complete ownership of the problem and of the solution.

In Terrace, B.C., Alice Jeffrey of the Gitksan and Wet’suwet’en government reported on a transfer of health services that the federal government had agreed to make to a Gitksan health authority based on a traditional matrilineal system. She said her First Nation was based on the hereditary house system and was asking for recognition of its hereditary chiefs in its current negotiations for self-government.

Chief Clarence Pennier of the Sto:lo Tribal Council, who appeared in Kelowna, presented a detailed paper on his First Nation’s traditional political structure. He recommended that the *Indian Act* be replaced by a system that would guarantee representation in council to each extended family according to its share of the general population. Decision making would be by consensus among the larger families. He said the consensual process would also apply to decisions made within each family; however, women had traditionally not been involved in the decision-making process.

Chief Pennier also called for re-establishment of the traditional position of band watchman to act as a voice for those who found themselves without a benefactor. If a woman was being abused, for example, the watchman would see to it that the abusive person was made to answer for his behaviour before a committee of elders.

Other proposals involving governance included the creation of an Aboriginal ombudsman or ethics committee to deal with abuses of power by band councils; the creation of special seats for Aboriginal representatives in the House of Commons or a provincial legislature; and the lengthening of terms of office to ensure greater stability and continuity in band council governments.



# Self-Sufficiency

◆ The link between Aboriginal control over land and resources and self-sufficiency, which was a major theme at previous hearings, was again underlined. Many interveners emphasized the need for community-based solutions; for more education; and for Aboriginal control over sources of capital, over training, and over institutions of economic development. This included proposals to expand Aboriginal capital corporations and to create one or more Aboriginal banks. Considerable interest was expressed in co-management of resources and other co-operative arrangements for economic development.

Some interveners focused on the need for additional funding for Aboriginal communities, while others discussed the need to use resources now available for Aboriginal purposes more effectively. A number of proposals were put forward to overcome obstacles to the development of Aboriginal businesses and employment, while some non-Aboriginal interveners outlined initiatives aimed at improving relations with Aboriginal peoples and expanding job opportunities.

One approach to self-sufficiency was expressed at the Montreal hearing by Grand Chief Matthew Coon Come of the Grand Council of the Crees: "We are not opposed to development per se," he said. "Most Aboriginal peoples are not against development. We seek development that is equitable, sustainable, environmentally and economically sound, and compatible with our way of life and our identity as a people."

"There has been so much discussion in Canada about the need to integrate the Aboriginal peoples into the mainstream of Canadian society. We object to integration which attempts to assimilate our identity and submerge us in a dominant culture. But the Crees do not object to economic integration on equitable terms; we never have."

"Respect the right of the Aboriginal peoples to control development in their own territories. Make the same financial resources available to the Aboriginal peoples that non-Native developers are able to obtain. Respect the right of the people who live in the territory to determine the best use of land and resources based on their own traditional knowledge and wisdom."

In Toronto, Tony Belcourt of the Southern Ontario Métis and Non-Status Indian Association emphasized that self-sufficiency is the key to self-determination and that it needs to be founded on a land base. His people have no land base, he said, whether for industrial, residential, resource or commercial purposes, and many are even outlawed from following their traditional pursuits of hunting and fishing.

At Saskatoon, Clem Chartier of the Métis Society of Saskatchewan said it was the basic right of any people in achieving self-sufficiency "not be deprived of the resources by which that people have sustained themselves and their nation... It is also clear that without economic self-sufficiency, self-government would prove to be a hollow victory".

In Moncton, Ron George, President of the Native Council of Canada, spoke about using existing resources differently: "This issue is about the responsibilities of our people to provide for each other. This means finding and developing resources. It means redistributing wealth and paying taxes to ourselves. It will also mean how to retool existing expenditures to make them serve our interests, just as the interests of all Canadians are supposed to be reflected in how their tax dollars and common resources are spent."

Paul Scotchman, of the Western Indian Agriculture Corporation, speaking in Kamloops, stated that healing of the spirit must be addressed first before other measures towards self-sufficiency: "I believe in healing to be first and foremost, the healing of the minds, emotions, body and spirit. It is with a sound mind, stable emotions, healthy body and a free spirit that the people can be self-determining, develop self-sufficiency, and can create trusting, caring and sharing relationships."

Daryl Klassen of the Mennonite Central Committee, a non-Aboriginal organization with extensive grassroots experience working with Aboriginal communities, spoke in Vancouver of the need for economic development to respect the underlying value system of the community and to depend on local vision and local ownership. He said development projects are often designed more to meet funding criteria than to match the needs and abilities of the people they were meant to serve; as a consequence they are invitations to failure.

He contended that economic activity that depends on outside funding takes away people's dignity and self-respect and encourages passivity and dependence. Governments acting on behalf of non-Aboriginal and business interests have wilfully destroyed viable Aboriginal economies and taken their natural resources to feed an industrial society. Aboriginal communities face the dilemma of applying for funds with inappropriate strings attached or having no funds at all.

## Economic Development

While interveners spoke of problems blocking the economic development of Aboriginal communities today, some also saw Aboriginal business on the way to becoming a major growth area. Discussion in Round Three dealt with the need to develop Aboriginal enterprise and managerial skills, to extend access to capital, and to develop new sources of revenue for Aboriginal communities. Some interveners spoke of the need for Aboriginal institutions to start playing a role in major economic development projects.

The Commission heard examples of the importance of Aboriginal economic activity at the hearings. In Kelowna, the Westbank First Nation noted that it has seven band-owned companies and has become a major employer in the area. In Calgary, the Tsuu T'ina Nation described the success of its economic development program at Sarcee, just west of the city. This includes a 60-acre business park, companies in the areas of construction, ranching and farming, and 200 full- and part-time jobs. It estimated the Tsuu T'ina Nation would have a cash flow of \$40 million under its control in the current year.

At Prince George, the Lheit-Lit-'en Nation reported economic development initiatives that have succeeded in increasing the band's cash flow from \$500,000 to more than \$4 million in four years and in giving the band effective control of its traditional sacred territory in the Herrick Valley. Ken Thomas of the Saskatchewan Indian Agricultural Program spoke in Regina of initiatives that have raised the value of production by Indian farmers in the province from \$1.2 million to \$18 million between 1975 and the late 1980s. One of the SIAP's projects has grown to become the largest source of lake-harvested wild rice in the world; another has developed an export market for alfalfa in the Far East.

Wayne Stanley, from the business committee of the Calgary Aboriginal Awareness Society,



spoke in Calgary of the difficulties involved in Aboriginal economic development and of the uncooperative attitude of federal and other governments. Many government programs exist, he said, but when investigated they have limiting factors that make it extremely hard to gain access to them.

Some funding programs take the attitude that government sources cannot be used to support a new company that will compete with existing businesses because this would give a new entrant an unfair advantage, Mr. Stanley said. There are particular problems in having the interpretation of laws made outside the First Nations environment. For example, creative opportunities for using tax laws to benefit Aboriginal ventures are seen as loopholes to be closed by the federal government.

Mr. Stanley noted a problem, also raised by other interveners, of Indian bands falling between the stools of federal and provincial programs. He said research by his group had found more than 30 specific programs where a band was not eligible for assistance to which non-Indians were entitled. As an example, he cited an Alberta government program that provides up to 87 per cent of the capital cost for irrigation works. The 150-square-mile Peigan reserve in southern Alberta is surrounded by land that is highly irrigated, he said, but the Peigan land is fallow because Indians on-reserve are not eligible for the Alberta program, and the capital cost of putting in pipelines and pumps is more than the band can afford.

Similar problems were noted by Frank Parnell of Tricorp Resources Investment Corporation in Prince Rupert. He said his Haida village had a flourishing economy in the 1940s, with a self-sufficient co-operative and some 30 seine-fishing boats. By the 1960s, however, their boats had been taken over by the large fishing corporations, and unemployment had risen to 90 per cent. Mr. Parnell said the community's efforts to regain self-sufficiency are being frustrated consistently by government inter-

ference and its failure to understand their culture. As one example, he noted that the Department of Fisheries had recently allocated some fishing licences to Haida villages, but with conditions and at a price that make them impossible to use in building up an economic base.

Walter Manitowabi, of the Waubetek Business Development Corporation, spoke in Sudbury of the activities of his group in providing loans and helping Aboriginal businesses become established in northern Ontario. He said the high unemployment, widespread poverty, and low levels of education among Aboriginal people in Waubetek's area mean that most Aboriginal people cannot meet the criteria required by funding organizations for business loans. They face an added problem of instability, because many of the programs and services delivered by the First Nation communities – including those of Waubetek – are subject to arbitrary changes at the whim of government.

Waubetek gave the Commission a comprehensive set of recommendations, many of which were also put forward by other interveners in Round Three. These included support for financial institutions owned and operated by Aboriginal people; allocating a proportion of government service contracts to Aboriginal businesses and institutions, a practice used in the United States; letting Aboriginal institutions deliver programs and services to Aboriginal people; and providing funding to Aboriginal institutions through multi-year agreements in order to reduce administration costs and give these institutions greater stability.

Many of the same points were raised in another comprehensive IPP-sponsored presentation in Vancouver by the Aboriginal Peoples Business Association, which noted that British Columbia has 196 of the 600 reserves across Canada but that most are financially unable to support community economic development. The Association recommended that bands be allowed to collect resource revenues from their

traditional territories through interim agreements while their treaty status is being negotiated. It proposed that Aboriginal corporations on reserves be granted special tax-exempt status or tax incentives to encourage development.

The brief was critical of existing government programs for Aboriginal economic development. It found that more than 9,000 applications had been made to one of these programs, very few of which ever received funding. No effort had been made to discover why or to increase the likelihood of future success.

The Association called for the creation of an Aboriginal Chamber of Commerce and spoke of the need for joint ventures and incubators to develop Aboriginal small business. An important issue was the need not just to concentrate on reserves but to support economic development among off-reserve and non-status Aboriginal people and among Métis.

At several hearings, Métis interveners said they are being excluded from economic development funding and asked for equitable treatment. In his presentation for the Métis Society of Saskatchewan at Saskatoon, Clem Chartier estimated that approximately \$180 million is being spent on economic development for Indian people across Canada, compared to almost nothing for Métis people.

Development of the Métis economy in Saskatchewan should go beyond support for small business and deal with broader issues, he said. Economic development should be a bottom-up process. The Métis want to participate as partners in major development projects and not be confined to traditional areas of economic activity.

Another wide-ranging discussion on economic development occurred at the round table at the Orillia hearing. Participants spoke of the problems created by the decision to cut the Department of Indian Affairs' economic

development funding by 30 per cent and of the difficulties of promoting economic development on reserves with small land areas in southern Ontario. One participant said that employers would not respond to requests for equity hiring of Aboriginal workers unless a cash incentive was attached. A national Aboriginal Training Strategy was proposed, along with a need to educate employers and the public about Aboriginal peoples.

In Thompson, Rod Murphy, MP for Churchill, called for a comprehensive approach to economic development based on a partnership between federal and provincial governments and Aboriginal leaders. He put forward a number of solutions focused on meeting the needs of northern Aboriginal communities in the intertwined areas of education, training, employment, housing, water and sewage. He called for a program to upgrade schools in the area and said this should be used to help create employment as well. Major projects with federal or provincial funding should include hiring preferences so as to offer job training and employment experience to northern residents and Aboriginal people. The same kinds of preferences should apply to urban projects that receive public funding.

A number of interveners spoke of building the Aboriginal economy by ensuring that more money spent for and by Aboriginal people benefits their communities. This idea was developed at length in Kamloops in a presentation by the Shuswap Nation Tribal Council. Research by its Economic Development Association to track the flow of money through the community showed that more than 80 per cent of the expenditures of Shuswap households occurs off-reserve and that 90 per cent of the money coming into the Shuswap government ends up in the non-Shuswap economy almost instantly.

André LeDressay, who conducted the study, said that in the six communities researched, total funding amounted to \$39,000 per household on



average but that actual household income averaged \$20,000. He said the missing \$19,000 was sent in the direction of the Shuswap community but never actually reached its members – an example of what he called ‘bungee economics’.

The problem of lost revenue was also noted at other hearings. Clive Diller of the Saskatchewan Indian Agriculture Program talked of its work in helping develop an overall economic development plan for the province. He noted that the organization’s budget had been cut by 62 per cent just when 1.5 million acres of new land were coming under Indian status in Saskatchewan through treaty land settlements. He questioned government cuts in funds for economic development, noting that at the same time government had increased its social development spending by \$250 million, which contributes to maintaining dependency.

Specific proposals to transfer control of the Canadian Aboriginal Economic Development Strategy (CAEDS) were made by several interveners, in some cases citing the precedent of Aboriginal control of training under the federal government’s Pathways to Success program.

At Elizabeth Métis Settlement, a number of interveners discussed the problems of Métis economic development as experienced by their communities since the settlements were reconstituted in 1990. In particular, they criticized the exclusion of Métis farmers and enterprises from provincial programs available to the general public in Alberta and similar restrictions on Métis settlements using highways and other general funding programs directed to municipalities.

Randy Parenteau of the Fishing Lake Métis Settlement said the 1990 Settlements Accord with Alberta provided about \$3 million per year for each settlement to pay for local government and for catch-up spending on local infrastructure, but that this amount had proved to be far below actual needs.

Gary Parenteau, vice-president of the Métis Settlements General Council, outlined a co-management arrangement negotiated with respect to mineral rights on Métis land. He said it provides for royalties and for priority to be given to local workers and contractors, as well as giving the Settlements the right to as much as 25 per cent participation in oil and gas developments. The Settlements are considering whether to set up their own gas and oil company, so that they could bid for full ownership of mineral development on Métis lands.

Ken Noskey, speaking for Settlement Sooniyaw Corporation, the Settlement’s economic development corporation, underscored the need to form partnerships with outside business and to seek co-operative relationships with outside lending institutions. Other interveners spoke of the difficulties faced by Métis enterprises in meeting the criteria for financing set by lending institutions. They said banking rules should recognize the communal ownership of Settlements land and the need for non-traditional financing partnerships.

A number of practical issues involved in developing tourism, already a major industry for some Aboriginal communities, were outlined in Kelowna by Barry Parker, executive director of the First Nations Tourism Association of British Columbia. He presented a paper that put the number of Aboriginal tourism businesses in Canada at 1,368 and estimated the Aboriginal contribution to the Canadian economy through tourism at \$270 million in 1992. One-sixth of the employed Aboriginal people in Canada work in tourism, he said, but most are in low-skill jobs with non-Aboriginal employers.

Mr. Parker suggested that tourism could become a lead industry in bridging the gaps between Aboriginal and non-Aboriginal communities. As equal partners in the industry, Aboriginal peoples could ensure that their cultures were not exploited by other tourism sectors. However, he questioned the role of non-Aboriginal tourism associations in



marketing Aboriginal tourism without prior consultation and urged that these bodies enter into memorandums of understanding with Aboriginal tourism associations to clarify roles and responsibilities.

## Financing

The problems of finding equity for new businesses and security for loans for those located on reserves were raised by a number of interveners. One of the solutions put forward was to change the *Indian Act* restrictions that prevent a lending institution from acquiring property on a reserve that has been pledged as security. At Kahnawake, Michael Rice described an alternative approach developed by the Kahnawake Caisse Populaire, which is successfully providing mortgage and business loans within the reserve. This involves the use of trust deeds held by other reserve residents rather than by the Caisse. In the event of default this means that any property involved would be transferred to an Aboriginal person for use in recovering the debt, since the Caisse could not acquire the property directly.

The idea of a national Aboriginal Development Bank was put forward in an IPP-sponsored submission by the Canadian Council for Aboriginal Business (CCAB) presented in Toronto. Steven Christianson said the CCAB had based its proposal on consultation with 125 Aboriginal communities. He cited models such as the African Development Bank and the American Indian Development Institution that should be considered for Canada.

The CCAB's report suggested that the institution be a Schedule B bank independent of government and that it be capitalized by the banks, private sector corporations and the Aboriginal communities. It said the bank should provide technical and legal advice as well as capital and should eventually be run by Aboriginal people. The Council suggested that securities issued by the proposed bank, such as Aboriginal development bonds and investment

certificates, should be given tax shelter status in order to encourage their use.

Other interveners also proposed creation of an Aboriginal bank as well as increasing the capital resources of existing Aboriginal capital corporations. Several of these corporations came forward to talk about their success in lending and the problems created by their small size, in particular the need to charge interest rates higher than those charged by the banks.

In Regina, Roy Bird outlined the work of the Saskatchewan Indian Equity Foundation since its formation in 1986. He said that over that time the foundation had assisted 1,400 treaty Indian business people and helped create 500 jobs. Loans had been extended to a wide range of businesses, and its loss ratio had been less than 4 per cent, compared to about 60 per cent for a previous program run by the Department of Indian Affairs.

Del Anaquod said the success of the Foundation is attributable to its ownership by Indian people; to its insistence that loans be made only to viable businesses; and to its practice of having loans backed by band council resolutions as a means of providing collateral. The Foundation needs to double its current capital base of \$7 million to be viable, however. It is unable to take deposits like a schedule B bank or to accept treaty land entitlement money from bands wanting to make investments. "We are not going to break into Canadian society on small business loans," he said. "We are going to have to start owning mines...and major forestry projects. For us to get into that we're talking hundreds of millions of dollars."

In Kamloops, Ruth Williams, president of All Nations Trust Company, estimated that her corporation's activities had injected \$30 million into the economy with a bad debt ratio of 3 per cent. ANTC recommended that economic development program dollars be redirected to Aboriginal capital corporations and called for an equity investment fund for Aboriginal social and economic development. It recommended that

Aboriginal capital corporations be exempt from income tax until they reach a viable size. Ms. Williams noted that in Kamloops, 81 per cent of the employees of Aboriginal companies are Aboriginal, compared to less than 3 per cent for non-Aboriginal companies.

In its appearance in Toronto, the Canadian Bankers Association acknowledged that the banking industry had historically not had a good working relationship with Aboriginal peoples, but that "we would like to change that"

Speaking for the industry, Joanne De Laurentiis outlined efforts the banks were making to recruit more Aboriginal staff and to overcome barriers to entry. She cited a number of obstacles to the development of Aboriginal business, such as cultural gaps, lack of administrative skills, the remoteness of many Aboriginal communities, lack of collateral, and historical barriers in the *Indian Act* to taking security.

Ms. De Laurentiis said the chartered banks "are struggling to find sound and creative strategies to deal with these difficulties and are taking some tentative but promising steps." The examples she gave included changes in hiring, business training for Aboriginal people, and seminars for Aboriginal communities concerning management of treaty and land claims trust funds.

During discussion it was noted that banks are located on only 9 of more than 600 reserves in Canada. Ms. De Laurentiis acknowledged that remote communities do not have financial services but maintained that banks are looking at innovative ways of reaching these communities, such as 'bankmobiles'.

## Revenues

The suggestions put forward for financing Aboriginal governments on- and off-reserve included providing transfer payments on the same basis as those now paid by the federal government to provinces; the development of

resource revenues or royalties; a national tax on gasoline; and regular payments of dividend cheques to Aboriginal people to reflect the value of wealth drawn from the natural resources of Canada.

Richard Saunders, an individual intervener and former member of the Cree Naskapi Commission, spoke of the costs of Aboriginal treaty and land settlements. He drew the analogy of someone not paying their rent to the landlord for 100 years and running up a very big bill. It was time to start coming up with some innovative ideas for funding outside the annual budget process.

Mr. Saunders' proposals included establishing an endowment fund under the control of First Nations whose revenues could come from urban lands belonging to the federal government; from taking a percentage of new federal resource revenues; or through diverting 35 per cent of the foreign aid budget over a 25-year period for use in dealing with treaty obligations to Aboriginal people.

Bob Groves of the Native Council of Canada spoke in Moncton of the problems of providing a land base for Aboriginal peoples without a territory, such as non-status Indians. He suggested the alternative of providing them with the equivalent in economic development capacity and pointed the model such as the Passamaquoddy and Penobscot people in Maine who were given trusts and trust lands to be used as a resource base.

In Kelowna, representatives of the Westbank First Nation provided statistics to indicate that reserve residents and First Nations governments receive less funding than non-Aboriginal communities, particularly for infrastructure and government services. They called for equitable levels of funding and for Aboriginal communities to have access to provincial grants for disadvantaged communities. In addition, they recommended that First Nations be entitled to issue long-term debt like other governments in order to invest in infrastructure.



Donna Glover of the Aboriginal Council of Winnipeg proposed creation of an Aboriginally controlled lottery in Manitoba. A number of interveners at different hearings spoke in support of casinos and gambling as a means of development and as a source of revenues for Aboriginal communities.

## Taxation

During Round Three the Commission heard a clear endorsement of the need for Aboriginal taxation under self-government along with a strong statement opposing any taxation being imposed on Aboriginal people by a non-Aboriginal government.

In Moncton, Gary Gould of the New Brunswick Aboriginal Peoples Council said his people – who live off-reserve – have not benefited from tax exemption and are therefore not reluctant to talk about the issue.

“It is our feeling that tax exemption must end and be replaced by recognition that we must support our own institutions if we are to be self-sufficient,” he said. Since Aboriginal self-government is inevitable, he recommended that the tax system be restructured to allow individual Aboriginal people to direct a third of their personal income tax to their own institutions of self-government. The other two-thirds would remain with the other governments to pay for services and institutions that Aboriginal peoples share in common with other Canadians.

In discussion, Mr. Gould referred to studies that he said indicate that Aboriginal people off-reserve pay in the area of \$8.5 billion in taxes; this means that they are directly funding the \$5 billion annual cost of the Department of Indian Affairs.

In Lethbridge, Acting Chief Bradford Littlelight tabled a resolution opposed to any form of taxation of First Nations on their land, which was put forward by the Tsuu T’ina First

Nation and adopted by the Assembly of First Nations. He argued that the land is rented to the government of Canada, so First Nations cannot be required to pay tax on something that they already own. “We believe all Native people should be immune from any form of taxation. That is our position – any form of taxation by any foreign government, any municipality, city, province. We are immune from them.”

Taxation of non-Aboriginal people was seen as a potential source of new revenues at the hearings. Acting Chief Littlelight noted that his First Nation’s property tax by-law applies to non-Aboriginal people, the first of its kind in Canada. Chief Manny Jules of the Kamloops Band estimated that non-Aboriginal people who shop or work on the Kamloops reserve pay a total of \$70 million in sales and income taxes, and he called for the development of Aboriginal tax systems to allow broader taxation of non-Aboriginal interests. In Kelowna, representatives of the Westbank First Nation said Westbank, which has 5,000 non-Aboriginal residents on its land, is exploring an expansion of taxation authority, including income and sales taxes. This idea was also put forward by Regional Chief Gordon Peters of the Chiefs of Ontario.

In Edmonton, Cynthia Desmeules-Bertolin of the Métis Nation of Alberta said that the fragmented manner in which Aboriginal organizations are funded is a barrier to self-determination and hinders long-range planning. Rather than ask for new money, she said, the Métis Nation wants to have existing program dollars transferred to Métis institutions, which could then tailor programs to meet Métis needs.

Ms. Desmeules-Bertolin proposed that a tax credit be used to fund Métis organizations, using a share of the tax dollars already coming from Métis people. She also suggested that in compensation for land claims that cannot be settled, the Métis receive an annual payment based on a percentage of the appraised value of property in each province.



“The Métis people pay taxes and we expect to pay taxes,” she said. “We are very proud to be Canadians, but statistically it’s very apparent... that we haven’t [benefited from] the programs and the services that are afforded to other people who are taxpayers in Canada.”

Various forms of tax exemption were proposed during Round Three as incentives for economic development. They included several suggestions that tax-exempt status be extended to joint venture enterprises between Aboriginal people and non-Aboriginal corporations if they are established on reserves. Corporations are currently subject to tax even if they operate from a reserve and are owned by Aboriginal people.

## Employment

A major issue in the first two rounds of hearings was the concentration of chronic unemployment among Aboriginal people, with rates of unemployment ranging as high as 95 per cent on some reserves. Limited education, racism, systemic discrimination, and the lack of resources in Aboriginal communities were all seen as obstacles that prevent Aboriginal workers from getting jobs or moving beyond low-paid, low-skilled positions. These problems occur in both rural and urban areas.

The same situation was portrayed in Round Three, but with a greater focus on finding solutions based on self-sufficiency and economic development. A new element in this round was the participation of non-Aboriginal employers, who acknowledged problems facing Aboriginal workers and spoke of practical approaches to overcoming them. As noted earlier, interveners from the Regina and Winnipeg police departments reported significant progress in affirmative action hiring for Aboriginal officers.

A sample of the situation facing urban Aboriginal workers was offered by the Calgary Aboriginal Awareness Society. Its brief noted that the rate of Aboriginal participation in the

Alberta labour force in 1986 had been 60.5 per cent, compared to 72.6 per cent for the population at large, and that the Aboriginal unemployment rate had been 23.5 per cent, compared to a general rate of 9.7 per cent.

In Kamloops, the Commission was told that average household incomes among the Shuswap are about half those of the surrounding communities and that the proportion of Shuswap unemployment insurance claimants among people of working age is three times that of other Kamloops residents. In Prince Rupert, Vern Brown of the Council of Haida Nations reported that Aboriginal people are vastly under-represented in the teaching and support staff of local schools, even though they make up 38 per cent of the student population. The same situation prevails in health care.

Isabelle Impey of the Gabriel Dumont Institute spoke in Saskatoon about the problems of graduates from the Institute finding employment, largely as a result of systemic racism and stereotyping toward Métis people, which have existed since the time of the Hudson’s Bay Company. She noted the findings of a federal study showing that termination rates for Aboriginal employees are significantly higher than for others in the federal public service. The study cited cultural and attitudinal barriers, a lack of challenging opportunities, an inhospitable work environment, tokenism, and limited access to advancement.

Sam Horton, Vice-President for Aboriginal Affairs at Ontario Hydro, told the Toronto hearing that Hydro had determined it had been guilty of systemic discrimination in its business practices, for example by insisting on credentials that barred Aboriginal people from taking positions. He spoke of the existence of vested interests within organizations, within governments and with individuals. “It’s time, past time, for governments and industries and individuals...to cut a path through the jungle of rules and regulations, the protection of privilege and outright racism. Individually and collec-

tively the dominant society must be prepared to pay some overdue bills," he said.

Mr. Horton described efforts by Ontario Hydro to establish a better relationship with Aboriginal peoples and to open up opportunities for Aboriginal employment. This was also the theme of the Canadian Bankers Association when it appeared in Toronto. Joanne De Laurentiis said the employment of Aboriginal people by the banks rose by 49 per cent between 1987 and 1991 and now amounts to 0.8 per cent of their work force, compared to the overall 1.2 per cent rate of Aboriginal employment in the labour market.

Ms. De Laurentiis offered several reasons for the banking industry's efforts to encourage Aboriginal employment. The banks anticipate a dramatic increase in the proportion of young Aboriginal workers entering the labour market; for competitive reasons they want bank staff to reflect the communities they serve, and they foresee new business coming from Aboriginal people because of treaty and land settlements and the development of the Aboriginal economy.

She said the banks had found that barriers to entry include untargeted recruiting and hiring methods; a lack of communication with potential Aboriginal employees; lack of bank presence in Aboriginal communities; and the tendency for Aboriginal people to pursue education in social sciences rather than in business or finance. Bank initiatives include the creation of links with national Aboriginal organizations, targeting of secondary schools for recruitment, cross-cultural awareness training, and the development of internal support structures and of Aboriginal employee networks. Ms. De Laurentiis noted that the CBA has established pre-employment training programs in Edmonton, Regina and Vancouver that have graduated more than 150 Aboriginal people since 1989.

In Montreal, officers of Falconbridge Ltd. described their company's efforts to involve the

Inuit community in a major industrial project in the far north of Quebec, a proposed nickel mine known as the Raglan Project. They gave an extensive presentation on the company's program to maximize opportunities for local Inuit employment, now 20 per cent of the project's labour force.

Simon Brown said the company had identified a number of issues in developing an Inuit employment strategy. These include the acceptance of work culture and working hours and the need to find a balance between work requirements and traditional lifestyles. The company is concerned about the potential impact of cash income on workers' lives and about the limited pool of qualified labour in the area.

Michael Dufresne, a company geologist, described practical problems the company had faced during initial work on the mine. As isolation and loneliness were major factors, the company offered Inuit employees work shifts that lasted two weeks at the project rather than the normal four before they could return home. A strict policy was adopted of no drugs or alcohol on the site after consultation with the local community. The company's policy of prohibiting firearms on the site was contentious, since Inuit workers were still actively involved in hunting and fishing. A separate kitchen was provided for Inuit to cook their own food, as federally-inspected venison was not available to be served in the company cafeteria.

Mr. Brown said cross-cultural relations were particularly important when people were living together for several weeks at a time. Falconbridge proposed to make cross-cultural orientation a mandatory part of its orientation of employees and to enforce a zero-tolerance policy on discrimination. To increase the pool of qualified labour, the company intended to encourage training programs in areas such as equipment operation and to ask high schools to provide courses related to mining. They proposed to consider work experience as an



alternative to education requirements for northern workers over the age of 25 taking skills training.

In Calgary, a panel from the oil industry outlined their companies' experiences in seeking to expand opportunities for Aboriginal workers. Al Reid of the Canadian Association of Petroleum Producers said the industry had recently begun to respond to the expectations of Aboriginal communities for economic growth. He acknowledged that barriers to Aboriginal people finding employment or receiving orders and contracts from the industry did exist. Companies need to help break down these barriers and to understand Aboriginal peoples' history, culture and values, he said, but it is equally important "that the company's business objectives and plans be understood and respected by the Aboriginal peoples."

Mr. Reid said the CAPP had recently signed a memorandum of understanding with the Canadian Indian Energy Corporation providing for annual 'chief-to-chief' meetings between leaders and formation of a joint working committee to deal with issues such as employment, training, and development on First Nations lands. A similar initiative involving gas producers and Treaty 8 bands in northeastern British Columbia has led to changes in the way companies subcontract work so as to create more opportunities for Aboriginal contractors.

Company representatives outlined initiatives to increase Aboriginal employment opportunities, similar to those noted by the banks and by Falconbridge. They spoke of the need for flexibility and for top-level commitment. Peter Verity of Petro Canada described a joint community, industry and government program involving status, Métis and non-status communities in the Peace Arch area of northern Alberta. He said the crucial component had been the growth of trust and co-operation over a six-year period and the involvement of Aboriginal communities in making key decisions

such as the choice of candidates for employment training. He said the company is seeking to improve community relations by sharing more information about future plans and making more use of local services.

## Natural Resource Issues

The starting point for most Aboriginal interveners in this area was the desire to regain control over natural resources that, in their view, have been taken without permission and without compensation. They expressed a willingness to share and support for co-management so long as it respects Aboriginal rights. Besides forests and wildlife, there was particular interest in the assertion of Aboriginal rights of access to and control over water, an issue not raised at previous hearings.

Non-Aboriginal interveners – mainly resource sector companies – also expressed interest in co-management and some support for sharing resource revenues with First Nations. But they emphasized the need for balance and for arrangements that take the interests of all resource users into account.

Aboriginal fishing rights were raised as a major issue in Round Three, primarily with respect to the conflict between First Nations and the commercial fishing sector of the B.C. salmon industry, but also in the Northwest Territories and in eastern Canada.

At the Montreal hearing, Ghislain Picard, Vice-Chief of the Assembly of the First Nations of Quebec and Labrador, criticized Quebec for refusing to treat Aboriginal rights as legal rights, despite court decisions such as *Sparrow*. He said Quebec had shown extreme reluctance to enter into co-management agreements related to natural resources and that First Nations had needed to be constantly vigilant to force Quebec to live up to its treaty obligations.

Chief Picard criticized the province for awarding extensive logging rights on territories



under claim by First Nations and for aggressive campaigning to stop Aboriginal peoples from exercising their traditional hunting and fishing rights. Canada had been a willing accomplice of the Quebec government, he said, for example in seeking to avoid environmental assessment under the Great Whale River agreement and in changing National Energy Board regulations regarding environmental impact assessment of electricity exports.

He recommended that Quebec conform to the standards established in the *Sparrow* decision; that it not permit forestry and hydro development to take place contrary to treaties or on land subject to negotiations based on Aboriginal rights; and that Quebec stop its practice of laying multiple hunting and fishing charges against First Nations members when a test case is before the courts or when the activity is on land that is subject to negotiations.

Ontario Hydro described its efforts to accommodate Aboriginal interests. Sam Horton, vice-president for Aboriginal affairs, acknowledged that Hydro's construction activities in the past had devastated the traditional lifestyles of many Aboriginal people. Hydro is now looking for partnership with Aboriginal and northern people in Ontario that would be healing, enduring and beneficial to all parties. Hydro anticipates that an official apology would be made as part of a healing effort at some time in the future and had initiated efforts to resolve historical grievances of Aboriginal communities through a joint problem-solving approach.

Mr. Horton said Hydro has recently begun to make payments in lieu of taxes to First Nations for the use of their lands. The company wanted to have First Nations' agreement with respect to future planning and to ensure that Aboriginal people had an effective voice in structures established for watershed management. They should also have an equitable share in the benefits from water use, he said, noting that First Nations do not share in the \$100 million

in taxation that Hydro currently pays to Ontario on this account.

At the hearings in Thompson both Métis and off-reserve Indian interveners spoke of the environmental consequences of flooding from Manitoba Hydro dams and of being excluded from the benefits of the Northern Flood Agreement, which are confined to reserve Indians. Dennis Riehl, speaking on behalf of Manitoba Hydro, said it generates about 90 per cent of its electricity from Aboriginal areas and acknowledged that its projects have a marked influence on Aboriginal people. He said the company is re-examining its role with respect to Aboriginal peoples and spoke of initiatives such as contract preference given to Aboriginal businesses in the north, joint business ventures, consultation with Aboriginal groups on upcoming developments, and its rising number of Aboriginal employees.

The clearest delineation of the conflict between Aboriginal rights and the development of hydroelectric resources came in the presentations in Montreal, on two successive days, of Hydro Québec and the Grand Council of the Crees. The Crees outlined their struggle to stop the Great Whale project as it is now planned by the province. They stated that they had no option but to accept the James Bay and Northern Quebec Agreement in 1975, which allowed Hydro Québec's initial development of James Bay power, because the project had gone too far to be stopped. But in their view the agreement did not permit Hydro to proceed with new projects that promise to affect most of the remaining untouched areas of Cree territory.

Armand Couture, president of Hydro Québec, acknowledged the legitimacy of Aboriginal claims for self-government and for territory but said the degree to which these claims extend had created apprehension among non-Aboriginal people. He spoke of the need to re-establish a balance between "reasonable and legitimate" claims and the needs of the rest of the society in

order to permit equitable compromises. He asked the Commission to condemn "the use of lies, crude exaggeration and disinformation to promote Aboriginal interests with respect to Aboriginal issues," for example, invoking genocide in relation to the Great Whale project.

Mr. Couture said Hydro Québec had adopted a principle of continuous negotiations, which has led to the signing of eleven complementary and nine specific agreements with various Aboriginal communities. He also spoke of the company's efforts to enlarge Aboriginal participation in its work force, including a training centre for the La Grande 3 project, financed through the James Bay and Northern Quebec Agreement, where some 50 Cree had been certified or were being trained.

Hydro Québec's brief called for the use of a social compact that would balance the needs and aspirations of Aboriginal and non-Aboriginal people and that would be acceptable to both sides. Mr. Couture said this should include recognizing the need to ensure social benefits for the territory concerned and spoke of the need for a code of activity relating to areas of occupation and hunting and fishing grounds.

Hydro Québec recommended that the Commission affirm the right to economic and social development as a fundamental right and as an essential condition for reconciliation. This would include acknowledging the right to development as granted by the laws of Canada. The company asked that the Commission express its opinion on the concept of Aboriginal consent for development on shared-use land, and that it recommend concrete measures in the area of environmental protection to transform a climate of confrontation into one of co-operation.

The question of Aboriginal rights over water resources was raised mainly in western Canada. In Kelowna, Albert Saddleman of the Canadian Indian Water Rights of B.C. noted the problems created because water is under provincial

jurisdiction while Indian reserves are federal. He recommended that First Nations be part of all planning activities and decision-making processes involving the land, water and other resources and become more active in preventing pollution. In Lethbridge, Chief Leonard Bastien of the Peigan Indian Band called for a process agreeable to First Nations to define First Nations water rights along with other treaty rights related to water. At Kamloops, Chief Nathan Matthew of the Shuswap Nation Tribal Council called for legislation to prohibit any export of water to the United States and recommended that the Free Trade Agreement be amended specifically to exclude water.

In Kelowna, the Intertribal Forestry Association of B.C. spoke of the potential of Aboriginal forest development to provide revenues and jobs under self-government, but it criticized the federal government for failing in its responsibility to protect Aboriginal forestry rights. Harold Derrickson, speaking for the Association, noted that Aboriginal forest values are largely ignored by industry and in government forest management policies. These policies also exclude Aboriginal peoples because licensing and tenure systems focus on granting timber harvesting rights for companies that can make multi-million dollar investments.

Similar criticisms were voiced in Brantford by the Six Nations Forestry Ecology project, which noted that the Department of Indian Affairs had failed to respond to strong criticisms of its Indian forest management program by both the Aboriginal Affairs Committee of the House of Commons and by the federal auditor general.

Dr. Raymond Hodgson, of the Task Force on Churches and Social Responsibility, noted in Toronto that the forest industry had begun concerted efforts to intimidate Aboriginal people and environmentalists who were concerned about the industry's clear-cutting practices. He said companies like MacMillan Bloedel were now forcing the government and the police to lay criminal rather than civil



charges against people on blockades and were then suing those people for loss of income caused by the blockade.

At the Montreal hearings, André Duchesne of the Quebec Forestry Industries Association said relations between the industry and band councils vary between regions but that the industry has become much more conscious of the Aboriginal reality. He said the industry is open to the participation of the Aboriginal community in plans for forest development, but that once plans are they should be maintained and not be open to question.

Mr. Duchesne said the Association had developed an approach to consultation aimed at reaching consensus among local interests prior to the development of forest management plans. Aboriginal peoples are welcome to take part in the industry, he said, provided they accept the need to negotiate contracts at market prices and to meet the required performance criteria. The industry is also prepared to assist in training Aboriginal forest workers. Mr. Duchesne noted that there is only one Aboriginal forestry engineer, and a small number of forestry technicians, in the entire province.

In Toronto, Fenton Scott of the Prospectors and Developers Association of Canada spoke of increasing Aboriginal participation in the prospecting industry but asked that territory in the North not be closed to exploration, because this would be a loss to the national wealth.

Mr. Scott recommended that governments cede to Aboriginal peoples and other northern residents the tax and royalty revenues from frontier resources, including tourism, recreation, hydro, mining and forestry. In exchange he recommended that resources on public lands be available on the basis of equal rights for all prospectors to enter. He noted the development of skills such as steelwork, geophysical technology, and drilling in some Aboriginal villages and criticized union

contracts and other job protection policies that hamper the employment of these skills in the mining industry by Aboriginal Canadians.

With respect to wildlife, Aboriginal interveners in Ontario and Quebec criticized provincial fish and game associations for spreading misinformation and making racist attacks on Aboriginal people exercising their right to hunt and fish. In Saskatoon, those rights were endorsed by Sandy Baumgartner of the Canadian Wildlife Federation.

Ms. Baumgartner said a landmark agreement on wildlife conservation and development had been reached between the Federation of Saskatchewan Indian Nations, the Saskatchewan Wildlife Federation, and the federal and provincial governments. She expressed strong support for the concept of co-management and for Aboriginal peoples to be involved in the creation of wildlife regulations. The Federation took the view that Aboriginal people should be free to hunt or fish on their treaty land at any time without restriction, but that they should be subject to the same regulations as non-Aboriginal people on land not covered by treaty.

In Toronto, Jane Vinet of the Canadian Association for Humane Trapping said the Association is seeking to ensure that Aboriginal rights and responsible animal welfare work together. She noted that some 80 per cent of the fur pelts taken by Aboriginal trappers are exported to the European Economic Community, which has adopted regulations to ban fur imports from countries using the steel leghold trap. While Aboriginal trappers are not obliged to follow humane trapping regulations because of their treaties, Ms. Vinet urged that they adopt these practices in order to address the marketplace problem. If such a change is not made, she said, "Aboriginal trappers will continue to shoot themselves in the foot and lose even more consumer support, and along the way they may even lose something more precious, their credibility and image as wildlife stewards."



During Round Three a number of Aboriginal interveners spoke in favour of co-management and asked for the right to participate in resource decisions from which they are now excluded. At the Montreal hearing a non-Aboriginal group, the Quebec Federation of Trappers, made a similar request with respect to the Quebec beaver reserves, territories on which only Aboriginal people may trap.

The Federation estimated that the beaver reserves account for 78 per cent of the land area of the province available for trapping and argued that the system established in the 1930s is no longer appropriate for today's needs. It proposed as an alternative that the Quebec government accept a co-management regime between Aboriginal people and the Federation; such a regime, it said, would have benefits in terms of economic development and employment for both partners.

## Environment

A number of interveners raised environmental issues such as water pollution, clear cutting and the effects of power dams on Aboriginal hunting and trapping. The overall impact of the effects of non-Aboriginal development on an Aboriginal community were set out by Henry Lickers and Lloyd Benedict of the Mohawk environmental program at Akwesasne on the St. Lawrence River. They said that the harmony the Iroquois had enjoyed on their territory was disturbed from the early days after contact with the Europeans. As early as 1834 the Mohawk chiefs had gone to the British governor to complain about the effect of the Beauharnois control structures on their communities and livelihood.

When the St. Lawrence Seaway was built in the 1950s, the Mohawks opposed the project, but to no avail. At Akwesasne its effects had included the eutrophication of marshes that had been the source of an abundant supply of muskrats for trapping – an industry that has now disappeared.

Cheap electric power had given rise to new industries and to urban growth, they said, turning the Seaway into an open sewer and making Akwesasne the most polluted reserve in Canada by 1978. While prosperity came to neighbouring areas as a result of the Seaway, it destroyed the Mohawks' ability to maintain a natural economy based on hunting, fishing and trapping. The pollution also affected cattle raising by Mohawk farmers on the reserve.

Mr. Lickers and Mr. Benedict spoke of the value of the naturalized approach to the environment based on the traditional environmental knowledge of Aboriginal people, but they said that this had been largely ignored by the western world. Akwesasne was now involved in partnership with two universities and the federal government to merge this approach with that of western environmental science. They urged that this holistic approach be encouraged and that Aboriginal peoples be recognized as equal partners in this effort.

In Toronto, Michelle Swenarchuk of the Canadian Environmental Law Association, discussed a number of issues that demonstrate, she said, that there has been a real lack of communication between environmentalists and Aboriginal peoples. Some of these involved parklands such as Algonquin Park and Quetico Park. Conservationists had struggled for years to have these parks established, she said, and now they were having difficulty accepting that these parks were created in most cases without any consultation with the First Nations who had used the land. Acting on the belief that there are many reasons for agreement between Aboriginal peoples and environmentalists, she described how CELA had sponsored a conference involving the two groups in an effort to find solutions to these disputes.

Ms. Swenarchuk also expressed concern about the misuse of Aboriginal lands for waste and for dumping, by both Aboriginal and non-Aboriginal people trying to avoid the application of provincial regulations. Many abandoned waste

disposal sites in Ontario are located on Aboriginal territory, and some pose imminent health problems. She proposed that Aboriginal communities begin working with the province to develop a way to apply Ontario's waste management regulations on Aboriginal lands.

## Fisheries

The key issue in Round Three with respect to fisheries related to the B.C. salmon fishery and the changes in policy introduced by the federal government's Aboriginal Fisheries Strategy, beginning in 1992, as a result of the Supreme Court decision in *Sparrow*. Strong arguments were made for and against the creation of an Aboriginal commercial fishery, an issue that was not fully resolved by that decision. Many of the issues discussed in B.C. were also raised with respect to Aboriginal fisheries in the North, in Ontario and in Atlantic Canada.

In Vancouver, Simon Lucas, an Aboriginal fisherman who appeared with the Aboriginal Fishing Vessel Owners' Association, offered a vision of the future based on the restoration of salmon and other fisheries as fundamental economic and social components of Aboriginal societies. He said there is evidence that his people have been taking resources from the sea for 4,500 years. Fisheries were the cornerstone of traditional Aboriginal economies on the west coast and had a deep spiritual meaning for their peoples. Their loss could be equated to the loss of the buffalo to First Nations on the prairies.

Mr. Lucas said that fishery resources had been taken from Aboriginal people without compensation and had been mismanaged by governments and by the commercial fishing industry. He urged that the Aboriginal right to harvest be extended to the full range of commercial activity, with the quantity and species to be determined through treaty negotiations.

Ernie Crey, of the Lower Fraser Valley Fishing Authority, said that by the time of the *Sparrow* decision Aboriginal fisheries had been reduced

to a mere four per cent of the total allowable catch of salmon in British Columbia, the amount that Aboriginal people caught for food.

Mr. Crey said the effect of the *Sparrow* decision was to force change in a century of regulations that assumed Aboriginal peoples had no fishing rights. He called the Aboriginal Fishing Strategy a step in the right direction and decried powerful groups that are trying to create a climate of fear and hysteria against his people over the issue. The federal strategy had been clumsy at times, he said, "but it's not the monster certain commercial fishing interests have tried to make it out to be."

The Sto:lo have decided to continue the fight to restore the contribution salmon once made to their economies, he said. They are prepared to work co-operatively while establishing their own fisheries laws and have set up a public involvement committee to allow outsiders to monitor their activity. He said they have no intention of driving non-Aboriginal people out of the industry but are not willing to assimilate into the commercial fishing industry in the way it proposed.

Bob McKamey, Chairman of the B.C. Fisheries Survival Coalition, expressed regret for remarks he made at Maple Ridge, which Aboriginal people had interpreted as racist. He said the Coalition did not believe there should be two commercial fisheries on the west coast. To establish a separate Aboriginal commercial fishery would put the whole industry at risk; this was why the Coalition preferred to encourage more Aboriginal involvement in the commercial industry. He said he was willing to sit down with Mr. Crey's group to try and find a solution for 1993, but that this would require the federal government's involvement.

Phil Eidsvik of the Coalition said that Aboriginal people now represent 30 per cent of the commercial fishery, compared to 4 per cent of the population of British Columbia. There was therefore a danger that the creation of a new Aboriginal fishery up the Fraser River



would affect Aboriginal people already in the industry. He said the Coalition supports an independent agency to manage the fishery because it believed that co-management was unworkable when there were so many groups involved; there are 96 Indian bands with an interest in fishing on the Fraser River alone.

Dennis Brown of the United Fishermen and Allied Workers said the union's criticisms were directed at the government's handling of its Aboriginal Fishing Strategy and not at Aboriginal people. He said the AFS is a political strategy and that virtually all of its decisions have been made in private without consultation or an effort to build consensus in the industry. The union did not object to greater Aboriginal involvement in fisheries management, but it felt the Fraser River fishery was plagued by a lack of control, which jeopardizes the industry. He too emphasized the strong Aboriginal participation in the commercial fishery sector. He supported elements in the AFS aimed at protecting the salmon resource and increasing production, and called for a proactive program of licence and vessel purchases to transfer commercial fishing activity to Aboriginal people and bands.

Joy Thorkelson, who appeared for the UFAW in Prince Rupert, estimated that Aboriginal people made up over 75 per cent of the union's members on the B.C. northern coast. She said the reallocation of fish to new plants located in Aboriginal communities would have devastating effects on the existing operations and on the people who work there, most of whom were members of First Nations. She asked that the government assist in initiating an open dialogue between Aboriginal and non-Aboriginal interests, but said this had been difficult to achieve because of Aboriginal concerns that discussions be on a nation-to-nation basis.

The B.C. fishery was also discussed extensively at Kamloops. Representatives of the Shuswap Nations Fisheries Commission contended that non-Aboriginal operators fishing the approaches to the Fraser River had mismanaged

the fishery and depleted fish populations, and that the federal government had failed to compensate Aboriginal people for the infringement. The Shuswap Commission urged that First Nations participate in collective management of the salmon fishery both in the Fraser watershed and in its ocean approaches.

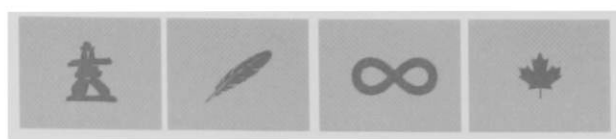
Robert Ross, a Métis fisherman who spoke in Hay River for a group called Concerned Fishermen, was bitterly critical of the Freshwater Fish Marketing Agency for policies that make Aboriginal fishermen feel like slave labourers working in third-world conditions. The agency misuses its monopoly powers, he said, and is vindictive in its regulation of fishermen. Aboriginal peoples should have a voice in conservation harvesting and marketing of freshwater fish, he said, and should have at least 80 per cent of the freshwater harvest because they make up 80 per cent of the licensed fishermen in the region.

In Toronto, David McLaren of the Saugeen Ojibway Nation spoke of the difficulties his nation had encountered in trying to win acknowledgement of its right to fish in Lake Huron for commercial as well as subsistence purposes – a right that has only recently been recognized by a provincial court. He was strongly critical of the Ontario Federation of Anglers and Hunters for issuing misinformation aimed at frustrating access to Aboriginal rights and noted that the Saugeen catch is only one per cent of the total commercial fishing in the Bruce Peninsula area. OFAH's arguments that Aboriginal people should be subject to the same policies as non-Aboriginal fishermen represent a form of reserve racism and systemic discrimination, he said.

At Restigouche, the issue of fishing emerged in the context of treaties involving the Micmac Nation. Gary Metallic, Chief Councillor for the Listuguj Mi'gmaq First Nation Government, called for co-management of the Restigouche salmon fishery and criticized governments for taking extreme measures to deny the existence



of Micmac rights even though those rights are being recognized gradually by the courts. He said Quebec had threatened to halt all provincial funding to his community until they signed a fishing agreement that would provide an annual allotment of only six pounds of salmon per member from the Restigouche River. "This type of action is essentially a provincially imposed economic sanction," he said. "If my people relied on salmon as a main staple we would surely starve."



# The Relationship

◆ In a sense every intervention in Round Three dealt with the relationship between Aboriginal and non-Aboriginal people in Canada. The approach taken by Aboriginal and non-Aboriginal interveners tended to differ, however. For most Aboriginal people and groups, the acceptance of Aboriginal self-government was seen as the foundation for a new relationship based on co-existence and equality. Among non-Aboriginal interveners, the need for self-government was acknowledged but the focus was on practical ways to create an improved relationship and to stop mistakes of the kind made in the past. In both groups, most interveners dealt with the relationship in the context of their concerns about self-determination, self-sufficiency and healing rather than as an independent issue.

There were many references to the need for trust, respect, justice, sharing and co-operation as basic elements in a new relationship. Racism and discrimination were major concerns, as was the need for education to increase awareness and understanding of Aboriginal peoples and issues. There was strong emphasis on the need for dialogue and reconciliation during the Commission's hearings on issues related to the Mohawk Nation and on the need to normalize relations between Mohawk communities and neighbouring non-Aboriginal communities.

Herbert Morven, a Hereditary Chief of the Nisga'a Nation, was one of the interveners who talked about their vision of the future relationship between Aboriginal and non-

Aboriginal people. He had this to say in his welcoming speech to the Commission in Terrace: "We continue to pray for a relationship which has sovereignty as its basis. This new relationship should exercise giving and receiving, sharing not taking, listening not telling, healing not abusing, and seeking not hiding. This new relationship should be based on truth and honesty, [on] human values which respect life...".

Rocky Simpson, of the Hay River Métis Local, drew an analogy with a situation in which there is a victim, an abuser, and a relationship that has to heal. "The abuser must acknowledge and take responsibility for the pain and suffering they have caused. They must deal with the guilt and shame of being an oppressor, and face their victim's anger and pain," he said.

"The victim must heal and grow, understanding that they did not cause the abuse and moving away from that place of blaming and anger. Coping mechanisms used to medicate the pain, such as drugs and alcohol, must also be dealt with. [The victim] must take the time to learn about who they are as a free-standing person, as opposed to someone living in reaction to an oppressor."

In Regina, the Saskatchewan Minister of Indian and Métis Affairs, the Honourable Bob Mitchell, spoke of his province's efforts to resolve Aboriginal issues in the context of Saskatchewan becoming a society "in which everyone participates fully in the processes and

benefits of social and economic development and in which everyone realizes social equity and cultural harmony." The aim, he said, should be "to maximize our self-reliance and maximize self-determination."

In Moncton, Frank Palmater of the New Brunswick Aboriginal Peoples Council said what is needed is not a new relationship, but a return to the original agreement based on co-existence that his ancestors and non-Aboriginal people entered into in the pre-Confederation treaties. He blamed current problems in Aboriginal communities on neglect and denial of that original model of co-existence. Aboriginal and non-Aboriginal Canadians should sign a national treaty of renewal that recognizes Aboriginal culture, language and treaty rights as well as the right of Aboriginal peoples to self-determination and to co-exist with other Canadians, he said.

At Terrace, Chief Gerald Wesley of the Kitsumkalum Band agreed with the concept of trying to balance the needs of Aboriginal and non-Aboriginal people, but warned that this balance should recognize the historical treatment of Aboriginal peoples and not just the situation today. "There has to be recognition by the general populace that there is a terrible imbalance in place right now," he said. "The Native communities and the Native people have to be brought up to a standard, or a certain level, before we can look at exchanging and creating a different form of balance."

Bishop Don Sjoberg, of the Evangelical Lutheran Church of Canada, spoke in Winnipeg about the failures of the past and his church's hopes for the future: "With all Canadians, we share responsibility for the paternalistic patterns of economic, social and cultural oppression. With all Christians, we share responsibility for misunderstanding and devaluating the richness and meaning of Aboriginal spirituality and religious practice. With other Canadians, we share responsibility for the failure of political institutions to

recognize Aboriginal nations within the Canadian federation. With all people, we anguish over the suffering that has resulted and afflicted Aboriginal communities."

"With many Canadians at this time, we do see possibilities for new relationships despite the past history and the many obstacles that will be along the way," he said. This new relationship should be expressed in concrete ways, in civil, political, religious, cultural, educational and social institutions.

Ron Zong of the Manitoba Association of School Trustees called for a new partnership based on trust, co-operation and commitment. He said the historical relationship between Aboriginal and non-Aboriginal people in Canada had been characterized by conflict, oppression, paternalism, and the abuse of power. "However, it would be incorrect to assume that all the current difficulties within the Aboriginal community are attributable to its treatment by non-Aboriginal society. For Aboriginal peoples to take control for their future, they must come to terms with the mistakes made in the past by both groups, and commit themselves to solving the problems these mistakes have created."

In Calgary, a non-Aboriginal journalist, Dave Yager, maintained that the only lasting solution for the relationship is assimilation of Aboriginal peoples into the mainstream of Canada. He spoke of the need for dialogue, but also saw what he called a "silent rage" among non-Aboriginal people with respect to Aboriginal rights. He disagreed with the idea that there is a pocket of wealth and prosperity on one side and a pocket of maltreatment and injustice on the other.

"There are all kinds of generations of people who have moved to Canada, who don't know the treaty story, don't know the Native story and just don't care," he said. "There are 1.6 million people out of work. The idea that there is a 'have' society which is the rest of Canada and a 'have-not' society which is the Aboriginal



community is just wrong. The whole country is turning into a society of have-nots because of high debts and high unemployment.”

Mr. Yager questioned the worth of self-government and the justification for land claims when land is so much more valuable today. As an alternative he proposed a one-time, negotiated, Canada-wide financial settlement with every Aboriginal Canadian followed by an ending of the reserve system. He acknowledged that a huge amount of money would be involved – perhaps \$20 to \$50 billion.

Rosaire Gendron, mayor of Pointe-à-la-Croix, Quebec, expressed misgivings about the relationship with the Aboriginal community at a round table in Restigouche. His concerns involved Aboriginal claims over fishing rights on the Restigouche River, land claims that involved the municipality’s territory, and Aboriginal businesses on the Restigouche reserve that he said were competing unfairly by not charging taxes on sales to non-Aboriginal people. In addition, contact between individuals was difficult because of the language barrier and because students from the reserve went to school across the river in New Brunswick. Mayor Gendron expressed the wish that the Restigouche Band Council would take part in regional organizations along with neighbouring municipalities.

## Racism

Racism was seen as a major concern in the relationship between Aboriginal and non-Aboriginal people during Round Three. Interveners spoke of negative stereotypes, of systemic discrimination, and of finding racism in history books, in libraries, in schools, in the justice system and in church groups.

A number of young people spoke of their experiences with racism at a youth forum in Lethbridge. Amber Flett said stereotypes of Aboriginal people as drunks were pervasive when she went to high school. “When you hear

this almost every day, you are more than angry, you are hurt, and you feel like you are ashamed and...an outcast. This is how I felt for most of my junior high years.” Kathy First Rider spoke about her experience teaching the Blackfoot language to white people: “They laughed at a lot of things, like our culture, the things that we believe. Yet, our belief goes right into the stars, how the patterns form – the sun, the moon. They laughed; they thought we were superstitious.”

Kristen Many Bears, a Grade 10 student, said people had to stop fighting and underestimating each other. “Everyone has to accept everyone for who they are. If we all just listen and understand each other, we can make this possible. We would be able to live our lives and forget about the people next door and begin to get rid of discrimination and stereotypes.”

Ronnie Leah, a non-Aboriginal professor of sociology, reported the results of a study on racism carried out with the Sik-oo-h-Kotoki Friendship Centre in Lethbridge. The study indicated that Aboriginal people in southern Alberta experience systemic racism and discrimination in their daily lives at both the individual and the institutional level and linked this experience to low self-esteem and destructive behaviour. Ms. Leah cited cases of Aboriginal people being refused employment, a hotel room, housing, and service at a store, as well as racist treatment from police and from fellow students. She reported that Aboriginal women who move to the city from a reserve find it particularly hard to deal with pressures related to racism and discrimination.

In Winnipeg, Kris Ramchandrar of the city’s Community and Race Relations Committee urged that Canadian society make a concerted effort to eliminate racism and build new relationships with Aboriginal communities based on mutual respect and justice. She painted a gloomy picture of the current situation: “In the Canadian context, it is a fact that the majority of non-Aboriginals accept the belief

that Native Indians are inferior. This belief has been passed on from generation to generation through racist attitudes and actions, television, schools, movies, government policies, books and other media. Many immigrants to Canada quickly buy into the mistaken assumptions and negative stereotypes of the white majority without looking into the root of the problem. These beliefs have been expressed in many cases, in blatant racism and prejudice against Aboriginals. One only has to look at the justice and child welfare systems to see the devastating effects of colonialism."

Christine Lwanga, of the Saskatoon Multicultural Council, spoke of the co-operation between the Council and the Aboriginal community and called for a holistic approach to racism aimed at achieving equality, economic power and political power for women, Aboriginal peoples, racial and other minority groups. "We are all made up of one human race and the myth about race is the very same ideology that has been used to dehumanize some people while making other people superior," she said.

In Toronto, Phyllis Fisher of the Canadian Friends Service Committee linked racism with the use of violence against Aboriginal people, not just in history but also today. "Overt violence seems to be increasing as the First Peoples seek redress from cultural oppression," she said. "It would appear to be deliberate policy to force people to the wall, and when they react, to respond as a law and order issue... The First Peoples have been largely non violent in their resistance. However, if the official response is to goad them continually, then reactive violence must be expected. No one wants another Oka, but the people cannot remain patient and ignored forever." Ms. Fisher said the power relationships in today's society are abhorrent. "We seek to create together a society in which diversity is welcomed, and violence is no longer an option."

At the London hearing, members of the Atenlos Women's Group made a similar connection with respect to women. They said sexist, racist stereotypes of the Aboriginal 'squaw' have made Aboriginal women and girls vulnerable to gross physical, psychological and sexual violence. "The portrayal of the squaw is one of the most degrading, most despised and most dehumanizing anywhere in the world."

At an Orillia round table on relationships, Jim Commandant of the Barrie Native Friendship Centre spoke of racism as the number-one killer of the relationship between Aboriginal and non-Aboriginal people. He said racism divides nations, prevents the development of those who suffer from it, and handicaps those who use it.

Mr. Commandant said that eliminating racism requires more than government action and should involve business, labour, community-based organizations and individual citizens. His proposals included more public education about Aboriginal peoples at all levels; use of the media to tell people that racism hurts everyone in society; and a commitment by people in public life to attack racism. He also proposed that governments intervene to prevent the publication of material that portrays Aboriginal peoples negatively or as stereotypes.

Interveners offered a large number of proposals to deal with racism. Many focused on education of students and of adults and on the need for cross-cultural education for non-Aboriginal people in positions such as teaching and social services. In London, the Can Am Friendship Centre of Windsor recommended that boards of education have a written anti-racism policy and establish a system to handle complaints about racism by students. Rena Kinney, who spoke at a women's round table in Prince George, recommended that more Aboriginal history be included in school history books and that school boards be made accountable for tuition funds they receive from the federal government on behalf of Aboriginal students.



## Approaches and Models

During Round Three, interveners put forward numerous initiatives aimed at creating a better relationship between Aboriginal and non-Aboriginal people in Canada. These included descriptions of practical approaches that are operating successfully in specific communities and private sector initiatives aimed at Aboriginal people in the workplace (described earlier).

Among the most comprehensive of these initiatives was one from the Calgary Aboriginal Awareness Society, a joint body formed by the city's Friendship Centre and its Chamber of Commerce with equal representation from the Aboriginal and non-Aboriginal communities. Marlena Dolan spoke of the Society's efforts to re-establish the relationship between the two communities and to assist in the healing process by providing a forum for generating respect and promoting Aboriginal culture.

Ms. Dolan described the success of the Society's major undertaking, an annual Native Awareness Week held to coincide with Aboriginal Solidarity Day on June 21. Included in the week's events are art exhibits, demonstrations by elders, an open house at Plains Indian Cultural Survival School, a conference on doing business with Aboriginal people, and Aboriginal plays and cultural events. Ms. Dolan said Calgary is the only city with a Native Awareness Week, but she suggested that the idea become national as a means of improving the relationship between the two communities.

Representatives of the Calgary Chamber of Commerce spoke of joint initiatives with the Aboriginal community that had helped improve the relationship and had also been good for business. One of the Chamber's projects was a series of workshops aimed at Aboriginal students in high school on such subjects as culture, self-esteem, confidence building, and careers. They said Calgary's was the first chamber of commerce in Canada to form an Aboriginal Opportunities Committee, in 1979.

In Kamloops, Mayor Clifford Branchflower described a "Statement of Political Relationship" that the Kamloops Indian Band and city council signed in 1992. He said the agreement commits the parties to hold full joint council meetings twice a year to discuss matters of mutual interest and provides for quarterly meetings between the mayor and the chief to monitor the implementation of decisions taken.

In the area of social services, representatives of the John Howard Society described their efforts to make staff, directors and volunteers reflect the proportion of Aboriginal people in the prison population the Society serves. Lisa Allgaier, chair of the Aboriginal policy sub-committee, said in Winnipeg that the Society has traditionally seen its service as generic when in fact it promotes the systems of the majority rather than of Aboriginal peoples. She said that in the long run, all service organizations like the John Howard Society should have staff and board representation that corresponds to the population they serve.

Donna Lillie of the Canadian Diabetes Association spoke in Toronto of difficulties in seeking to build partnerships and provide diabetes prevention programs in Aboriginal communities. She said the Association had come to learn that individual communities and elders must define their own priorities and that these must be honoured, even if this means delaying the creation of a prevention program. Mutual respect and understanding between Aboriginal and non-Aboriginal perspectives are required, she said, to create lasting change.

Robert Doucette, representing the development agency CUSO, spoke in Saskatoon of the benefits of coalitions and alliances in raising issues related to Aboriginal peoples within Canada. He said there were also benefits from contact between Aboriginal and non-Aboriginal people in Canada and Indigenous people and Indigenous issues in other countries. One of these benefits is that Canadians may listen to Aboriginal issues if they are raised by someone



from outside the country, when they would show less interest in Aboriginal issues closer to home.

Two provincial governments were represented in Round Three of the hearings, Saskatchewan and Quebec. In Regina, the Honourable Bob Mitchell, Minister of Indian and Métis Affairs, said Saskatchewan was trying to focus on co-operative approaches on an issue-by-issue basis. He was optimistic about the relationship with Aboriginal people in his province and felt that the Oka crisis had had the effect of waking people up; it made them realize that the present system had failed on all sides and that there was a real need to look at the idea of self-government.

Mr. Mitchell spoke of arrangements for regular consultations between the elected leaders of the Federation of Saskatchewan Indian Nations and a group of Saskatchewan cabinet ministers. The government intended to consult regularly in the same way with the Métis Society of Saskatchewan.

He said this should be a model for the three levels of government and called for a co-operative approach instead of unilateral action: "Nobody can afford the present situation. It is absurd for us to be working at cross-purposes as we very frequently are...We all have to live together and we all have to work together." This provoked discussion with a Commissioner, who noted that the appointment of provincial ministers of Aboriginal affairs is a recent development. Apart from the negotiations related to the Charlottetown and Métis National Accords, he said, there has never been a structure where the two levels of government meet to discuss Aboriginal issues.

Mr. Mitchell spoke of developing a range of public authorities made up of the provincial government and of Aboriginal governments that would jointly manage and control different programs. He portrayed this as a half-way house to full Aboriginal management, rather than as a permanent mechanism. While these were

delegated powers, he said, this was better than doing nothing and waiting for constitutional change. He said the arrangement was flexible and could operate in a limited area or for the whole province, as well as including municipalities. Some co-management agreements were already in place, in such areas as forestry, waters, wildlife, and care of the environment.

In Montreal, the associate secretary-general of Quebec's Native Affairs Secretariat, André Maltais, spoke for the provincial government. He said that there should be genuine acceptance of the distinct Aboriginal identity among non-Aboriginal Quebecers but that at present there is more resentment than understanding. He also detected a more radical note in Aboriginal discourse, which he attributed to the events since the Oka crisis of 1990.

"Nonetheless I believe strongly that Québécois can rapidly become open again to the Aboriginal reality if we can find a way out of the almost constant climate of confrontation which seems to characterize relations between Quebec and a very small proportion of the Aboriginal population of Quebec. For us it has become essential to negotiate a new *modus vivendi* which will seem acceptable and viable both to Aboriginal people and to non-Aboriginals."

Mr. Maltais reviewed Quebec's programs for Aboriginal peoples in a positive light. He said the province is now spending as much on Aboriginal peoples in Quebec as the Department of Indian Affairs and that Quebec spends twice as much on its Aboriginal population as Ontario does, even though its Aboriginal population is half that of Ontario. Living conditions in Aboriginal communities are better, often in a major way, than those in most Aboriginal communities in the northern parts of other provinces, he said.

He offered a number of examples of Quebec initiatives aimed at facilitating Aboriginal control of important sectors of their society, as indications of the province's commitment to improve its relations with Aboriginal peoples.

These included the Kahnawake hospital, school boards and other government services for the Cree, the guaranteed income program for trappers and hunters in the James Bay area, support for Aboriginal cultural programs, and agreements for Aboriginal teacher training. He noted Quebec's desire to move forward as expressed in the current development of a Quebec policy on self-government and the naming of special negotiators to review the James Bay Agreement with the Cree and to reach a new social contract with the Atikamekw and Montagnais Council.

Mr. Maltais said that with hindsight, it was a grave error to have made Aboriginal communities that were fundamentally self-sufficient dependent on the federal government. The omnipresence of the federal government in their lives had had a strong impact on Aboriginal peoples' perception of themselves as well as contributing to negative perceptions among non-Aboriginal people.

Looking ahead, he said that self-government will be a powerful tool of emancipation, but that Aboriginal people should accept the need eventually to pay the costs of self-government on the same basis as non-Aboriginal people.

Quebec believes that new arrangements with Aboriginal peoples should be negotiated, he said, not imposed on a unilateral basis. It is important, however, to agree on a number of common rules in order to move away from the current impasse. "The basic principles of democracy and the Charter of Rights are not negotiable. How they are applied can vary depending on whether one is in an Aboriginal or a non-Aboriginal milieu." In his view, this meant that all residents within an Aboriginal territory should be able to exercise their individual and collective rights as citizens, although provisions to guarantee Aboriginal control of their governments would be acceptable.

## The Mohawks

During Round Three the Commission devoted a full week of hearings to issues related to the Mohawk Nation and the three eastern-most Mohawk communities of Akwesasne, Kahnawake and Kanesatake, with all Commissioners taking part. The Commission gave these hearings special priority because of the significance of the events of 1990 – the summer-long confrontation between a group of Mohawks and the Quebec provincial police and Canadian army at Kanesatake/Oka, the blockade of the Mercier Bridge at Kahnawake, and the gambling disputes at Akwesasne – for the relationship between Aboriginal and non-Aboriginal people in Canada and particularly in Quebec.

The hearings began with a tour of the Mohawk reserve at Akwesasne, near Cornwall, which helped to illuminate the jurisdictional difficulties facing a single Mohawk community whose territory overlaps five federal, provincial and state jurisdictions. The first full day of hearings was devoted to an exposition by traditional chiefs of the Great Law of Peace, the foundation of the Haudenosaunee or Iroquois Confederacy to which the Mohawks belong and the basis of Iroquois traditional government. On the second day of hearings at Akwesasne the Commission heard a variety of interveners, including the chief and members of the elected council and community leaders from Cornwall.

Two days were spent at Kahnawake, where interveners included both the elected council and representatives of the Traditional Longhouse from Kahnawake and Kanesatake. On the fifth day the Commission held two round tables in downtown Montreal in order to hear from non-Aboriginal citizens and elected representatives, first from Chateaugay and then from Oka. The Commission was unable to get agreement from the political leadership of the community to hold hearings at Kanesatake.

During this week of hearings the Commission heard 41 presentations involving more than 80



individuals. One quarter of the interveners were non-Aboriginal, primarily those who appeared at the two round tables.

The priority issues that the communities put forward were policing and security for Mohawks in Kahnawake and non-Aboriginal people from Chateaugay; border rights and the problems flowing from divided jurisdiction at Akwesasne; and land and the future status of the community at Kanesatake.

There was a widespread desire to see healing and a rebuilding of relationships after the breakdown in 1990. Non-Aboriginal interveners concentrated on practical and immediate suggestions to help achieve this objective. Mohawk interveners emphasized the need to restore the original relationship that their ancestors had agreed to in the Two Row Wampum. This treaty represented a solemn agreement between the Iroquois and European settlers to respect each other's customs and laws.

## **Policing and Security**

Foremost among the immediate issues involving the Mohawk communities were questions of policing and security which, for both Mohawk and non-Aboriginal interveners, were a continuing reminder of what took place in 1990. People from both sides at Kahnawake/Chateaugay expressed the desire to see a de-escalation and a return to normal, but they differed on how this should take place.

For the Mohawks of Kahnawake the primary concern was the presence of the Sûreté du Québec and the Royal Canadian Mounted Police in their territory, both of which continue to patrol the Mercier Bridge approaches running through Kahnawake, and their desire to see Mohawk Peacekeepers fully recognized as an autonomous police force. For non-Aboriginal interveners, the priority issue was a general concern for public security. This was focused on the continuing presence of Mohawk checkpoints at the entrances to Kahnawake and on a lack of confidence in the policing capacity

of the Mohawk Peacekeepers. Linked to this was the perception that a double standard of justice is being applied to Mohawks, particularly related to the trade in cigarettes.

Phil Schneider, legal counsel to the Mohawk Council of Kahnawake, said the reserve is the most protected and policed community in North America and that members of the community are constantly being stopped and checked unnecessarily. He said the Mohawk force is perfectly capable of working without duplication and noted that there is a trend to Aboriginal policing throughout North America because Aboriginal communities are more comfortable with their own people as peace officers. To reduce the tension at Kahnawake, he recommended that the SQ and RCMP patrols be removed from the highways crossing the reserve.

Marianne Roy of the Human Rights Watch Committee, a mixed Aboriginal and non-Aboriginal group that appeared at the Kahnawake hearing, also called for removal of the SQ and RCMP and for a joint police force to be created as an alternative. She said the Quebec government's policy of 'encirclement' tends to cast the entire community as criminals in the eyes of most Quebecers and reinforces the perception of nearby residents that a security problem exists. Government words and deeds generate a kind of public hysteria toward the Mohawk population, she said, and this attitude is fuelled relentlessly by the media.

Grand Chief Joe Norton of the Mohawk Council of Kahnawake criticized both French and English media in Montreal for "straight out racism, the hatred...the image that is portrayed of us about Mohawks hiding behind every tree and every rock, and if you go into Kahnawake, watch yourself... We don't want to be viewed as a threat to anybody," he said. "I don't believe that we are."

At the non-Aboriginal round table Jean-Bosco Bourcier, mayor of Chateaugay, spoke of the psychological after-effects of the 1990 blockade



and of the frustration, fear and anger that had affected his community. He expressed concern about the checkpoints and about the Mohawks' posting of guards and he recalled the images of the Mohawk Warriors seen during the 1990 crisis. He proposed that the two communities reach an agreement about security.

MNA Pierrette Cardinal and Michael Hackett, a Chateauguay councillor, both raised questions about the competence of the peacekeepers at Kahnawake and suggested this be addressed by having them trained externally, either by the SQ or at RCMP headquarters in Regina. Ricardo Lopez, federal MP for the area, blamed the federal and Quebec governments for allowing two kinds of justice and for failing to apply the law equally on the Mohawk reserve. His solution was to disband the Warriors, disarm people on the reserve, and have the SQ patrol all of Kahnawake and apply the law in the same way as anywhere else in the province.

Michael Ben Sabat, a citizen of Chateauguay, took a different approach. He noted that the people of Kahnawake had felt threatened when there were tanks and soldiers and that the checkpoints helped create a greater sense of security. He said that regular police training was not appropriate for work in an Aboriginal community in the same way that the training the Mohawk Peacekeepers received would not be appropriate for patrolling a non-Aboriginal community like Chateauguay.

Earlier in the week, Ernie Houghton, a former Ontario Provincial Police inspector who now heads the Akwesasne Mohawk Police, strongly supported the need for First Nations to have their own police force and deplored the media obsession with the 1990 crisis in Akwesasne which, he said, diverted attention from the achievements of the community. He made a number of recommendations concerning First Nations policing. These included the use of community police commissions; creation of a training facility for First Nations officers oriented to the special needs of policing

Aboriginal communities; and making First Nations policing a federal responsibility so as to overcome the current disparity in standards.

Kahnawake is currently negotiating a police agreement with Quebec and Canada, following a precedent already in place at Akwesasne. Mr. Schneider, the lawyer for Kahnawake, said these negotiations were not proceeding quickly enough and recommended that the federal government unilaterally recognize the authority of the Peacekeepers if progress continued to be slow.

At Akwesasne the question of jurisdiction was raised with respect to policing. Deborah Thomas, speaking for a group of women who had been reinstated on the reserve under Bill C-31, made an impassioned plea that police investigate the two violent deaths that occurred at Akwesasne during the 1990 crisis. Later, Grand Chief Mike Mitchell said his community wanted an inquiry into more than 50 deaths that had occurred over the past 20 years but that could not be investigated because of the geographical characteristics of the community.

The question of courts and of a Mohawk code of justice was discussed at both Akwesasne and Kahnawake. The Commission was told that the Mohawk courts, which deal with local infractions in these communities, are having difficulty being recognized in neighbouring jurisdictions. Grand Chief Norton looked forward to the creation of a Mohawk system of justice that would focus on prevention and in which offenders would be dealt with in the community, using the clan system, with courts used only as a last resort.

## **Border Issues**

At Akwesasne Grand Chief Mike Mitchell linked the cross-border trade in cigarettes to the long-standing struggle of Mohawks to have Canada recognize their Aboriginal right to transport goods across the Canada-U.S. border free of duty.

"Akwasasne is being targeted by the outside media and the outside people as a community of smugglers [and as] a haven for crime," he said. "We have the unfortunate responsibility of having...to point the finger back at Ottawa and say you created this mess, you have the solution... The solution lies in negotiating with First Nations leaders."

Grand Chief Mitchell contended that both Canada and the manufacturers were lining their pockets from the sale of cigarettes and asked why First Nations were labelled as criminal when they began to do the same thing. He said Akwasasne was prepared to negotiate over border issues and to discuss a process for regulating the trade in cigarettes and other goods, but that its initiatives had fallen on deaf ears and the community had not even been able to arrange a meeting with ministers. Grand Chief Joe Norton of Kahnawake supported the idea of a political settlement. He said that he had broken the law hundreds of times by bringing goods across the border, but maintained that these violations were a by-product of Canada failing to try to find a solution.

The Mohawks asked that Canada recognize the provisions of the Jay Treaty of 1794 between Britain and the United States that were intended to protect the Aboriginal right to passage of persons and goods across what is now the Canada-U.S. border. The Supreme Court of Canada ruled in 1956 that as Canada had not passed legislation to implement the relevant section of the treaty, it no longer applied. The treaty permitted Aboriginal peoples to take "their own proper goods and effects" across the border free of duty, but did not exempt goods in bales and large packages "unusual among Indians" from duty. A new case initiated by Mohawks from Akwasasne to test the application of the Jay Treaty is now before the courts.

## Land and Land Claims

Land was a central issue for the Mohawks as it was for Aboriginal communities at many other hearings across Canada. Mohawk land rights at Kanesatake have been in dispute for more than two centuries and were the underlying issue in the Oka crisis.

Curtis Nelson of the Kanesatake Longhouse urged that Mohawk land claims be negotiated based on the position that the land is primarily Aboriginal land – "When the non-Indian people arrived here, they brought no land." – but he said it would be dreaming to say that the Mohawks wanted all their land back. He linked the land issue to broader issues of self-government and recognition of the Mohawk Nation and its traditional form of government. His people need land to survive, he said, to have self-determination and to build an economy.

At the Montreal round table, Gilles Landreville, speaking for both the Village and Parish of Oka, contended that the Mohawk land claim was no stronger than in 1912 when it had been rejected by the Privy Council in London. He suggested that the 1990 crisis had been a last-ditch effort by radicals in the Mohawk community to get the federal government to reopen discussions on this land claim.

Mr. Landreville noted that the land that the federal government is currently acquiring on behalf of the Mohawks would provide Kanesatake with four times the land area of the Village of Oka, for a population that is half as large. He underscored the need for the neighbouring municipalities to be included in discussions with the Mohawk community about the expansion of the Kanesatake land base. People in the community were concerned that they might find themselves living next to a segregated Aboriginal community surrounded by checkpoints, he said.

Bud Morris, administrator for the Mohawk Council of Kahnawake, urged that additional land be transferred to the community without

prejudicing the final settlement of Mohawk land claims, since the land issue would eventually have to be settled. He said Kahnawake now has 13,200 acres for 6,000 people and that it needs more land as an economic base.

At Akwesasne, interveners spoke of the lands their community had lost with the construction of hydroelectric dams and the St. Lawrence Seaway in the 1950s. Lloyd Benedict said that, at that time, the community had reluctantly approved a \$35,000 offer of compensation for islands that would be submerged by the dam, an offer that Ontario Hydro had put forward on a take-it-or-leave-it basis. Grand Chief Mitchell welcomed a proposal by Hydro to negotiate this past grievance. He said the community was seeking a settlement of \$56 million along with the return of 103 acres of land.

## Governance

Questions of governance focused on the relationship between the elected Mohawk Councils at Akwesasne and Kahnawake and traditional forms of government based on the Longhouse and the Iroquois Confederacy. The context of these interventions was the overall objective of the Mohawk Nation to achieve greater Mohawk autonomy and recognition of the Mohawks' inherent right to self-determination. At present, Mohawk Councils administer most services previously provided by federal departments, using federal funding. The federal government retains the power to overturn by-laws by the councils.

As Grand Chief Mitchell described it, the Akwesasne community is coming together again, and there is increasing co-operation between the elected council, the Mohawk Tribal Council and the Traditional Council. He said the elected council has recognized traditional government as the historical government of the Iroquois Confederacy, but that there is also a need for a more limited body – the elected government – to carry out administrative functions.

Grand Chief Norton said a similar situation prevails at Kahnawake in what he described as a transition period. His job, he said, “is to get rid of this position of Grand Chief and the *Indian Act* and get it out of Kahnawake” in favour of a traditional form of government.

The Commission heard from several groups representing traditional people at Kahnawake and pressed for answers about how Canada should recognize traditional governments. Charlie Patton, of the Mohawk Trail Longhouse, recommended that negotiations take place with the External Relations Committee of the Iroquois Confederacy, or Haudenosaunee, since it was the Confederacy that made the original treaties with the European newcomers. Stuart Miyow Jr., of the Stuart Miyow Longhouse of the Quarry, said that the Governor General should speak for Canada and deal only with the true traditional people, excluding any Mohawk who had accepted foreign laws or the authority of the elected council.

Speakers for Women of the Longhouse said that the existence of multiple longhouses was inconsistent with the Great Law. They said that if the Mohawks were left alone, they could re-establish their traditional system, in which women would judge the men who would speak and chiefs would be required to listen to the people.

All representatives of the longhouses agreed on the basic objective of restoring a nation-to-nation relationship between Mohawks and Canada based on the Two Row Wampum rather than the *Indian Act*. Kahn-Tineta Horn and Dale Dion, who spoke in Kahnawake on their own behalf, put the case for the Mohawks as a sovereign people who are neither Canadian nor American citizens. They said the Mohawks should be entitled to self-determination under international law.

Speaking for the Mohawk Council of Kahnawake, Arnold Goodleaf said the desire to restore traditional government had also been



formally expressed, as one of a number of issues to be discussed, in the framework agreement regarding Canada-Kahnawake relations, concluded in 1991. He blamed the federal government for the lack of progress in the negotiations, which had been meant to conclude by November 1993. "We called for good faith and we haven't seen it," he said. "We called for negotiations to take place in a spirit of equality, mutual respect towards co-existence; that hasn't occurred."

Mr. Goodleaf said the intent of the negotiations was to arrive at a series of agreements that in the end would be protected under umbrella legislation, passed federally and by the Mohawks of Kahnawake, to be known as the Canada-Kahnawake Intergovernmental Relations Act. He said the Mohawks had entered into these discussions on the basis of government-to-government negotiations with the federal government, and he criticized the federal government for subsequently insisting that Quebec be added to the negotiations. He said the federal policy on self-government tied the hands of the federal negotiators so badly that it was almost useless to go to the table with them.

At the two Montreal round tables, non-Aboriginal interveners from Oka and Chateauguay spoke to the practical problems they had experienced in dealing with Mohawk governments. They expressed frustration at not knowing who spoke for the Mohawks and at having their efforts to open a dialogue or to launch joint initiatives either ignored or rebuffed.

## **The Relationship: Mohawks and Non-Aboriginal Society**

Throughout the hearings both Mohawk and non-Aboriginal interveners emphasized the need for dialogue and reconciliation and expressed their willingness to negotiate outstanding issues rather than settle them by confrontation. Many blamed governments for

failing to address issues affecting the Mohawk communities or for lacking the political will to resolve them. Both groups – Mohawk and non-Aboriginal – were urged to moderate their positions in an effort to find solutions or, as councillor Michael Hackett of Chateauguay put it, "It is a question of everybody putting a little water in their wine."

The desire for dialogue was clearly expressed by leaders of both groups, including Grand Chief Mike Mitchell of Akwesasne, Grand Chief Joe Norton of Kahnawake, Mayor Jean-Bosco Bourcier of Chateauguay, and Gilles Landreville, speaking for the Village and the Parish of Oka.

This was also a priority for citizens who took part in the two round tables. Mr. Ben Sabat urged that the politicians publicly demonstrate their intention to improve relationships with Aboriginal people. Education about Aboriginal peoples is needed in the schools, and the laws against racism should be strengthened and enforced. Contact between the communities should be encouraged through cultural and sporting competitions and through youth exchanges.

Pierrette Cardinal, MNA for Chateauguay, suggested that both sides acknowledge problems that had harmed their relationship in the past. "Wouldn't the people of Kahnawake benefit by admitting that there is a problem of smuggled weapons, cigarettes and alcohol in their community," she said. "Wouldn't Québécois benefit in admitting that they feed and encourage this smuggling, and that it's up to them to solve this problem?"

Ms. Cardinal noted that the problems in the relationship were linked to the need for both Mohawks and the non-Aboriginal community to recognize the legitimacy of the other side. "Wouldn't it be preferable to accept that we are all here to stay, that our presence is legitimate and that it's better for us to develop a peaceful relationship than to refuse to talk?"

On the Mohawk side the emphasis was on re-establishing a relationship based on co-existence, one in which Canada and the provinces no longer dominate the Mohawk Nation. As Grand Chief Mitchell put it at Akwesasne, this means revisiting the original concepts embodied in the Two Row Wampum.

"We never relinquished our right over water," he said. "We never relinquished our rights over land. So there is a lot of interesting discussions that will have to occur as to what the Mohawks see as their territory and what they are going to govern. It should have taken place a long time ago."

Speaking of the federal government, Charlie Patton of the Mohawk Trail Longhouse said at Kahnawake that, "you have to clear out that thinking that you are our father and we are your children... You have to look at this land and say that we are equals, we are nations."

"What we have to do is begin to make a commitment on both sides to eliminate the things which are causing our conflicts," he said. "We have to look at making a relationship where peace, living together and respecting each other is at the forefront...If we don't plant the seeds of a strong mutual relationship where we respect each other's nations, nation to nation, then what will our children have in the future?"

Mohawks also had to bear a part of the responsibility, he said. "We have seen too much finger pointing and saying, 'it is all the white man's fault'... I think it takes two to have conflict... You have to clean up your house and we have to clean up ours...But if we as nations are committed to making that work, then we can do it."

Curtis Nelson said the Kanesatake Longhouse was sorry for the death and sicknesses that resulted from the Oka crisis. (The Longhouse had opposed the use of weapons at the time of the crisis.) "It is of the utmost importance that we do everything in our power to ensure that the dark forces that ran rampant that long hot

summer are never again unleashed," he said.

He too spoke of the need to work together to create a relationship based on peaceful coexistence and mutual respect. "We have an opportunity to ensure that history does not repeat itself," he said. "Let us take that opportunity."

At the hearings a number of specific proposals were offered as means of rebuilding the relationship between Mohawks and the larger society, and evidence was offered of initiatives already begun. Mayor Jean-Bosco Bourcier of Chateauguay asked that Kahnawake identify an interlocutor with whom to build a relationship based on mutual respect. "Just as the Mohawks lived by certain rules," he said, "so do we...let Mohawks make the first step."

Mr. Bourcier spoke of a non-political Planning Committee that the town of Chateauguay had established in November 1990 to implement programs aimed at bringing Chateauguay and Kahnawake closer together. This had led to some co-operative action, but to date no comparable group had been formed in Kahnawake.

The mayor spoke of collaboration between the two communities in the development of tourism, of public transit, and of environmental programs, and he proposed the creation of an international institute on Aboriginal relations to be located on their territory.

He concluded by reiterating Chateauguay's willingness to meet with the Mohawk chiefs any time they wanted to, but he added: "The last time I asked for such a meeting, we were told then that it was too soon. So I hope that this 'too soon' is not 'too late', that it is the right time to meet together and discuss these matters."

Ms. Cardinal also spoke of joint action, notably in bringing business leaders from the two communities together to address the problem of inadequate economic development on the south shore. Citing experience in Quebec with the

Cree and with the Atikamekw and Montagnais Council, she proposed that both the government and the Mohawks appoint special negotiators who could sound out the possibility of a sustainable reconciliation.

Participants at the round table underlined their interest in undertaking joint projects with Kanesatake aimed at economic development, both to assist the economy and as a means of building better relations between the two groups. They said such initiatives had been set back, however, both by the federal government and by the Mohawk community's reluctance to take part. Michel Beaulne, president of the Oka Chamber of Commerce, also suggested the appointment of a negotiator who could bring the Mohawk Council of Kanesatake and the municipalities together.





## Schedule of Hearings – Round Three

Akwesasne Mohawk Nation  
*May 3-4, 1993*

Kahnawake, Quebec  
*May 5-6, 1993*

Montreal, Quebec  
*May 7, 1993*

North Bay, Ontario  
*May 10-11, 1993*

Sarnia, Ontario  
*May 10, 1993*

Regina, Saskatchewan  
*May 10-11, 1993*

Saskatoon, Saskatchewan  
*May 12-13, 1993*

London, Ontario  
*May 11-12, 1993*

Orillia, Ontario  
*May 12-14, 1993*

Brantford, Ontario  
*May 13, 1993*

Lethbridge, Alberta  
*May 24-25, 1993*

Terrace, British Columbia  
*May 25, 1993*

Prince Rupert, British Columbia  
*May 26, 1993*

Montreal, Quebec  
*May 25-28, 1993*

Calgary, Alberta  
*May 26-27, 1993*

Thompson, Manitoba  
*May 31 - June 1, 1993*

Winnipeg, Manitoba  
*June 2-3, 1993*

Sudbury, Ontario  
*May 31 - June 1, 1993*

Toronto, Ontario  
*June 2-4, 1993*

Prince George, British Columbia  
*May 31 - June 1, 1993*

Vancouver, British Columbia  
*June 2-4, 1993*

Kamloops, British Columbia  
*June 14-15, 1993*

Kelowna, British Columbia  
*June 16-17, 1993*

Moncton, New Brunswick  
*June 14-15, 1993*

Restigouche, Quebec  
*June 17-18, 1993*

Edmonton, Alberta  
*June 14-15, 1993*

Elizabeth Metis Settlement, Alberta  
*June 16, 1993*

Hay River, Northwest Territories  
*June 17, 1993*

# Afterword

Verbatim transcripts of the third round of hearings were prepared as they were for the first and second rounds. To make them more widely accessible to the public, these transcripts, along with those from the previous rounds, have been published in electronic form. The sets of diskettes come with an English-language software package that is easily installed and that permits access to and searching of the data files. This electronic publication is available for purchase through Libraxus Inc., 221 Patterson Avenue, Ottawa, Ontario, K1S 1Y4, telephone/facsimile (613) 567-2484.

To increase public access, the transcripts in electronic form have also been provided to the main branch of the library in each provincial/territorial capital.

Hard copies of the transcripts are also available for purchase from Steno Tran, 1376 Kilborn Avenue, Ottawa, Ontario, K1H 6L8, telephone (613) 521-0703.

Should members of the public wish to comment or provide advice on the issues in the Commission's mandate, they can do so by writing to the Royal Commission on Aboriginal Peoples, Information Management Unit, P.O. Box 1993, Station B, Ottawa, Ontario, K1P 1B2. Such advice will be brought to the attention of Commissioners for consideration during their deliberations.

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