



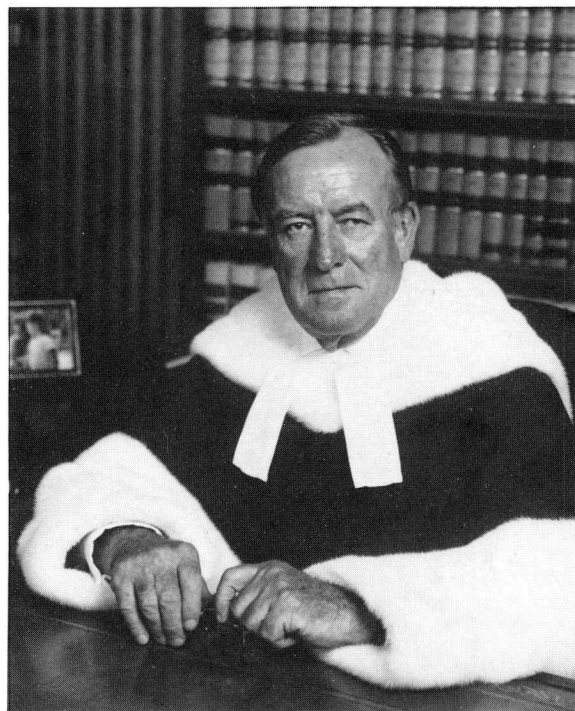
**The Mandate**  
**Royal Commission**  
**on**  
**Aboriginal**  
**Peoples**

**Background Documents**

**August 1991**



LIBR-00001



Former Chief Justice Brian Dickson

“This wonderful country is at a crucial,  
and very fragile, juncture in its history....  
Any process of change or reform in Canada  
- whether constitutional, economic or social -  
should not proceed, and cannot succeed,  
without aboriginal issues being an important part of the agenda.”



# Table of Contents

- A Press Release/Communiqué dated 27th August, 1991  
by Prime Minister Brian Mulroney  
re the Royal Commission on Aboriginal Peoples
- B Federal Order in Council dated 26th August, 1991,  
reference P.C. 1991-1597
- C Report of the Special Representative respecting the  
Royal Commission on Aboriginal Peoples

A large, white, serif capital letter 'A' is centered on a black background. The letter is simple and elegant, with a slight shadow or depth to its strokes.

**Press Release/Communiqué dated 27th August, 1991  
by Prime Minister Brian Mulroney  
re the Royal Commission on Aboriginal Peoples**





# Release

Date: August 27, 1991

For release: Immediate

## ROYAL COMMISSION ON ABORIGINAL PEOPLES

Prime Minister Brian Mulroney today announced the establishment of the Royal Commission on Aboriginal Peoples, to be co-chaired by Georges Erasmus, former National Chief of the Assembly of First Nations and the Honourable René Dussault, Justice of the Quebec Court of Appeal.

The other members of the Commission appointed today are:

- The Honourable Allan Blakeney, former Premier of Saskatchewan;
- Paul Chartrand, head of the Department of Native Studies, University of Manitoba;
- Viola Robinson, President of the Native Council of Canada (retiring);
- Mary Sillett, President of the Inuit Women's Association of Canada (retiring) and Vice-president of the Inuit Tapirisat of Canada (retiring);
- and the Honourable Bertha Wilson, former Justice of the Supreme Court of Canada.

The executive director will be Jean T. Fournier, currently Under-Secretary of State with the Secretary of State of Canada.

The Royal Commission, established by Order in Council (copy attached) will examine a broad range of issues concerning aboriginal peoples in Canada. The terms of reference were recommended by former Chief Justice Brian Dickson, who served as the Prime Minister's special representative and consulted widely on the mandate and membership of the Commission.

The Prime Minister believes that full participation of Canada's aboriginal peoples in the country's economic prosperity and political life is a goal shared by all Canadians. The establishment of the Royal Commission, one of the key elements of the government's Native Agenda, reflects this shared goal. The Royal Commission will complement, and not substitute for, current efforts at constitutional reform.

- 2 -

In thanking former Chief Justice Dickson, the Prime Minister expressed particular appreciation for the timeliness of his report and the sensitivity to aboriginal concerns displayed in the recommendations.

- 30 -

For further information:

Department of Indian Affairs and Northern Development  
Contact: Monika Quinn, 613-997-0002

Department of Justice  
Contact: Owen Lippert, 613-992-1246

Chief Justice Dickson  
Contact: Stephen J. Toope, 514-398-6642

# B

**Federal Order in Council dated 26th August, 1991,  
reference P.C. 1991-1597**



PRIVY COUNCIL

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General  
on the 26th day of August, 1991

The Committee of the Privy Council, on the recommendation of the Prime Minister, advise that a Commission do issue under Part I of the Inquiries Act and under the Great Seal of Canada appointing:

- (a) the Honourable Allan Blakeney of Saskatoon, Saskatchewan
- (b) Paul Chartrand of Winnipeg, Manitoba
- (c) the Honourable René Dussault of Sillery, Quebec
- (d) Georges Erasmus of Yellowknife, Northwest Territories
- (e) Viola Robinson of Tatamagouche, Nova Scotia
- (f) Mary Sillett of Happy Valley-Goose Bay, Labrador, and
- (g) the Honourable Bertha Wilson of Ottawa, Ontario

to inquire into and report upon the matters set out in pages 10 to 18 of the report dated August 2, 1991 to the Prime Minister from the Right Honourable Brian Dickson attached hereto as Schedule I, and

The Committee do further advise that:

- (1) pursuant to section 56 of the Judges Act, the Honourable René Dussault, be authorized to act as a Commissioner in the inquiry;
- (2) the Commissioners be authorized to adopt such procedures and methods as they may consider expedient for the proper conduct of the inquiry and to sit at such times and in such places as they may decide, especially in aboriginal communities across Canada;

- 2 -

- (3) the Commissioners be authorized to create regional or issue-specific task forces or advisory bodies as they deem appropriate to assist them in the examination of any aspect of their terms of reference;
- (4) the Commissioners be authorized to commission and publish special studies or commentaries as may be appropriate from time to time;
- (5) the Commissioners be authorized to invite an aboriginal person selected by his or her community to sit as a special advisor to the Commission, without remuneration, for days on which the Commission chooses to sit in an aboriginal community;
- (6) the Commissioners be authorized to rent such space and facilities as may be required for the purposes of the inquiry, in accordance with Treasury Board policies;
- (7) the Commissioners be authorized to engage the services of such experts and other persons as are referred to in section 11 of the Inquiries Act, at such rates of remuneration and reimbursement as may be approved by the Treasury Board;
- (8) the Commissioners be directed to govern their inquiry by the considerations set out in pages 24 to 26 of the report to the Prime Minister from the Right Honourable Brian Dickson attached hereto as Schedule II;
- (9) the Commissioners be authorized to submit interim reports on specific issues as they deem necessary to the Governor in Council in both official languages;
- (10) the Commissioners be directed to submit a final report to the Governor in Council in both official languages with all reasonable dispatch;

...3

SCHEDULE ITerms of Reference

"The Commission of Inquiry should investigate the evolution of the relationship among aboriginal peoples (Indian, Inuit and Métis), the Canadian government, and Canadian society as a whole. It should propose specific solutions, rooted in domestic and international experience, to the problems which have plagued those relationships and which confront aboriginal peoples today. The Commission should examine all issues which it deems to be relevant to any or all of the aboriginal peoples of Canada, and in particular, should investigate and make concrete recommendations concerning:

1. The history of relations between aboriginal peoples, the Canadian government and Canadian society as a whole.

This investigation may include studies of historical patterns of aboriginal settlement and governance, the Royal Proclamation of 1763, the development and interpretation of pre- and post-confederation aboriginal treaties, the evolution of political arrangements in the North, and social tensions which have characterized the relationship between aboriginal and other Canadian communities. Building upon this historical analysis, the Commission may make recommendations promoting reconciliation between aboriginal peoples and Canadian society as a whole, and may suggest means by which aboriginal spirituality, history and ceremony can be better integrated into the public and ceremonial life of the country.

2. The recognition and affirmation of aboriginal self-government; its origins, content and a strategy for progressive implementation.

The Commission's investigation of self-government may focus upon the political relationship between aboriginal peoples and the Canadian state. Although self-government is a complex concept, with many variations, the essential task is to break the pattern of paternalism which has characterized the relationship between aboriginal peoples and the Canadian government. The Commission should review models of self-government which have been developed in Canada and around the world, and should make recommendations concerning fiscal arrangements and economic development initiatives necessary for successful transitions to self-government. The scope, effect and future elaboration of ss. 25 and 35 of the Constitution Act, 1982 may be evaluated.

3. The land base for aboriginal peoples, including the process for resolving comprehensive and specific claims, whether rooted in Canadian constitutional instruments, treaties or in aboriginal title.

- 3 -

- (11) the Commissioners be directed to file the records and papers of the inquiry as soon as reasonably may be after the conclusion of the inquiry with the Clerk of the Privy Council; and

The Committee do further advise that the inquiry be known as the Royal Commission on Aboriginal Peoples, that the Honourable René Dussault and Georges Erasmus be Chairpersons of the Commission, and that Jean T. Fournier of Ottawa, Ontario be appointed Executive Director of the Commission.

CERTIFIED TO BE A TRUE COPY - COPIE CERTIFIÉE CONFORME



CLERK OF THE PRIVY COUNCIL - LE GREFFIER DU CONSEIL PRIVÉ

The Commission may investigate and explain the deep spiritual and cultural ties which bind aboriginal peoples to the land, the relationship between an adequate land base and economic development, and the importance of environmental protection. It may also outline appropriate processes for the settlement of outstanding comprehensive and specific claims. The scope, effect and future elaboration of ss. 25 and 35 of the Constitution Act, 1982 may be evaluated in relation to the land base as well as to self-government.

4. The historical interpretation and application, and potential future scope, of s. 91(24) of the Constitutional Act, 1867 and the responsibilities of the Canadian Crown.

An investigation of s. 91(24) may include examination of the internal political organization of aboriginal communities, the obligations of the federal Crown towards aboriginal people, the representation of aboriginal people in Canadian political institutions, and the relationship and potential for conflict between s. 91(24) and aboriginal notions of law and the legal process.

5. The legal status, implementation and future evolution of aboriginal treaties, including modern-day agreements.

An investigation of the historic practices of treaty-making may be undertaken by the Commission, as well as an analysis of treaty implementation and interpretation. The Commission may also want to consider mechanisms to ensure that all treaties are honoured in the future.

6. The constitutional and legal position of the Métis and off-reserve Indians.

The Commission may examine legislative jurisdiction concerning the Métis and Non-Status Indians, and investigate the economic base of, and the provision of government services to, these people and to off-reserve and urban Indians.

7. The special difficulties of aboriginal people who live in the North.

The Commission may investigate the difficulties and cost of communications and transport, issues of environmental protection, sustainable economic and social development, access to natural resources, and any differential treatment of northern aboriginal people by the Canadian and Territorial Governments.



8. The Indian Act and the role, responsibilities and policies of the Department of Indian Affairs and Northern Development (DIAND).

The Commission may investigate in particular the legislative scheme of the Indian Act, the relationship between that scheme and the evolving policies of DIAND, the theory of aboriginal-government relations implicit in the Indian Act, and the future of the Act and of DIAND. All of these could be examined to determine whether existing federal legislation and administrative practices are consistent with evolving theories of Canadian law, including aboriginal and treaty rights.

9. Social issues of concern to aboriginal peoples.

In particular, the Commission may study and make concrete recommendations to improve the quality of life for aboriginal peoples living on reserve, in native settlements and communities, and in rural areas and cities. Issues of concern include, but are not limited to: poverty, unemployment and underemployment, access to health care and health concerns generally, alcohol and substance abuse, sub-standard housing, high suicide rates, child care, child welfare, and family violence.

10. Economic issues of concern to aboriginal peoples.

The Commission may investigate the problems of developing a viable economic base for aboriginal peoples, unemployment, access to labour markets, discrimination in employment, taxation and custom duties.

11. Cultural issues of concern to aboriginal peoples.

In particular, the Commission may investigate the protection and promotion of aboriginal languages, recognition by Canadian society and institutions of the intrinsic value of aboriginal spirituality, recognition by Canadian society and institutions of the intrinsic value of aboriginal family structures and child care patterns, and the protection of traditional hunting, fishing and trapping ways of life.

12. The position and role of aboriginal elders.

The Commission may examine the social and economic conditions of elders as a group, their traditional role in aboriginal societies and whether existing laws and governmental practices respect and accommodate that role, and the continuing role for elders in aboriginal societies.

13. The position and role of aboriginal women under existing social conditions and legal arrangements, and in the future.

The Commission may examine, in particular, issues related to financial and property provisions upon divorce, access to the labour market, definitions of membership in aboriginal groups, and the role of native women in political institutions in their own communities and in non-native society.

14. The situation of aboriginal youth.

The Commission may investigate access to education, access to community leisure and sports facilities, alcohol and substance abuse, suicide amongst youth, and funding for youth programmes. The Commission may also focus upon means of enhancing and promoting a positive self-image in aboriginal youth, especially in the way they view the relationship between their historical and cultural roots and contemporary educational institutions.

15. Educational issues of concern to aboriginal peoples.

In particular, the Commission may investigate aboriginal control over primary and secondary education on reserves and in native communities (including issues of funding), the promotion and protection of aboriginal cultural identity in educational institutions (including institutions where aboriginal students are a minority group), the encouragement of aboriginal children to complete secondary education, and access to and funding for post-secondary education (including college, university and technical training).

16. Justice issues of concern to aboriginal peoples.

In particular, the Commission may investigate and make concrete recommendations concerning the relationships between aboriginal people and the police (with the policing function broadly conceived to include dispute resolution and community service), the promotion of respect for aboriginal people and culture within the justice system, techniques to aid aboriginal people in comprehending court processes especially through the provision of interpretation services, means to decrease the rate of incarceration of aboriginal offenders, methods to improve conditions of incarceration for aboriginal offenders, and the potential to elaborate aboriginal justice systems and to incorporate principles of aboriginal legal culture into the Canadian justice system."

SCHEDULE II

(1) Matters for the Royal Commission

There was widespread agreement among the people with whom I consulted on the following points:

- (a) Although, in deference to the constitutional reform processes, I have tried to avoid framing 'constitutional' Terms of Reference, it is inevitable that constitutional issues will arise under some of the Terms of Reference. There is a real potential for confusion, duplication, inefficiency and waste which needs to be avoided. In terms of timing, it is essential that the Commission which has much important work to do, some of which may touch on constitutional issues, provide any recommendations it may have on constitutional reform issues in a timely fashion.
- (b) The Royal Commission should consider travelling extensively to native communities throughout Canada. Native people do not want to be studied; rather they want to meet the Commissioners and tell their stories in person, preferably in the communities in which they live.
- (c) The Royal Commission may want to consider sitting in smaller panels (e.g. panels of two or three members for some of its hearings. This might permit wider public access to the Commission, encourage a deeper consideration of some issues, and save money.
- (d) The Terms of Reference for the Royal Commission contain a provision authorizing the release of interim reports. The Commission might find this mechanism particularly appropriate if its recommendations on certain topics would be useful in other public policy fora such as the constitutional reform processes.
- (e) The Royal Commission might want to consider the possibility of an advisory role for native elders. The position and role of elders are highly valued and honoured in most native communities. Elders might be able to assist the Commission in its communication with native communities and in its understanding of native traditions and values.

- (f) The Royal Commission should consider carefully the questions of timing and expense. Although Royal Commissions have played an important role in Canadian public life, the perception of many ordinary Canadians is that they move slowly and cost a lot. The Commission must address these two issues creatively.
- (g) Perhaps most importantly, the Royal Commission should seriously try to identify and articulate solutions to current problems. Many of the problems are well-known and well-documented; further study would be superfluous and condescending. On the other hand, a Commission genuinely focused on trying to discover solutions to those problems would be a valuable enterprise indeed. I agree with Professor David Newhouse of the Department of Native Management at Trent University who wrote to me in these terms:

It is important that the Commission carry out its work with both a knowledge of the history of aboriginal people and our future goals and to use that knowledge to inform and guide its work. The Commission should not be another study of the problems facing aboriginal people, for these have been well documented in numerous reports, studies, and presentations. In addition, there have been many solutions proposed by a variety of individuals, groups and associations, both aboriginal and non-aboriginal. Some of these solutions are currently being tried within our communities with varying degrees of success. What is important at this time is that the Commission examine the various solutions, efforts and activities and point the way for Canadians to support the continued development of aboriginal communities.

# C

**Report of the Special Representative respecting the  
Royal Commission on Aboriginal Peoples**

Special Representative  
respecting the  
Royal Commission on Aboriginal Peoples



Représentant spécial  
concernant la  
Commission royale sur les peuples autochtones

The Right Honourable Brian Dickson

Le très honorable Brian Dickson

August 2, 1991

The Rt. Hon. Brian Mulroney,  
Prime Minister of Canada,  
House of Commons,  
Ottawa, Ontario.  
K1A 0A6

Dear Prime Minister:

#### INTRODUCTION

On April 23, 1991, Prime Minister, you delivered a major address at the First Nations Congress in Victoria, British Columbia and announced that the Government would establish a Royal Commission to examine certain aboriginal issues. You said:

The Government will proceed to appoint a Royal Commission to examine the economic, social and cultural situation of the aboriginal peoples of the country. The Royal Commission should not be seen as a substitute for constitutional reform which is another important part of the answer in resolving the problems of the aboriginal peoples.

The Government acted upon your announcement in the Speech from the Throne to Open the Thirty-fourth Parliament of Canada on May 13, 1991. The Speech stated:

The full participation of Canada's aboriginal peoples in Canada's economic prosperity and political life is a goal shared across the country. To put itself in a position to respond more effectively to the

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needs of the aboriginal peoples of Canada, my government will appoint the Right Honourable Brian Dickson, former Chief Justice of the Supreme Court of Canada, to serve as a special representative of the Prime Minister in order to consult widely on the terms of reference and membership of the Royal Commission announced recently and report back to my government.

Particular care will be taken to ensure that the Commission neither delays nor negates constitutional, legislative or other reforms already under way. These reforms include land claim settlements, community development initiatives, education and other activities launched during the second session of the Thirty-Fourth Parliament. In cooperation with Indian people themselves, my government will explore alternatives to the Indian Act, especially concerning land, monies and self-government. Finally, my government will consult aboriginal Canadians on changes in the system of administering justice. The goal is to work with Canada's aboriginal peoples so that they control their own lives, can contribute to Canadian prosperity and can share fully in it.

I accepted your invitation to serve as a special representative for three reasons. First, during my years on the Supreme Court of Canada I participated in several landmark cases dealing with a variety of important aboriginal issues. In several of those cases - for example, Guerin, Simon and Sparrow - I wrote reasons for judgment. This meant that I spent long weeks, sometimes months, researching aboriginal history and traditions and their relationship to contemporary social, cultural, economic and political issues. This process of research, reflection and writing prompted in me a great interest in our aboriginal people, their history, their current frustrations and their aspirations for a better future. Although I have now retired from the Supreme Court of Canada, my interest in these matters has not abated.



My second reason for accepting your invitation was a simple one - my own notion of public service. I believe that if a Prime Minister asks one for advice and assistance, one should do his or her best to provide them. In a democracy, an ordinary citizen should be prepared to participate in the public affairs of his or her society in whatever way is possible.

My third, and most important, reason for accepting your invitation has nothing to do with my former professional life as a lawyer and judge. Rather, as an ordinary Canadian I feel deeply that this wonderful country is at a crucial, and very fragile, juncture in its history. One of the major reasons for this fragility is the deep sense of alienation and frustration felt by, I believe, the vast majority of Canadian Indians, Inuit and Métis. Accordingly, any process of change or reform in Canada - whether constitutional, economic or social - should not proceed, and cannot succeed, without aboriginal issues being an important part of the agenda. I believe (and my many conversations with native people in recent weeks confirm this belief) that the proposed Royal Commission has the potential to be a valuable component of a process to resolve some of the pressing problems that confront many, many natives in their daily lives. The Commission's work could also serve to educate the non-native public about aboriginal history, culture and aspirations. Because I sincerely believe this, I was prepared to



try to do my part to assist in establishing a first-rate Royal Commission.

Against this background, I turn now to my assigned task. The Speech from the Throne mandated me to "consult widely" on the terms of reference and membership of the Royal Commission. I took very seriously this instruction to consult widely. I began by requesting meetings with six major national aboriginal groups. All responded affirmatively to my request. Within two weeks of my appointment I held long and productive meetings with the leadership of the Assembly of First Nations (May 17), the Native Council of Canada (May 23), the Métis National Council (May 23), the Inuit Tapirisat of Canada (May 24), the National Association of Friendship Centres (May 28) and the Native Women's Association (June 4). I also attended, at the invitation of the national leaders, the annual meetings of the Assembly of First Nations and the Native Council of Canada in Winnipeg on June 11-12, and met with the full Board of the Inuit Tapirisat of Canada in Ottawa on June 13.

Since these first meetings, I have kept in close contact and held many additional meetings with these representational aboriginal groups. My notion of consultation is not simply to listen to someone's views one time and then to go away and write a report. Rather, meaningful consultation must flow from a genuine dialogue; in the process in which I have been engaged,

that has meant listening to the views of the native leadership at a first meeting, trying to assimilate and understand those views, formulating my own ideas, testing those ideas at subsequent meetings with the leaders, revising my ideas based on the comments I have received at those subsequent meetings and then, and only then, writing my report. I have been told repeatedly that this broad consultation has been very much appreciated, and that such a process will be equally important with regard to the staffing of the Royal Commission.

I also decided that it was important to solicit the views and advice of native leaders and other natives not connected to the national organizations. I did this in two ways. First, I asked the national organizations for lists of local groups and leading native individuals so that I could write to all of them. Secondly, I adopted an open-door policy at my Ottawa office - in late May and throughout June I met with every native group and individual who requested a meeting (see Appendix 1 for list of meetings).

I also formed the opinion that I needed the benefit of the views of acknowledged experts in many aspects of native life. I asked various native leaders and a number of leading academics to identify those experts for me and I then wrote to all of them.

Additionally, the Privy Council Office placed an advertisement in the major national newspapers and in all of the native newspapers of which we were aware (Appendix 2). As well, I issued a Press Release on May 27 (Appendix 3). Both the advertisement and the Press Release invited Canadians to write to me with their advice about the mandate and composition of the Royal Commission.

The results of this consultation process were that between May 18 and July 5 I held meetings with 57 native groups or individuals, experts, federal Cabinet Ministers, all seven native Parliamentarians, senior public servants and other Canadians. I sent 1,682 letters to individual natives and received 165 replies. I sent 12 letters to the provincial and territorial heads of Government and received 9 replies. I sent 291 letters to experts and to major organizations interested in native issues and received 153 replies. Finally, I received 207 submissions in response to the advertisement placed in the newspapers by the Privy Council Office.

I did my best to listen carefully to, and to understand the views expressed by, the hundreds of people who met with me in recent weeks. I have also tried to digest the large number of written submissions that I have received. Based on all of these meetings and submissions I am now ready to provide you with my advice on the two matters you left with me - the terms of

reference or mandate of the Commission, and the composition or membership of the Commission. Before doing so, however, I want to say a few words about my impressions at the end of a rather hectic, but also very invigorating and inspiring, consultation process.

After meeting hundreds of native and non-native Canadians and studying hundreds of written submissions in the last few weeks, I have formed two very strong impressions. The first is that the vast majority of Canadian natives - and I mean ordinary native people, not just their political leaders - are deeply frustrated and profoundly disappointed with the way they perceive that they have been, and are today, treated by Canadian governments (of all levels) and with their current economic, social and cultural position in the Canadian polity. They feel that their historical position in Canada, their traditions and values, and their aspirations are not well-understood by most non-native Canadians, and that they are not respected and supported by Canadian governments. The breadth and depth of this frustration and disappointment trouble me deeply.

I do not mean to say that there have been no improvements in the lives of many natives and that governments, including the federal Government, have not played a useful role in contributing to some of these improvements. For example, in an area I regard as particularly crucial, namely education, it is truly noteworthy

that the Government provides financial assistance to approximately 22,000 native college and university students. This is a spectacular increase in the number of native students attending post-secondary institutions and augurs well for the future. It could not have happened without governmental support. Progress has also been made in other areas. Nevertheless, there is a strong and widespread feeling among many natives that progress on certain important fronts has been too slow.

My second impression is a very different one. The frustration and disappointment felt by many natives have not, perhaps surprisingly, given way to cynicism. In only one meeting did I meet a native person who believed that there was no hope for change and improvement. The reason for the absence of cynicism is, I believe, that most Canadian natives are remarkably decent, fair, tolerant and compassionate people. There was a palpable integrity about virtually all the native people I met during my consultations.

I would specifically and explicitly use the words in the preceding sentences to describe the native leadership, at both the national and local levels. I was very impressed with their dedication, eloquence and common sense. I was also moved by the place that their sense of history and their spirituality play in their professional lives.

My two impressions lead me to a single conclusion. The Royal Commission on Aboriginal Peoples presents a real, and rare, opportunity to improve the lives of Canada's one million native people, and thereby the lives of all Canadians. I agree with Mr. John Amagoalik, the highly respected former President of the Inuit Tapirisat of Canada, who wrote to me in these terms:

I feel the aboriginal peoples of Canada are at an important crossroads. Things can either begin to improve or else the original citizens of this country will sink further into despair and hopelessness.

There have been many earlier studies - federal and provincial; general and issue specific; commissions, inquiries and task forces. Several have produced outstanding reports with concrete recommendations, for example the Hawthorn Report, the Berger Report, the Lysyk Report, the Coolican Report and the Penner Report. I hope that the Royal Commission will build on the excellent research and recommendations contained in these reports.

I believe that if the mandate of the Royal Commission is a good one and if the Commission is composed of truly outstanding people, then its report and recommendations should be of great value to governments and to ordinary Canadians. I hope that the advice I tender to you in the rest of this report will provide a solid basis on which your Government can establish a Royal Commission with these attributes. I also hope that the

Government and Parliament will then demonstrate the political will to follow through on the recommendations of the Royal Commission. In your Victoria speech you said that "We are on the threshold of producing very beneficial and lasting change. By 'we', I mean the aboriginal peoples and the government, together, as partners." I say respectfully, Prime Minister, that you have articulated a worthy goal and process in that statement.

A. TERMS OF REFERENCE

I have been convinced during the process of consultation in which I have engaged that the terms of reference for the Royal Commission on Aboriginal Peoples must be broad and comprehensive. The issues facing the Commission are difficult, multifaceted, and interrelated. Not all regions or groups share the same concerns. It would be impossible and counterproductive to limit artificially the scope of the Commission's work. I therefore propose the following terms of reference for the Commission, which will in other respects be governed by the provisions of the Inquiries Act.

Terms of Reference

"The Commission of Inquiry should investigate the evolution of the relationship among aboriginal peoples (Indian, Inuit and Métis), the Canadian government, and Canadian society as a whole.

It should propose specific solutions, rooted in domestic and international experience, to the problems which have plagued those relationships and which confront aboriginal peoples today. The Commission should examine all issues which it deems to be relevant to any or all of the aboriginal peoples of Canada, and in particular, should investigate and make concrete recommendations concerning:

1. The history of relations between aboriginal peoples, the Canadian government and Canadian society as a whole.

This investigation may include studies of historical patterns of aboriginal settlement and governance, the Royal Proclamation of 1763, the development and interpretation of pre- and post-confederation aboriginal treaties, the evolution of political arrangements in the North, and social tensions which have characterized the relationship between aboriginal and other Canadian communities. Building upon this historical analysis, the Commission may make recommendations promoting reconciliation between aboriginal peoples and Canadian society as a whole, and may suggest means by which aboriginal spirituality, history and ceremony can be better integrated into the public and ceremonial life of the country.



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An investigation of s.91(24) may include examination of the internal political organization of aboriginal communities, the obligations of the federal Crown towards aboriginal people, the representation of aboriginal people in Canadian political institutions, and the relationship and potential for conflict between s.91(24) and aboriginal notions of law and the legal process.

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11. Cultural issues of concern to aboriginal peoples.

In particular, the Commission may investigate the protection and promotion of aboriginal languages, recognition by Canadian society and institutions of the intrinsic value of aboriginal spirituality, recognition by Canadian society and institutions of the intrinsic value of aboriginal family structures and child care patterns, and the protection of traditional hunting, fishing and trapping ways of life.

12. The position and role of aboriginal elders.

The Commission may examine the social and economic conditions of elders as a group, their traditional role in aboriginal societies and whether existing laws and governmental practices respect and accommodate that role, and the continuing role for elders in aboriginal societies.

13. The position and role of aboriginal women under existing social conditions and legal arrangements, and in the future.

The Commission may examine, in particular, issues related to financial and property provisions upon divorce, access to the labour market, definitions of membership in aboriginal groups, and the role of native women in political institutions in their own communities and in non-native society.

14. The situation of aboriginal youth.

The Commission may investigate access to education, access to community leisure and sports facilities, alcohol and substance abuse, suicide amongst youth, and funding for youth programmes. The Commission may also focus upon means of enhancing and promoting a positive self-image in aboriginal youth, especially in the way they view the relationship between their historical and cultural roots and contemporary educational institutions.

15. Educational issues of concern to aboriginal peoples.

In particular, the Commission may investigate aboriginal control over primary and secondary education on reserves and in native communities (including issues of funding), the promotion and protection of aboriginal cultural identity in educational institutions (including institutions where aboriginal students are a minority group), the encouragement of aboriginal children

to complete secondary education, and access to and funding for post-secondary education (including college, university and technical training).

16. Justice issues of concern to aboriginal peoples.

In particular, the Commission may investigate and make concrete recommendations concerning the relationships between aboriginal people and the police (with the policing function broadly conceived to include dispute resolution and community service), the promotion of respect for aboriginal people and culture within the justice system, techniques to aid aboriginal people in comprehending court processes especially through the provision of interpretation services, means to decrease the rate of incarceration of aboriginal offenders, methods to improve conditions of incarceration for aboriginal offenders, and the potential to elaborate aboriginal justice systems and to incorporate principles of aboriginal legal culture into the Canadian justice system."

\* \* \*

I would also recommend that the following special provisions relating to the operation of the Royal Commission be included in the order-in-council creating the Commission. These provisions

would promote the smooth functioning of the Commission and would ensure the transparency and efficacy of Commission processes.

"The Commissioners should:

- (1) be authorized to adopt such procedures and methods as they may consider expedient for the proper conduct of the inquiry and to sit at such times and at such places as they may decide, especially in aboriginal communities across Canada;
- (2) be authorized to create regional or issue-specific task forces or advisory bodies as they deem appropriate to assist them in the examination of any aspect of their terms of reference;
- (3) be authorized to commission and publish special studies or commentaries as may be appropriate from time to time;
- (4) be authorized to invite an aboriginal person selected by his or her community to sit as a special advisor to the Commission, without remuneration, for days on which the Commission chooses to sit in an aboriginal community;
- (5) be authorized to submit interim reports on specific issues;



- (6) be directed to submit a final report with all reasonable dispatch.

**B. COMPOSITION OF THE ROYAL COMMISSION**

During my consultations almost 480 people were recommended to me as potential Commissioners. One of the most striking impressions with which I am left at the end of this process is that Canada is blessed with remarkable human resources. The people who were suggested to me are a diverse group, but most of them shared a common characteristic -- a dedication to community service. Some of the people recommended would be well-known to the majority of Canadians, having served in public office or pursued careers in the public eye. Many other people were less well-known, but no less impressive, having devoted their lives to work in their local communities.

Because so many outstanding people were brought to my attention, my final recommendations for membership on the Commission were arrived at only after difficult deliberation. I am confident that the people I am recommending are accomplished, forthright and of good will. They are people who will work constructively to find solutions to problems. They come from very different backgrounds, but were widely acclaimed by many people who wrote to me from across the country. They share a

common determination to make this Royal Commission a positive force for change and reconciliation.

I have chosen to recommend a seven-member Royal Commission, with four aboriginal members and three non-aboriginal members. A seven-member Commission allows for appropriate contributions from the various aboriginal communities -- Status Indians on reserve, urban and off-reserve Indians, Métis and Inuit. It also provides the opportunity to consider the important issues of geographic, linguistic and gender balance. Each person I am recommending will serve in his or her personal capacity, and I am confident that the diversity of background and experience will lead to fruitful discussions and broadly-supported conclusions.

Throughout my consultations I was told again and again that it was essential that aboriginal people constitute a majority of the Commission. Aboriginal people are obviously going to be most directly affected by the recommendations of the Commission. Moreover, if 'self-government' means anything, it must mean that aboriginal perspectives are central to any redefinition of the relationship between native communities and the Canadian polity as a whole. The aboriginal members of the Commission that I am proposing are truly outstanding individuals -- thoughtful, reasonable, creative and articulate.

The non-aboriginal members of the Commission bring a wealth of experience in public service in their various fields. They also share an openness of spirit, creativity and commitment to a fair resolution of the problems they must investigate. I am convinced that they will help to ensure that this Royal Commission will be of inestimable benefit to all Canadians.

I am honoured to recommend the following people for appointment to the Royal Commission on Aboriginal Peoples (in alphabetical order):

- (1) Allan Blakeney - former Premier of Saskatchewan  
(Saskatchewan);
- (2) René Dussault - Justice of the Quebec Court of Appeal  
(Québec);
- (3) Paul Chartrand, Head of the Department of Native Studies,  
University of Manitoba (Manitoba);
- (4) Georges Erasmus, Former National Chief of the Assembly of  
First Nations (Northwest Territories);
- (5) Viola Robinson, President of the Native Council of Canada  
(Retiring) (Nova Scotia);

- (6) Mary Sillett, President of the Inuit Women's Association of Canada (Retiring) and Vice-President of the Inuit Tapirisat of Canada (Retiring) (Newfoundland and Labrador);
- (7) Bertha Wilson, Former Justice of the Supreme Court of Canada (Ontario);

Finally, I am recommending that Mr. Justice René Dussault and Mr. Georges Erasmus co-chair the Commission. I have no doubt that they will bring energy and commitment to the Commission, and that they will lend enormous credibility to its processes.

#### C. RELATED ISSUES

During my consultations and study I became aware of several matters relating to the proposed Royal Commission which were of great concern to many aboriginal people. These matters are relevant to both the Royal Commission and the Government. They should not, in my view, be dealt with explicitly in the Terms of Reference for the Commission because, in the end, they are issues that the Commission and Government must address for themselves. However, I thought it appropriate to bring these matters to your attention, Prime Minister, so that you, your Government, the Royal Commission and Aboriginal peoples could consider them.

(1) Matters for the Royal Commission

There was widespread agreement among the people with whom I consulted on the following points:

- (a) Although, in deference to the constitutional reform processes, I have tried to avoid framing 'constitutional' Terms of Reference, it is inevitable that constitutional issues will arise under some of the Terms of Reference. There is a real potential for confusion, duplication, inefficiency and waste which needs to be avoided. In terms of timing, it is essential that the Commission which has much important work to do, some of which may touch on constitutional issues, provide any recommendations it may have on constitutional reform issues in a timely fashion.
- (b) The Royal Commission should consider travelling extensively to native communities throughout Canada. Native people do not want to be studied; rather they want to meet the Commissioners and tell their stories in person, preferably in the communities in which they live.
- (c) The Royal Commission may want to consider sitting in smaller panels (e.g. panels of two or three members)

for some of its hearings. This might permit wider public access to the Commission, encourage a deeper consideration of some issues, and save money.

- (d) The Terms of Reference for the Royal Commission contain a provision authorizing the release of interim reports. The Commission might find this mechanism particularly appropriate if its recommendations on certain topics would be useful in other public policy fora such as the constitutional reform processes.
- (e) The Royal Commission might want to consider the possibility of an advisory role for native elders. The position and role of elders are highly valued and honoured in most native communities. Elders might be able to assist the Commission in its communication with native communities and in its understanding of native traditions and values.
- (f) The Royal Commission should consider carefully the questions of timing and expense. Although Royal Commissions have played an important role in Canadian public life, the perception of many ordinary Canadians is that they move slowly and cost a lot. The Commission must address these two issues creatively.

- (g) Perhaps most importantly, the Royal Commission should seriously try to identify and articulate solutions to current problems. Many of the problems are well-known and well-documented; further study would be superfluous and condescending. On the other hand, a Commission genuinely focused on trying to discover solutions to those problems would be a valuable enterprise indeed. I agree with Professor David Newhouse of the Department of Native Management at Trent University who wrote to me in these terms:

It is important that the Commission carry out its work with both a knowledge of the history of aboriginal people and our future goals and to use that knowledge to inform and guide its work. The Commission should not be another study of the problems facing aboriginal people, for these have been well documented in numerous reports, studies, and presentations. In addition, there have been many solutions proposed by a variety of individuals, groups and associations, both aboriginal and non-aboriginal. Some of these solutions are currently being tried within our communities with varying degrees of success. What is important at this time is that the Commission examine the various solutions, efforts and activities and point the way for Canadians to support the continued development of aboriginal communities.

(2) Matters for the Government

There was widespread agreement among the people with whom I consulted on the following points:

- (a) I refer the Government to 1(a) above - i.e. the need to co-ordinate constitutional processes.
- (b) Effective access to and participation in the work of the Commission are essential to the Commission's success. Accordingly, the Government, in conjunction with the Royal Commission, will have to consider carefully the question of funding for individuals and groups who want to appear before, and make submissions to, the Commission.
- (c) There is an overwhelming public sense that the reports of Royal Commissions are often ignored by governments. I may well have heard the phrase "gather dust on some government shelf" more than any other phrase during my recent consultations! I would recommend, therefore, that the Government actively address the process and mechanisms for considering, adopting and implementing the Commission's recommendations.

#### CONCLUSIONS



I want, Prime Minister, to thank you for inviting me to serve as your Special Representative to advise your Government on the mandate and composition of the Royal Commission on Aboriginal Peoples. I have enjoyed my consultations with many native leaders and people, and with Cabinet Ministers, Parliamentarians and public servants. I especially want to thank all of those people who provided me with their views, whether in personal meetings or through correspondence.

I also want to convey to you my appreciation for the excellent co-operation and administrative support I received from the public service. The Privy Council Office provided logistical and administrative support in a most professional way. The PCO also retained three people to provide me with administrative and research assistance - Dean Jim MacPherson of Osgoode Hall Law School, Associate Dean Stephen Toope of McGill Law School and Ms. Deborah Melanson. I want to express my gratitude to them for agreeing, on very short notice, to provide me with their assistance for a few weeks.

I would also like to thank personnel in the Deputy Minister's Office, the Policy Branch and the library at the Department of Indian Affairs and Northern Development for providing me with material I requested. I also thank the Embassies of Brazil and the United States, the High Commissions of Australia and New Zealand, and the Canada Branch Office of the

International Labour Organization for their co-operation in my research efforts.

May I say in concluding that I firmly believe the proposed Royal Commission has the potential to be an important instrument of education and reconciliation. I agree with Sister Anne Campbell of the Presentation Sisters of Newfoundland and Labrador who wrote to me in these terms:

This is a most crucial time with relations between First Nations and the Canadian government. The climate within the Canadian non-Native public as a whole would seem to be highly in favour of addressing the injustices suffered by Native people.

The Royal Commission must take this crucial opportunity to offer concrete solutions for real social and political change that will translate into a more just and equitable standard of living and preferred future for Native people.

I have no doubt that if the Royal Commission adheres to some of Sister Campbell's themes -- the willingness of non-native Canadians to be educated about and support solutions to the injustices of the past, and a commitment to identify and articulate concrete solutions to those injustices -- it will help to fashion a new compact between the aboriginal and non-

aboriginal peoples of Canada. If that happens, then your Government will have played a major role in working with aboriginal people to establish for them a more secure place and richer lives in the Canada of tomorrow.

Yours sincerely,

*1000 400 - 27*  
Brian Dickson  
Special Representative  
Respecting the Royal Commission  
on Aboriginal Peoples

Attachs.

## APPENDIX/ANNEXE 1

### CONSULTATIONS

#### May 17, 1991

1. Chief Georges Erasmus, Assembly of First Nations.

#### May 21, 1991

2. The Hon. David Marshall,  
Executive Director,  
Canadian Judicial Centre

#### May 23, 1991

3. Senator Walter Twinn
4. Ms. Viola Robinson  
Native Council of Canada
5. Messrs. Yvon Dumont and Tony Belcourt  
Métis National Council

#### May 24, 1991

6. The Hon. Ethel Blondin, M.P.
7. Chief Robert Louie and Graham Powell  
Westbank Indian Band - B.C.
8. Mr. Bob Skelly, M.P.  
NDP Native Affairs Critic
9. Mr. Dwight Dorey,  
Native Council of Nova Scotia.
10. Ms. Rosemary Kuptana,  
Inuit Tapirisat of Canada

#### May 28, 1991

11. Hon. Tom Siddon,  
Minister of Indian and Northern Affairs.
12. Ms. Karen Collins and Mr. Jerome Berthelette  
National Association of Friendship Centres

#### May 31, 1991

13. Senator Len Marchand

June 4, 1991

14. Senator Charlie Watt
15. Ms. Margaret Catley-Carlson,  
Deputy Minister,  
Department of National Health and Welfare.
16. Mr. Harry Swain  
Deputy Minister,  
Department of Indian and Northern Affairs
17. Ms. Gail Stacey-Moore,  
Native Women's Association of Canada
18. Mr. Richard Long,  
Native Council of Canada.

June 5, 1991

19. Senator William Adams

June 6, 1991

20. Mr. Ward Elcock and Mr. William Pratt  
Privy Council Office
21. Chief Joe Mathias (Squamish Nation)  
Chief Myles Richardson (Haida Nation)  
  
Chief Edward John (Tl'az'en Nation) (Dene)  
Chief George Watts (Nuuchahnulth Tribal Council)

June 7, 1991

22. Mr. Jack Anawak, M.P.
23. The Hon. Michael Cuddihy  
Superior Court of Quebec.

June 10, 1991

24. Mr. Wayne Garnons-Williams  
Articling Student, Department of Justice

June 11, 1991 (Winnipeg)

25. Chief Roy Whitney and Mr. Gregg Smith  
Treaty 7 Tribal Council
26. Ms. Viola Robinson  
Native Council of Canada
27. Board of Directors Manitoba Métis Association

June 12, 1991 (Winnipeg)

28. Chief Ovide Mercredi and Executive Members,  
Assembly of First Nations, and later with the more than 400  
Chiefs attending the Winnipeg meetings.

June 13, 1991

29. Mr. Brant,  
Coopers & Lybrand
30. Members of the Board,  
Inuit Tapirisat Canada

June 14, 1991

31. Ms. Roberta Jamieson  
Ombudsman for Ontario.

June 17, 1991

32. Ms. Kitty O'Callaghan  
Canadian Teachers Federation
33. Mr. Paul Tellier  
Clerk of the Privy Council
34. Mr. Paul Martin, Jr., M.P.

June 18, 1991

35. Mr. Peltier, Mr. Simon, Mr. Hutchison, Mr. Nicholas  
Kanasatake Mohawk Council and Peter Hutchins, Counsel
36. Mr. Willie Littlechild, M.P.
37. Mr. Max Yalden  
Canadian Human Rights Commission

**June 19, 1991**

- 38. Mr. Don Ryan and three others  
British Columbia
- 39. Mr. James O'Reilley  
Lawyer, Montreal.
- 40. The Hon. Kim Campbell and Mr. John Tait  
Minister and Deputy Minister of Justice

**June 20, 1991**

- 41. Professor Lynn Smith  
University of British Columbia Law Faculty
- 42. Hon. Monique Landry  
Minister of State in the Department of Indian and Northern  
Affairs
- 43. Chief Sanderson and Chief Ahenakew and Mr. Patrick Woods  
Saskatchewan
- 44. Mr. Shin Imai  
Department of the Attorney General (Ontario)
- 45. Mr. Clem Chartier  
Métis Association of Saskatchewan.

**June 25, 1991**

- 46. Chiefs Governance Group (Chief Neil Sterritt, Chief Stratter  
Crowfoot, Chief Bernard Meneen)
- 47. Delegation from the Seychelt Indian Band (Chief C. Paul and  
others)

**June 26, 1991**

- 48. Mr. Felix Musqua and Mr. Chuck Thomas  
Federation of Saskatchewan Indian Nations

**June 27, 1991**

- 49. Ms. Carole Corcoran  
Spicer Commission

50. Mr. Stephen Kwafki  
Member of the Legislative Assembly, N.W.T.
51. Conference Call with Chief Billy Erasmus and four other  
native chiefs

July 2, 1991

52. The Rt. Hon. Joe Clark  
President of the Privy Council and Minister Responsible for  
Constitutional Affairs

July 3, 1991

53. Chief Ovide Mercredi and members of the Executive of the  
Assembly of First Nations

July 4, 1991

54. Ms. Rosemary Kuptana  
Inuit Tapirisat of Canada.
55. Manitoba Band Chiefs

July 5, 1991

56. Mr. Mark Stevenson, Mr. David Nahwegabow, Mr. Harry Laforme
57. Chief Cece McAulay  
Inuvik





Special Representative  
respecting the  
Royal Commission on Aboriginal Peoples

# NOTICE

## Request for Written Submissions

The Speech from the Throne Opening the Third Session of the Thirty-Fourth Parliament of Canada on May 13, 1991 contained an announcement of the appointment of the Rt. Hon. Brian Dickson, as a Special Representative to consult on the terms of reference and membership of the Royal Commission on Aboriginal Peoples.

The Special Representative invites any interested person or group to submit written comments concerning the terms of reference and membership of the proposed Royal Commission. Submissions should be received before June 20, 1991 addressed as follows:

The Rt. Hon. Brian Dickson  
Suite 1100  
171 Slater Street  
Ottawa, Ontario  
K1A 0A3

Special Representative  
respecting the  
Royal Commission on Aboriginal Peoples



Représentant spécial  
concernant la  
Commission royale sur les peuples autochtones

The Right Honourable Brian Dickson

Le très honorable Brian Dickson

PRESS RELEASE

May 27, 1991

Brian Dickson, former Chief Justice of the Supreme Court of Canada and recently appointed Special Representative respecting the proposed Royal Commission on Aboriginal Peoples, announced today that he would welcome written submissions from Natives and Non-Natives about the structure, composition and mandate of the proposed Royal Commission. Chief Justice Dickson stated: "In particular, I would welcome suggestions about names of a person or persons who might chair the Commission, the names of other commissioners and, finally, the terms of reference of the Commission, that is to say, the task which the Commission will be asked to undertake." Suggestions should be addressed to the Rt. Hon. Brian Dickson, Special Representative respecting the Royal Commission on Aboriginal Peoples, Suite 1100, 171 Slater Street, Ottawa, Ontario, K1A 0A3.

Native leaders have assured Mr. Dickson of their full collaboration, and consultations have already begun. In addition, several hundred letters have been mailed to Native leaders across the country seeking their suggestions and advice. Letters have also gone forward to provincial premiers and government leaders in the Northwest and Yukon Territories inviting their views.

Mr. Dickson has accepted invitations to attend the meetings of the Assembly of First Nations, and the Native Council of Canada, both being held in Winnipeg in mid-June.

The Privy Council Office has engaged James MacPherson, Dean of Law at Osgoode Hall Law School, to assist in the consultation process, and Stephen Toope, Associate Dean of Law at McGill University, to conduct research studies.

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