

7:05 p.m.

Tuesday, October 29, 1991

[Chairman: Mr. Horsman]

MR. CHAIRMAN: Ladies and gentlemen, perhaps we could reconvene and start the session pretty close to being on time. I appreciate those presenters this afternoon who by and large managed to keep us on time. We always have a little flexibility. This evening we are programmed to go from 7 until 9, but it's not necessary that we go to 9 just to fill the time available. At the same time, I would hope, in view of some travel plans the members have to make, that we would not go beyond that time.

I'm pleased that we're joined this evening by Stan Schumacher, the vice-chairman, the MLA for Drumheller, who was unable to be with us this afternoon. With 16 members of the Legislature, it's not possible for us to all be together at the same time, but we do try and get as many as possible.

Having said that, the floor is now open for general discussion. If any member of the groups who presented earlier today wishes to either add to or clarify any of the points they made, we'd be pleased to hear from them. As I recall, William Beaver had his hand up, and if he wishes to do so now, I'd like to recognize him and to hear his contribution. Others, just raise your hand or signal to me in some way and, like a good auctioneer, I'll try and catch the signal.

MR. BEAVER: Thank you, Mr. Chairman. My name's William Beaver. I'm very glad to be here at these round table discussions. I have some concerns. I just wanted to generalize on some of the issues that have been concerning me for a long time. I know we're discussing the Constitution, we're discussing self-government, we're discussing the different issues of how we can work together, but there are some issues that have been ongoing for many years that really have bothered me. I'm also an Indian chief. I guess you realize that. I've been in different leaderships. Now we're discussing how we should have an open door for input by the aboriginal people. This is why I thought it was time now to bring out the issues that have really been in my heart and discuss them.

The issue that first I'd like to discuss is: since we're saying we're going to open doors now for self-government for aboriginal people, what I see is happening here. I'd like to bring up an issue that really affected our people that were sure they had aboriginal rights. That's the seven isolated communities that I was a chairman of in '74-75. We had one legislation at that time that really took away the aboriginal rights of those people that were really stating a claim that they had an aboriginal right in an area. At that time, a Bill was struck by government, because these people pointed out that they had certain interests on certain lands. We had a lot of resources, a lot of different interests that they had on that land, and they brought it to government and even registered a land claim stating that they had aboriginal rights to that area. Bill 29 was struck, a retroactive law, a caveat Act. Since we're opening doors to one another to discuss these different issues, I think it's time now that we should recognize this is the only province that has that kind of legislation: to make retroactive law where the people have an interest on certain parts of an area, where they have an interest in the land. That's why I'm mentioning this, because there are so many outstanding land claims.

I used to work with Bernard. I was the chairman of the seven isolated communities; Bernard Ominiyak used to be my board director. This is why I'm saying that since we have opened doors now for different discussions, we're opening doors so native people now have input. I didn't want to say anything at that time,

but today when we were mentioning inherent rights, that's what the people were pointing out at that time, that they were not dealt with. Reading all the treaty agreements and all the areas where the commissioners signed treaties, they missed all those areas, the isolated communities. The point I'm getting at is: can that be changed since we're opening doors for people to now have input instead of just this law being one-sided to benefit the government and not benefiting the Indian people, but blocking them out where they have stated very clearly that they have aboriginal title to certain lands? I feel there should be reconsideration to that retroactive law because it's the only retroactive law we have in Canada where the province has stated no caveats. The only people that have interest in those lands were the Indian people, because they pointed out very clearly at that time they had aboriginal rights to that certain area.

The other thing I wanted to point out, since we're talking about self-government, is new band creation. That's in there. I don't think we should hold back anyone that wants to form their own Indian band or their own government, because that's the right of every person. I don't think anyone, just because they have authority as a government or feel they have authority against a certain group of people, should tell them that they have no right to form their own band government or create a new band. I don't think that should be a block put to them, that they cannot form in their own way their own band or their own government.

The other concern I had was I wrote a letter to the Premier. I don't know if somebody picked up that letter, but I wrote that letter quite a while ago, questioning the FMAs of the area. I was trying to get compensation for our hunters, trappers. Some of the things that were happening there were our people were being charged, and also the gathering rights of our people. The off-reserve people are mostly the ones I am concerned about, because on the reserve you're not affected directly by the laws of the province. Living off reserve, our people are affected whenever they're hunting on provincial Crown land. The FMAs also are destroying trap lines. Since we're going to be discussing the Constitution, I think it's very important that we should have these things seriously considered. I know some of these things are out of some people's jurisdictions, but these are the things that are affecting our people in the isolated areas. Also, the off-reserve people are affected.

The next thing I'd like to mention is the justice system. You know, the trappers, the hunters: I don't think they should have fish and wildlife getting to the trap lines and charging a lot of our people on different issues and putting them into the court systems, because many of them don't fluently speak English or understand how the system works. These are the kinds of things that have bothered me, and I'd like to get some of these discussed during the round table discussions. These things are important for our people that are affected. This is why I had to bring these issues to this table. Right now is the only time I'll have to bring them out. These are the concerns that have been bothering me and have stayed with me, in my heart, and I have to bring them out.

Thank you.

7:15

MS BARRETT: I'm glad you did. I have an observation. Of course, I'm only in opposition, but my observation is that the way governments have treated aboriginal peoples in the past will be consigned to the dustbin of history. I suspect that all governments have learned their lesson, learned from a history of anger as a result of Canada's first peoples being treated like second-class, patronized people.

I do have a question, and that is the nature of this legislation that you were talking about, Bill 29 from 1977. I'm not sure if Mr. Horsman was at that time in the Assembly. Were you, Jim?

MR. CHAIRMAN: I'm sorry; I missed your point.

MS BARRETT: The Bill that William was talking about, Bill 29 from 1977. Were you here?

MR. CHUMIR: The no caveat Bill.

MR. CHAIRMAN: Yeah, I was a member of the Legislature, but quite frankly I can't remember all of that.

MS BARRETT: Most of the MLAs here were not elected at that time.

MR. CHAIRMAN: I can't remember the details of the Bill. I'd have to review that as to what took place.

MS BARRETT: Sheldon, do you know it?

MR. CHUMIR: Well, I think it retroactively negated a caveat. A caveat was filed in respect of a huge chunk of land, and a law was passed saying that the caveat was invalid. That is my recollection.

MR. CHAIRMAN: It was part of a land claim lawsuit, as I recall.

MR. CHUMIR: Yeah, I think that's my recollection.

MS BARRETT: Oh, I see.

MR. CHAIRMAN: It was 16 years ago. I can't recall the specificity of that, but we will take a look at it. There was a very major lawsuit launched, and I forget by whom.

MR. HAWKESWORTH: The Indian Brotherhood of the Northwest Territories.

MR. BEAVER: No, I was the one that registered the land claim. At that time I had good support from Larry here. It was through communications at that time that really supported me. It was a caveat where I registered at the land titles office telling the government, "This is Indian land in this area; that's the interest we have to this land here." It was thrown out by the government in '75 and made retroactive law, throwing out even the caveat case that we had.

MR. CHAIRMAN: There was a lawsuit involved in it eventually.

MR. BEAVER: That's right; yes.

MR. CHAIRMAN: Claiming how much of Alberta?

MR. BEAVER: It included all the southern isolated area, all northern Alberta. I don't know how many acres. Just to point out that was the interest we had. We were going to negotiate it. We had open doors, but all the doors were blocked, and even our case was thrown out. This is why I'm saying that maybe now there should be an open-door policy where we would negotiate properly instead of always having it blocked for aboriginal people when they want to negotiate. We were trying to use a tactic there, an avenue to try and negotiate with the government, but they just threw out our land claim at that time. That's why I brought it up,

because now we're trying to work together, and maybe these things should be thrown out in the open and the discussions started where we have a better working relationship than we had in those years.

MS BARRETT: I think your point is really well made. I mean, it sounds to me like a pretty heavy-handed course of action to take.

My question then would be: are you seeking to have that Bill overturned now, or are you primarily seeking an indication of goodwill for negotiations from here on in?

MR. BEAVER: Yes, that's what I'm saying.

MS BARRETT: Just the latter, not to have that old Bill overturned.

MR. BEAVER: But that's the only Bill we have here in Alberta that prevents Indian or interested people from putting caveats on certain lands.

MS BARRETT: Right. Thanks.

MR. CHAIRMAN: Okay. Well, in any event that's a bit of history, all right, but I can't recall the current status of that. Sheldon.

MR. CHUMIR: I just was wondering: are there a number of claims that haven't been advanced in respect of which there is a desire to lodge caveats?

MR. BEAVER: Yes. We all work together. The only one that's going ahead right now is the Lubicon Lake claim, but we are all working together. Seven communities are all working together, and we were hoping that if this one was settled, the other ones would be settled also at the same time.

MR. CHUMIR: But are these ones that have already been advanced, that claims have been made on, or are you saying there are a whole . . .

MR. BEAVER: No, the only one that's working on the land claims . . .

MR. CHUMIR: There are a whole bunch of new claims that are going to be made, and that's your concern.

MR. BEAVER: Yes, that's right.

MR. CHAIRMAN: Okay.

Other participants' comments or questions? Dennis.

MR. ANDERSON: Mr. Chairman, perhaps I could return to the conversation we were having just before supper, a difficult one, on self-government. Some of the comments that were made in response to my question related to inherence of government. I should make it quite clear that I do not question - I don't believe most people today do - the history, the unique culture, the fact that there were forms of governance here before any of the rest of us arrived. I don't question the treaties or the responsibility to live up to those or, in fact, the need today to try and reach some accommodation on this issue of self-government. I believe the government that knows best is the one that is with the people and that can respond to the needs that are there.

However, the difference between this discussion – the way I see it, at least – on self-government and those origins we have and those difficulties of some time ago is that we're now talking about putting words into a Constitution which is interpreted by the courts. When the country was formed, when the treaties were signed, when the agreements were reached, there was not such a Constitution, not a Constitution which would be applied to the courts. So now I guess I'm still wondering: when you use terms like "inherent self-government," and that term then has to be interpreted by the Supreme Court, is that what you really want to happen? Do you want it to decide when whatever is determined, say, in a particular nation as the form of government, whether that in fact applies to the written word?

I don't know if I'm making myself clear, Mr. Chairman. My worry is that if we put words in without definition, then we leave that definition of the law today to the nine people on the federal Supreme Court who have to interpret that when a court case comes forward. Would it not be better to resolve that definition somehow through this kind of discussion as opposed to putting it in undefined and then having court cases appealed? I don't know who wants to try and answer that. That's what I was really trying to approach earlier.

MR. CHAIRMAN: Well, the Indian Association of Alberta, in particular, advanced the notion of what I might call the creationist theory of government as opposed to the evolutionist theory of government. I think that in some respects we're really into that arena. I don't want to belabour the analogy, but the origin of species went before the courts in the Scopes trial in the United States, and somehow or the other the courts made a determination there. I'm wondering if this is, as Dennis says, the right way to go about having that issue defined: allowing the courts to do it.

MR. ANDERSON: Mr. Chairman, somewhat facetiously I say that if the Creator is still creating governments, we could really utilize His wisdom right now.

7:25

MR. CHAIRMAN: I think that's fair to say.
Does anybody wish to tackle that question? Yes.

MR. BEAVER: When I was mentioning justice systems, that's one of the areas I was mentioning there. I wouldn't want to see any of these self-government issues determined or put to the court to really define the right of the aboriginal people on the different issues; I wouldn't want to see it. The way the system works for aboriginal people right now, it's really hurting the aboriginal people because it's one-sided. I wouldn't want to see all the different issues that were brought around the table here put into a court system where it has never really worked for the aboriginal people. In some cases it has, but if you're going to allow all the different cases all the aboriginal people are bringing out here and put them through a court system that's not working for the aboriginal people, I think it's going to really make a mess of the Constitution we're discussing.

MR. CHAIRMAN: That's the dilemma; you've put your finger on it. As to whether or not the courts are equipped to really determine issues of this kind, it is a very moot point.

Yes. Larry Desmeules wants to get in, and then Yolande, John.

MR. DESMEULES: Dennis, the best way to answer that question is we're going to be in on the final issue, because you can take a look at the settlements as they are progressing along; the evalu-

ation of the framework would be coming along. So that framework leads to self-determination or self-government, if you want to phrase that. It's up to our people then to decide whether they want to get into self-governance. It may get into the Constitution, but we may change our minds. We're not bound to that. You know, there's a reverse side of it. Self-government is a catchphrase. It doesn't mean you died and went to heaven; you've got to get up and work in the morning is the way I understand it.

So we've got to analyze all these options. It's like Quebec saying about Confederation: is it a good deal for them, or is it a bad deal? If it's a good deal, they stay in Confederation. They're playing both sides. We need some time to determine and assess this arrangement, and basically we're doing that right now. We're field testing it, if you want to use that word. The settlements are field testing what they're doing; we're field testing the framework agreement. We can't go to another province, like I said, because nobody else is doing it. So we have nothing to compare it to. We can't go down to the United States, unlike our treaty brothers. They can fly all over the world; they've got all kinds of money. If you make that available, I'm sure we'll analyze the Navahos, the Arapahos, and all the rest of the 'hos' down there. We can arrange that too; we just don't have the dollars to fly all over. That's the bottom line on this thing.

MR. ANDERSON: Larry, personally I agree with you that we need to evolve what's necessary, and primarily our native people need to evolve that. My worry, just to restate it, is that if you put those words "self-government" or "inherent self-government" in the Constitution, it's then out of reach of politicians and, for that matter, the leaders of our native community to define it. If it gets into any kind of legal conflict, it's sent to the courts without a full constitutional change again. I worry about the inflexibility of that system.

MR. DESMEULES: Well, you see, that particular concept is probably what would hold up the constitutional process. You have Quebec. If they put their rights in there, you should share the same worries about that also. I mean, we've had them in court there in that same situation. What's good for the goose would be good for the gander. You know what I'm saying.

MR. ANDERSON: Well, I think that's right, Larry. That's part of the concern out of all this.

MR. DESMEULES: You get into overkill on this too, you know, Dennis. The thing is that 68 percent of the Canadian population is saying, "Settle aboriginal rights." So let's settle them. Let's get down to it. If that's what the majority of us want, self-government, then we should have that; it should be in the Constitution. They know that. Let's get down and settle these things, you know. If it doesn't work later on, it doesn't matter what's in the Constitution. It doesn't really matter what's in the Constitution if it doesn't work; it's another bunch of words in the Constitution. There's a lot of words in it. Who reads the Constitution after it's in place? Lawyers. Not too many Canadians.

MR. CHAIRMAN: Judges.

MR. ANDERSON: Judges.

MR. DESMEULES: Judges. That's all.

MR. CHAIRMAN: Yolande wants to get in here too.

MRS. GAGNON: I'll just follow up on that, but then I have a question to Mr. Beaver.

Dennis, if we first of all acknowledge or recognize self-government – it's there; they've got it; they've always had it – wouldn't these issues then be determined by the native communities and not by constitutional lawyers and so on? It would be out of that realm into a whole other realm. They would sort out the issues that Mr. Beaver has talked about.

MR. ANDERSON: Well, the Attorney General or the chairman may want to correct me, but the concern I have is that once you put them in the Constitution as opposed to . . . I have no problem agreeing that there is a right to self-government, but once you put it in the Constitution undefined, then any application to try and uphold that or to try and oppose that goes to the Supreme Court for judgment. It isn't going to go to the native leaders, or it isn't going to come to the politicians. It will go to the Supreme Court.

MRS. GAGNON: So that's a risk we take. Everything else is in there that will go into the court system.

MR. ANDERSON: Yeah. I guess the question is: do we want to take that risk, and is that beneficial to native Canadians or to the rest of us? Is that the forum that is best suited to that decision?

MRS. GAGNON: Well, I can't answer for them.

MR. CHAIRMAN: Well, that's the dilemma, yes.

MRS. GAGNON: But I had a question, please.

MR. CHAIRMAN: Oh, I'm sorry.

MRS. GAGNON: Unless there's a response to this.

MR. CHAIRMAN: Did anybody want to respond on that? Yes, Tony.

MR. CALIHOO: Hoping we can close on this word "inherent" – a word that seems to be the stumbling block for Dennis – I would think that if it's going to cause a dilemma in the future, I'm sure Regena and her group would probably take a look at it, and I'm also sure that with the education we have in this world now, we can find other legal terms to maybe change the word you're bothered with. I don't think it's something we have to spend too much more time on at this table tonight. Self-government is the main issue, and if we're in agreement with that, then I feel we should go on.

MR. CHAIRMAN: Okay. Did you want to respond on this point, Gerald?

MR. THOM: Just on this point alone, Mr. Chairman. I too am sometimes bothered by "inherent" or "distinctive." I am Canadian; I'm Albertan; I'm Metis. But you see the rest of Canada; you watch TV today. The rest of Canadians, I'm sure a lot of us, have problems with the distinct society clause in the Quebec constitution, and it's no different than the terminology of inherent right to aboriginal self-government. There's two words there that seem like they are out of balance with the text of the constitutional package itself. They seem like major areas of concern to Canadians and Albertans and a concern to myself as well when you talk about distinct rights for French Canadians and also the inherent

right to self-government for Indian people. If we're going to get hung up on that, then we're going to let a lot of good time be wasted on the terminology of some of the text that we're going to be discussing on the federal constitutional package.

MR. CHAIRMAN: A very important point.

I have to watch. So we're not all talking at once, we're going to have to, if I could, go back to . . . You had another question, didn't you?

MRS. GAGNON: I had another question.

MR. CHAIRMAN: Okay. If we're still on this point, I'd go to Doris, and then to Dennis. Oh, John.

MRS. RONNENBERG: I'd like to dwell a bit on the courts defining self-government for us. There is a danger in that, and that was evidenced by the court case that was lost by the Gitskan people. Even in the cases we do lose, there is a kernel in that case that the Native Council of Canada felt we could build on, the dreaded "f" word. The fiduciary responsibility in that particular case went to the province, okay? We're saying the federal government has fiduciary responsibility for Indian people, but in that particular case, that little kernel that could be saved out of the case was that it stated that the fiduciary responsibility also involves the province; maybe not in those exact words, okay? I feel that even in the cases we lose, there is always something you glean from them. But I don't think that any leader across Canada is going to bring forward a lawsuit that is going to be doomed to failure, because it would set a precedent and a very bad precedent for the self-government process and aspirations of aboriginal people.

In terms of the inherent right to self-government, as one of the affiliates of the Native Council of Canada at the national level, the inherent right to self-government is our position, so I can't really disagree with that.

Basically that's all I have to say.

7:35

MR. CHAIRMAN: Well, we're into two very interesting words, "inherent" and "distinct."

Dennis, and then Tom.

MR. ANDERSON: Mr. Chairman, I just wanted to say that I think the last round of discussion has helped considerably. Gerald's comparison with the distinct society is a good one. I think most Albertans had concerns with that in the Meech Lake accord because they didn't feel it was defined enough. The federal government has tried to do that some more, although there still seems to be a number of concerns. That's true on the other side too. The concern is not about the concept that people with a unique culture and difference in the distinct society were our founding people. With the native people it's what happens with that legal application of the words. That's where we have to, I think, reach some conclusion before these discussions end.

I just want to make it absolutely clear that I have no problem with the concept of self-government. It's how we do that with the right mechanism so we're not putting roadblocks between us or roadblocks between what needs to be achieved and how we're traveling.

MR. McINNIS: Mr. Chairman, I do think it is important that we dwell on this idea of self-government, because somewhere buried in that concept is the key to how we resolve the relationship

between aboriginal cultures and the rest of our society. I used to think the most important things were land issues and issues of economic base, and I think those things are important, but they don't solve things by themselves. You know, we have treaties covering all kinds of people in Alberta, but we still have a problem. I think where maybe I part company with Dennis is that I didn't pick up on the inherent government as the institutions of government, but it was in the inherent right, whether you call it the right to self-government or aboriginal rights or entitlement, even. A lot of those words mean the same thing to a lot of aboriginal people that I talked to. What it means is that prior to there being a European civilization, there was a civilization in place, and their right as human beings dates to that point in time. The institutions would change, without any doubt. I'm certain that most of the institutions of aboriginal self-government are different now than they were several hundred years ago, just as the British parliamentary system changes. It changed when television came in the House, among other things.

I really think that somehow we have to grab hold of that in the process, what the issue of self-government is. In the past decade since the current Constitution came in, the first ministers spent many meetings trying to define "self-government," and they always failed. I don't know why, and I think I'd like to learn a little bit more about it. The federal proposal now is that we do the same thing again for another 10 years but not without limit, that at the end of 10 years it would be left up to the courts to decide. I really think we have to try to come to a definition more quickly than that and maybe even before we put the words in the Constitution. I guess I'm associating myself with Dennis' concern then. I think somebody said around the table today that probably the only sensible way to do it is in a negative sense, saying what other laws don't apply in aboriginal self-government. Then it comes down to what Yolande said, that then aboriginal people have to be free to evolve their own institutions.

I think this self-government concept involves rights, and rights do belong in the Constitution, because we expect in a Constitution things that will endure beyond governments and laws and policies and politicians. I'm not afraid of it, but I think if we can't come up with an acceptable definition now, then we have very little choice but to leave it open to the same system we have for every law. Every law that's passed by governments, whether it's a constitutional law or a regular law, if I can use that term, is ultimately interpreted by somebody else. When you have the same people interpreting laws as making them, we call that government by men and women, not government by laws. We believe, certainly in the British system, that those are two different functions, and the Americans bought that too. We have no way around that. No matter how we write it, how well we define it, somebody's going to have to interpret the definition. That's not a reason to keep it out, quite clearly.

MR. CHAIRMAN: Thanks very much.
Sheldon.

MR. CHUMIR: Well, I kind of sense an element of unreality when we talk about or debate the nuances of the meaning of the term "inherent." We're almost kind of sparring and circling, coming at things in tangents instead of hitting directly on the issue. I'm by nature one who likes to face issues head-on rather than begging the question. Really, the issue of self-government – and there is a tremendous sympathy for self-government – resolves itself into some very practical questions on the way society is run; on whether you're talking about a totally independent government with all the powers, say, that our national state

has so that we'd be dealing nation to nation and having to deal with extradition treaties if someone were on native territory and there were an offence having been committed in Canada; or alternately whether we're talking some form of provincial status with limited powers or perhaps municipal powers which are delegated, can be very, very substantial but are delegated.

We're dealing in the context of certain practical realities as to how all modern societies, whether it's Canada, whether it's Russia, in any part of the world, have to deal with certain types of powers that are recognized and dealt with by governments. What we're talking about is how those are to be divided, and the term "inherent" implies a nationhood, a total, separate nationhood. What I read of Albertans that I've run into so far is that there's a tremendous amount of sympathy for resolving native problems, for being generous, for having some element of self-government, but not to set up separate nations. When we talk about putting inherent self-government, you're asking us to, if I can use the term, roll the dice in terms of what may ultimately be determined by a court. That's something I think a lot of people of the very best of goodwill have some difficulty with.

Now, maybe we're wrong. I happen to be one that has that difficulty with it; I may be wrong. This is a very good exercise in education, but I'd prefer to face it a lot more head-on than just aspiring with code words of "inherent" or whatever that have this creative ambiguity, I think was the term used for distinct society in the Meech Lake accord, where everybody could interpret it to their own advantage and we'll leave it to a court down the line. I didn't like it when it was in the Meech Lake accord, I don't think Canadians liked it, and I don't think there's a great deal of enthusiasm for something dealing with things in an ambiguous nature when we really can and should be facing them head-on. That's the concern that I have.

MR. CHAIRMAN: Okay; I have Barrie Chivers, and then Larry. Just before we jump into that, one thing: if we look back at the discussion between '82 and '87, the term which was being used then was "sovereign" self-government. I see nowadays that term "sovereign" as no longer appearing in representations. At least it isn't up there front and centre as it was in that particular five-year period. So I'm sure if you have trouble with "inherent," you would have immensely more trouble with "sovereign" self-government, as we were experiencing it in those discussions then.

This is a good dialogue and discussion, and it's helpful. How many angels can dance on the head of a pin, what is the meaning of the word, and so on. It's important to get to these discussions, and I think it's very helpful.

Barrie.

7:45

MR. CHIVERS: Well, I think we have to remember that we're speaking in the context of discussions which hopefully are going to lead to a constitutional accord of one sort or another, a constitutional accord that's going to involve aboriginal peoples, that we're all going to be governed ultimately by a document that is in the form of a Constitution that applies to all of us. That's why I spoke earlier of the models of self-government. I think it's a red herring to get hung up on the term "inherent" right to aboriginal self-government. I don't think that's the issue at all. "Inherent" can mean a whole host of things. The courts have dealt historically with a concept called "inherent jurisdiction," which some of the lawyers around the table will be familiar with, and that's a term that changes from time to time depending on what results the courts decide that they want. It has a fixed and certain meaning

within a wide spectrum, but there's a broader spectrum that's very, very uncertain.

I think what we need to do and what I was trying to do earlier was to get us to focus on the issue, that we are speaking in a constitutional context. We're attempting to come up with an accord. It seems to me that it's important to – I used the term "jurisdiction" previously. Perhaps that's not the word that's useful here, but what's involved here is establishing what authority is going to be vested in this self-governing body and then defining who's going to exercise those authorities. It seems to me that that's the sort of process that we have to go through. We have to understand just precisely what authorities it is that we're speaking of. If we're talking about sovereign governments, then we're not talking about a constitutional accord. What we're talking about then is aboriginal peoples writing their own constitution and the rest of Canada and perhaps Quebec writing their own constitutions. We're talking about independent, autonomous states. But if we're talking about a body politic that's going to involve the Canadian government, the Quebec government, and the government of aboriginal peoples, then we have to have some lines that delimit the authorities between us, who has what authorities. That's precisely what the task is, and that's a very difficult task. As I said earlier, one way of defining the authorities is simply defining it in terms of people; another way is defining it in terms of regions or geography. One way or another we're going to have to address that if we're going to come to a constitutional accord.

MR. CHAIRMAN: Yes. Thanks, Barrie. That's very useful targeting of the issue.

Larry.

MR. DESMEULES: Well, one of the reasons it's got to be settled and brought into focus is, just like Mr. Beaver said a few minutes ago, that if we start waiting for a court case, the government generally in power comes up with some kind of retroactive legislation. We can have this self-government, and if it isn't constitutionalized, then you come up with a piece of retroactive legislation, and we're back to square one again. He just told us about the experience of that not over two minutes ago. So you've got to understand what our concerns are too. We're familiar with your government doubling back all the time. That word "forked tongue": you ever heard it said? It's all right for the government to lie to us, but we can't lie to it, and that's the way the game is played out there. If you take a look at it from our point of view – even if we hire people who have been in the bureaucracy for a while, after about six months they start to see our point of view, and the people within the bureaucracy begin to hate them and treat them as adversaries. We've experienced this many, many times.

Just to give you an idea why at this go-around we're pushing so hard to get this thing into place, it's because we can't trust legislation. Governments change. We know we've been dealing with the Conservatives in Ottawa. At the beginning of next week, the next time around, it may very well be Liberal, NDP. We see the governments falling in Saskatchewan. We've seen them fall in B.C. We know the hockey players are always going to be there. They just might be different ones – that's all – and each one's got their own agenda when they come into power. So we have to sit here. This is an opportune time to get this particular position in place.

Quite frankly, I can't see what's so bad about it. All we're talking about is taking control over ours. We're not even talking new money here. We're talking about jurisdiction within government, taking over projects from the government that are relevant.

We're probably talking less money than you're spending now on your bureaucracy.

MR. CHAIRMAN: The Provincial Treasurer would be happy to hear that, Larry. I hope you're right.

MR. DESMEULES: Well, give us an opportunity to take over some jurisdiction, and we'll show you. We're talking about a progressive way; let's go for it.

MR. CHAIRMAN: I think we're doing that, aren't we?

MR. DESMEULES: Yeah, we are.

MR. CHAIRMAN: Ken Rostad.

MR. ROSTAD: Thank you, Mr. Chairman. When Barrie was giving his view – and unfortunately the Indian Association is not here right now, but I think they were coming from the point that we're talking about separate nations. In fact, we aren't having a constitutional accord; we're going to have to have a meeting of minds of separate nations. I don't find the other groups that are here are in that particular camp. I'm with Sheldon. I think that it's better to meet it head-on, and let's try and really figure out what we are doing here, what we are talking about in terms of self-government. Frankly, Regena said that they take the position they aren't Canadian citizens, that they are citizens of their Indian nations, and we have to talk nation to nation. That's a lot different than sitting around here and trying to have a consensual agreement or coming to an accord as to what we're going to do for Canada. I think we have to define that. I don't know if we have to get down to the specificity of fine words, "inherent." Those kinds of things, I think, are red herrings in many ways as well, but I think we do have to come to the issue.

MR. CHAIRMAN: Well, thank you very much, Ken. We could go around and around the table and try and define what is meant by "inherent" or what is meant by "distinct." It's a dilemma, all right, but I think you need to understand the concerns and the problems associated with interpreting any given word. History and the court system have shown that the people who really benefit from all this are lawyers. I have no objection to lawyers making money; neither does Sheldon nor Ken. But unnecessarily creating a vacuum into which we must eventually all be sucked by the nature of the vacuum itself is something I think we have to try and avoid in this process. That's just an observation and one of real concern that I have.

Bob Hawkesworth.

MR. HAWKESWORTH: Thank you, Mr. Chairman. The debate we're engaged in, not just tonight but throughout the country, around the Constitution has two components to it. One is, what is the content of constitutional change or constitutional amendments, and what is the process for making those changes? Now, you, Mr. Chairman, I think were at the last first ministers' meeting in 1987. I was just wondering how many other people around the table tonight were at that last First Ministers' Conference in '87. I think it's coming back to something John said earlier. If people could reflect a bit on that experience and perhaps kind of share with me or with the other people in the committee what your feeling was – were we close at that point? Were we a long ways apart? Was it a matter of the content of the constitutional amendment that was on the table that was the problem, or was it the process, not being able to get the right process to make the change? It might be

helpful while you're here tonight if I could benefit a bit from your experience and your reflection on that experience and what we might be able to learn from it, so that in our next round it's perhaps better destined for success. That would be my question.

7:55

MR. CHAIRMAN: Since I was there from the perspective of the government at that time, there were a number of conflicting issues at work, one of which was and still remains a concern to the Metis people of Alberta and of Canada: which government would assume the responsibility of dealing with the Metis people. That was an issue, but the real concern was this question of defining with some clarity what was meant by self-government. Some of the definitions which had been brought to the table by some of the native leaders were very much to the effect that this term should be used to create – and I use the term that I used earlier – sovereign self-government. It was a very real concern that we needed to define with much more clarity what was meant by that term.

The atmosphere at the end of the day was not very good; it was quite an unpleasant conclusion. But I've never forgotten what our Premier said in the concluding remarks, and that was that he would go back to Alberta, work with the Metis people to try and resolve the settlement situation to provide a form of self-government, and we would commit ourselves to negotiating that directly with the people involved to evolve and develop a system of self-government which would be acceptable to the people on the settlements. That we did, and we referred to it earlier. Likewise with the Metis Association of Alberta, the MAA, as they were then called – there's now a slight change in the name – we would work with them to develop a greater participation in the ability to govern the affairs of the Metis people for those who did not live in the settlements, and that we've done. I can tell you that nobody else since '87 anywhere in Canada, out of all the governments that came to the table and said they would do something, has done anything near what Alberta has done.

It wasn't a pleasant experience at the end of the day. I felt quite badly as we left there because I know that people came to the table with high expectations, and perhaps too high expectations, that they would be able to achieve something in the Constitution and then over a period of time have the courts define what was meant by that term.

We haven't made much progress since that time in many respects. On the other hand, in Alberta once again there have been a goodly number of very major land claims settlements achieved in consultation with the Indian bands themselves. The Chip Cree band settlement, for example, was a very large land claim, and I had a hand in settling that. As well, the Woodland Cree, Sturgeon, Whitefish Lake: all of these claims have now been settled to the satisfaction of all parties, and while Chief Beaver is correct, there are some other, smaller claims, in terms of numbers of people involved, still remaining to come to the table.

The one remaining large issue is still the Lubicon band issue, but there again – and this is significant as well – there's been a remarkable shift on the part on what we'll call treaty Indians in their attitude towards discussing matters on a tripartite basis; that is, the province being involved with the federal government and the bands. Before '87 the attitude was, "We will deal with the federal government only, and when we've arrived at a validated land claim, then we'll come to the government of Alberta, and under the 1931 Natural Resources Transfer Act you will put up the land, and that's your role." That has shifted dramatically, as well as the attitude, as expressed by the current leadership of the Assembly of First Nations. I remember very well David

Ahenakew refusing to even talk to the Premiers without the Prime Minister being present. Now that has evolved so that the current leadership of the Assembly of First Nations has come to Whistler and met and started the dialogue with the Premiers directly.

These things have changed quite dramatically, and while the meeting ended without an accord, it wasn't an entire failure. Doris' comment earlier, that sometimes in anything that is a loss there is a still a kernel that can be gleaned from it – I think we have in fact gleaned a number of kernels from that process and that we have indeed made considerable progress since 1987. All governments now are committed to reopening the dialogue, and that, I think, is extremely significant as well.

So, Bob, it's hard to . . .

MR. HAWKESWORTH: Fair enough. I wonder if some of our other colleagues who are here tonight who were there could perhaps – I don't want us politicians to be dominant.

MR. CHAIRMAN: No. I wanted them to have the opportunity, but I thought I'd put it in the framework of the government, what it was like being there as a member of the government at the time.

Furthermore, I'd just add this: that in addition to the three first ministers' conferences which were held, there were innumerable – I've lost track of the number – meetings of ministers in advance of the First Ministers' Conference. A lot of inflexible attitudes and approaches softened during that process and have certainly softened considerably since that time.

Who would also like to recollect that event?

MR. BRASCOUPE: I wasn't there, so I'm not going to recollect. I'll offer something up just to facilitate the discussion, though. The Constitutional Review Commission of the Native Council of Canada is definitely prepared to file with this committee the difficulties, the flaws they saw in the federal proposal from '87, so that you have not just this evening's discussion but something formal about why they had serious problems with it. I know for a fact that one of the most serious problems was that the effectiveness of that particular amendment, which at the time was called a contingent right, was solely dependent on successful negotiations in the area of self-government. In other words, you wouldn't have a right unless there was successful negotiation, but there's nothing driving the process to make sure that there is a conclusion on those negotiations. There are many, many others. Even since '87 I think it's useful also to understand what the grave concerns of the organizations were in respect to things like the distinct society, in respect to the Meech Lake accord. Those positions obviously are changing, but just for the record we could provide that information to your committee, because I know you're going to be discussing it more and more. At least you'll understand at the time what the problems were. We offer that as a help.

MR. CHAIRMAN: That's a very useful point. We appreciate your volunteering that information to us, and we would appreciate your giving it to us. But you bring to mind the fact that while there were four provinces and Quebec as a nonparticipant that brought the matter to an unsuccessful conclusion from some perspectives, it was also true that the native organizations did not accept the federal proposal in the end either.

MR. BRASCOUPE: No, that's what I'm saying. I'm trying to say we'll provide you with the reasons for that at least from the Native Council of Canada's side.

I should point out something though, since you're meeting with the joint parliamentary committee later: right now there's nothing

that stops the federal government from entrenching self-government arrangements in land claim agreements, modern treaties. There's nothing that stops it constitutionally. In fact, since '87 or even earlier than that we could have had many, many examples of self-government arrangements in the country, but those were blocked and they continue to be blocked. Right now you cannot, at least according to federal policy, incorporate self-government arrangements in modern treaties called land claim agreements; you know, constitutionally entrenched self-government arrangements, not delegated legislation. My point is this: those things could have been done, and they could be done today.

8:05

MR. CHAIRMAN: Oh, I know. You're right.

MR. BRASCOUPE: The mystery around what self-government means is definitely not because of the unwillingness of aboriginal people to negotiate self-government arrangements. It's been the unwillingness of governments to do so. I'm just pointing that out. I mean, there are mechanisms available now that could be helping this whole exercise, but those are still being blocked. If you don't have a right now that gives you the force of law to make sure these things can happen because you are an equal player in making them happen in terms of negotiations, you're going to continue to have what we have right now 30 years from now. I personally wouldn't want to see my children or my grandchildren face the same kind of situation my parents and my grandparents faced.

The other is about laws. Let's talk about laws for a minute.

MR. CHAIRMAN: Before you go on, I think it would be useful to point out here that the point you've just made is absolutely correct. After the Constitution was patriated, with the recognition of aboriginal rights as defined as treaty rights and so on, you're right, it could have been entrenched. But the federal government's refusal to grant us our requested amendment to the Alberta Act – therefore, the constitution of Alberta – to enshrine and entrench in the Constitution of Canada and Alberta the Metis settlements land transfer, has been a source of continuing frustration to us and to the Metis settlements. That's part of the refusal you refer to.

MR. BRASCOUPE: I just want to point out something about laws, though, for a minute. I think there would be a lot more trust, for example, on the aboriginal people's side if the laws of Canada actually reflected our rights. Governments continue to pass laws that don't reflect our rights. That's a fact. You can pick many laws of general application that don't reflect our aboriginal rights in spite of the fact that we have aboriginal rights in the Constitution, whether it's hunting or fishing or whatever right you can think of.

So there is a lot of mistrust, if you will, in a process that says somebody is more dominant than the other. In fact, even though we have Supreme Court decisions and we talk about the Supreme Court, we're still being charged for the same things we won in the courts, whether it was Simon or Sparrow, and those things require negotiation. But right now in many parts of the country negotiations as equals are not happening. That's why there's a lot of mistrust.

When you talk about aboriginal governments and provincial governments and federal governments, we all have an obligation to make sure laws are consistent with our own laws and the Canadian Constitution. What I'm saying is that it has not happened. I can talk for hours, example after example, of how that's not happening. I'm not trying to say anything bad about it,

but it does affect us when we look at constitutional amendments. It does affect the way we look at it.

MR. CHAIRMAN: Thank you.

Would anybody else like to add something? Yes, Ken.

MR. NOSKEY: Thank you, Mr. Chairman.

I guess in a negotiated settlement for the Metis settlements of the province, we had a bit to contribute in regards to the last constitutional talks. Our vice-president, Garry Parenteau, was there, and he just told me he'll give you an insight into what happened there. Maybe for the definition of self-government – this person sitting beside me, Richard Poitras, is a long-time veteran in dealing with self-government issues. What his aspirations were as a young man . . . Now he's turning 72 or something; he's in his 70s. Maybe we should learn of his experiences and his aspirations as to what self-government should mean and what he's seen it as.

With that, I'd like to turn it over to Garry, if I can.

MR. CHAIRMAN: Okay; Garry.

MR. PARENTEAU: Thank you, Mr. Chairman. I'm not sure if I'll give you an insight on what happened at the First Ministers' Conference, but I will give you my opinion.

Leading up to the 1987 constitutional talks, I attended both conferences in '83 and '85. My opinion of what happened with those talks is that mostly terminology of self-government, aboriginal rights – in '85 the empty sandbox/full sandbox theory – from both the federal government and different provinces along with aboriginal groups around the table stalled much of the process of negotiations. The lack of having a common understanding of terminology was the basic downfall of those talks at that time. Those of us sitting in this committee this evening had a small taste of it in a small group, let alone sitting as a large group at a national level. Earlier this afternoon we spoke of inherent rights, unable to explain it, and self-government, aboriginal rights, sovereignty, distinct societies. If we go back to those tables with those things undefined, we'll end up with another five-year process. We need a common definition.

With that, I must echo Mr. Chairman's opening remarks that the conference in 1987 ended on a very sour note on behalf of the aboriginal peoples. We did not come away with any significant common agreement. The province of Alberta did well enough to come away offering a made-in-Alberta agreement for the Metis people of Alberta. The Metis settlements jumped at that idea and, as a result, now have the Metis Settlements Accord here in the province of Alberta. The concept is very good. We do have some technical problems with it, but those are growing pains, as we mentioned earlier today. We will overcome those.

Also, as made in our submission today, we kept aboriginal rights off the table so we could get on with creating a solution to our immediate needs, there again simply because we did not have a common understanding of what aboriginal rights are, getting caught up again in terminology and semantics, the downfall of the overall process.

That's basically my personal opinion of the way I've seen the process happening. Thanks.

MR. CHAIRMAN: Richard.

MR. POITRAS: Thanks, Mr. Chairman. As Kenny mentioned here, I was a longtime participant and I met many government officials, including Mr. Rostad; we had several meetings with him.

When I was a participant, with Randy Hardy being the president at that time, I think one of our concerns was sovereignty. I think you mentioned that, Mr. Chairman, a little while ago. With regards to sovereignty, that's never really been defined. In the event that anyone went along with sovereignty, which in my personal opinion means you're going to have your own army, your own hospitals, this is something you've got to be extremely careful dealing with. On behalf of the settlements, that was not our intention.

On the other hand, I think self-government has never really been defined. We look at it more or less as self-administration, self-governance. Maybe "governance" is a little lighter than "government." In terms of sovereignty, we never had any intention of going in that direction at all. Our plans were to work with government within the accord, and I don't think we're looking forward to any sovereignty at any time at all.

Thank you.

8:15

MR. CHAIRMAN: Thank you very much. I didn't mean to imply that the Metis settlements were seeking sovereignty, but of course that was a word used consistently by the Assembly of First Nations, and that gave a great deal of concern, and still does, to a lot of people.

I'm sorry; Gerald.

MR. THOM: Mr. Chairman, if I may. I want to agree with you on terminology, and I agree with Garry and the others. As we sit around this table today, we're still faced with terminology on self-government, whether it was sovereign self-government at the time. I, too, was disheartened when I came back from Ottawa. I had very high hopes, representing northeastern Alberta through the Metis Association of Alberta. I clearly recall that day, coming back. But I think we as Metis learned a lot from that lesson and, I guess, some guarantees on our last meeting with the Prime Minister on veto powers and a parallel process, on a separate process with Indian, Inuit, and Metis. It has to be that way.

I recall that a lot of times the Metis wanted to go ahead. They were reaching out, wanting to resolve outstanding issues, injustices done to Metis by governments in the past. I clearly recall meeting with the Premier, Mr. Getty, and him stating: "Yes, fellows, we haven't lost. This is our first round. We will take it back to Alberta." I recall that day. But it seems to me there were some other players involved as well that we're not talking about. There was some mention of lawyers and legalities and terminologies that we're all talking about. I, as a younger elected representative of the Metis Association at the time, was a little saddened and disheartened by the fact that I was involved in a very major discussion concerning all Canadians and aboriginal people and our legal adviser gave us a briefing for 15 minutes when I got to Ottawa that evening. After flying for several hours, a brief meeting, 15 minutes: "Gentlemen, you're on your own," and he threw a paper on the coffee table.

Then we were grouped with our other aboriginal brothers and sisters, which wasn't fair to us as well, when you look at the history of the Metis not only in Alberta but in western Canada. I don't think it's fair when governments or other organizations throw all people into one basket and you select the best power to be or whoever is more affluent or influential to come out ahead on aboriginal issues. That's why I'm very comfortable here this evening, very comfortable meeting with not only national leaders but our Prime Minister recently in Winnipeg, guaranteeing us that there would be a separate process for Metis, that Metis would speak for Metis. Metis are not confrontational people. We want

to negotiate. We don't want to stall anymore, not any more than the Alberta government or the other governments of Canada. We have to come to some conclusion.

One very important thing I want to leave with everybody around this table today is the educational component. It was missing on behalf of the Metis when we were there. And lawyers: everybody stacked lawyers. The federal government stacked lawyers and we, the Metis Association, did, and the NCC and the IAA. It probably made us better people because of the fact that we didn't come to some agreement at the time. We were able to come home, back to Alberta, and enjoy the framework agreement, enjoy the settlements Act, enjoy seeing our Premier coming out front and centre and settling Indian land claims in this province. He's the only Premier I know of across Canada that has done that. I think we have a lot to build on, and I think we have to come to a front where we deal with terminologies. I would hate to see some terminology cast in stone in the Constitution which is going to hurt not only my children but other Metis people's children and grandchildren or other Canadians in the future.

I want to leave on a positive note, saying that yes, maybe 10 years is a good time frame. This is not going to be our first discussion; I'm almost sure of it. We have differences of opinion. We do have some models on Indian self-government in Canada and Metis self-government here in Alberta. Our president keeps saying it's got to be Alberta-made, Metis-driven: no lawyers, no consultants until we need them. And we're taking it back to our people. Our people are telling us what they want. Constitutional committees, six of them in this province, have clearly come out on almost the same parallel: land base, equal rights, some say in policies on how institutions are treating our people in, for example, northern Alberta. We do have some traditional Metis in northern Alberta. We have the urban Metis here in the city of Edmonton that differ totally from where my friend William comes from. We have Metis in his area that think traditionally, like Indian people. So there are a lot of areas that I think have to be defined and explored further.

I think people have to come to the table open and not only talk about their feelings but not be afraid to talk. I don't like using the terminology "native," for example. As an aboriginal, I'd sooner be called an aboriginal Metis than a native. I mean, my fellow whites around this table are natives of Alberta, if I want to use the terminology in that sense. To me, "native" is very derogatory at times, especially when it comes to dividing the pie - for example, finances and institutions - where it comes to separating finances or getting equal finances to represent our people's needs, Indian, Metis and Inuit. C-31 is a good example of that today. In Alberta and in Canada it's alive and well.

When you use the terminology "native," then we're all tossed in that same basket and we have our native brothers and sisters fighting each other over who gets the most dollars or who gets to stack the cards better or who gets the most dollars and cents to hire a better lawyer to put together a better proposal to interface with not only a provincial government but the federal government. I'm glad to see that not only this government of Alberta but also some of the federal ministers and the Prime Minister, whom we've been meeting with lately, are starting to use and recognize the word "Metis." I've never seen that. I didn't see that terminology being used in the last go-around on the Constitution. I didn't hear that in too many areas.

These are some of the things that I think have to be quite openly discussed. We have to bring them to the table. There's no going back. We've made it this far from the last breakdown on the Constitution, and we have to go ahead. We cannot afford to go back and renege or stall or be bewildered by different governments

or different aboriginal leaders, if I might say that. We have one common goal. It's self-government, whether it be sovereign, whether it be inherent, or whether it be distinct. I'm very distinct myself, and I consider myself distinct. I'm Canadian. I'm made in Canada. I'm Metis. The Europeans and the first Indians in this country made me and my forefathers. I'm very proud of that.

You know, some things I certainly was disheartened about. And we see that today. We see consultants and lawyers coming to the door and knocking and saying: "Did you know this was that, and this is going to be coming on? If you need any professional assistance, please call us." We're tired of being the pawns. We have very qualified and educated people in today's society, and I'm very proud of that. We have what is called a framework office in Edmonton. We have Metis educators with degrees in education coming to work for us, some in economic development coming to work for us, our own people. I think this is what we want. These are some of the things we want to do on our own. It's not wiping out all of social services and saying, "Well, Mr. Premier and Mr. Prime Minister, we want to take this over completely." It's just like an exercise of the framework agreement. It allows us to speak on policy or policies that affect our people not only in this province but in Canada. We have to be involved. When there are federal and provincial responsibilities in negotiations with different governments, we'd definitely like to be involved, especially when it comes to forestry, lands and wildlife. Like I stated earlier, we have traditional Metis in the north.

Taking all that into consideration, I think that's where I came from coming back from the constitutional talks in 1987. Thank you, Mr. Chairman.

8:25

MR. CHAIRMAN: Thank you very much, Gerald. That was a very useful representation and recollection on your part. Just help me out on one thing, however. The seating of the MNC as a separate entity: you recall that happened. At which one of the conferences did that occur? Was that '83?

MR. THOM: It was in the earlier part of the constitutional talks.

MR. CHAIRMAN: It was the first conference, because until that point the Metis National Council had not been given a separate seat at the table. I recall being part of the discussion which saw that you were in fact given that separate seating.

Yes, Doris. I'm sorry, Barrie Chivers did want to get in too. Did you want to pursue . . .

MR. CHIVERS: I'll defer to Doris.

MR. CHAIRMAN: Okay. Doris.

MRS. RONNENBERG: Thank you, Mr. Chivers. Thank you, Mr. Chairman. I recollect that time too, and Pat has promised you some information that will clarify some of the information you required. The part I remember clearly was the contingent right aspect of the discussions in the back rooms and their pressure boiler conditions. What I have to say here may not sit too well with some people, but when the aboriginal groups, the four of them, agreed to turn down the federal proposal, I was really proud of our people. You know, I was bursting my buttons and ready to shout it from the rooftops, because we weren't grabbing at a last straw that could prove very harmful to us in the future. We had enough strength of character to turn it down, and for that I was really proud of our leaders. As you recall, we all applauded and stood; there was just deafening applause.

Time moves on, and these discussions we've been having about self-governing people have been going on a long time. I was raised by my grandparents. My first languages were Cree and Saukteaux. I didn't speak English until I started in the school system, so my nurturing was purely traditional, and my training was purely in my own language. Some of the training I call upon in the position I hold today goes back to the training I received from people that could be termed illiterate but were PhDs in our own culture. So the term "self-government," inherent government but being able to look after ourselves is not new to me. We were a very isolated community. We didn't have roads into our little hamlet where I was born. We lived off trapping and hunting, gathering wild fruit and berries, fishing, and growing big gardens. We were self-sustaining as people, and we had pride in being able to look after ourselves. In fact, it was really looked down upon when somebody was on welfare, because they couldn't look after their family. That was a real downer.

Now, that was in my lifetime. I was born on the trap line when my parents were out getting muskrats. I was delivered by a midwife. Now, when I tell my children - some of those children are university educated - they're just totally amazed. Why I'm sharing this with this committee is that self-government is not a new, coined phrase. We had it, we lived it, and it's simply looking after ourselves.

You can appreciate that during the constitutional debates or the FMCs my primary focus was on equality, the section 15 aspect of it, the equality sections, and you can see why. That was where my energies were focused. The secondary focus of my energy was really on what I call the protection of individual rights within collective rights. Now my thinking has progressed to: well, what do we call this? Now, I didn't think that up by myself. I was going back to my training. I don't know how we say it, but it's a phrase that's coined "the people that look after themselves." [remarks in Cree] It's really from there that I started looking at this thing.

The Native Council of Canada also had . . . You remember at one point in time there was the aboriginal bill of rights aspect of it, but somehow it fell off the table. But those were the true primary areas where my concern was, and I spent a lot of energy on them. As a provincial president, I had to focus on the contingent right to self-government too. I was one who, under pressure boiler conditions, agreed with the rest of my board members - and there are 14 of us who run the Native Council of Canada at the board level - and turned down the federal proposal. I stand by that decision today. The fact that we don't settle for less than we should is not a black mark against us. It's really to the development of our character that we can say no.

Thank you.

MR. CHAIRMAN: Thank you very much, Doris. I think we've had some good recollections as to what took place.

I'd like to indicate that our colleagues from Calgary have had to depart to catch an airbus. We all appreciate that. They asked that I extend their apologies to you for having to leave before the conclusion of the session, but they do have to travel home this evening.

I think we have one more participant. Barrie.

MR. CHIVERS: Mr. Chairman, I just want to echo the thoughts Garry gave us a few minutes ago with respect to the need for us to have some common understandings. We have to establish a basis of commonality. We have to establish a common language. We have to understand that we attribute the same content to the words we're using. I think that's the difficult part of this process,

to find the language we want to utilize and then make sure we all understand that language in the same way. It's not good enough to deal with abstractions, to talk in generalities about contingent rights, as was done at a previous round of constitutional negotiations, or inherent rights at this round of negotiations. We have to start with the generalities. We have to start with the abstractions, but then we have to move that debate from the generalities and the abstractions to the specifics, and the specific concepts have to have a meaning that we all understand. I guess that part of the difficulty of this process is for us to be able to move this discussion along in that direction, but I feel very strongly that we must do that if we're to be successful in arriving at a constitutional accord.

8:35

MR. CHAIRMAN: Thank you very much.

Yes. Did you want to make a further comment?

MR. CALLIHOO: Please.

MR. CHAIRMAN: Yes.

MR. CALLIHOO: Thank you. I certainly agree with what's been going on around this table, and it has been a real privilege to be able to sit at this table with my brothers and sisters and the rest of the people here around the table to voice our concerns and our opinions. It's a step that has been long overdue, and I'm just thankful that it is happening now. As well, I'd like to thank Doris for inviting me to sit in with her group tonight. As she mentioned previously, I'm not here representing any particular group but as an individual. I'm rather careful what I say because I haven't discussed with anybody else some of my concerns.

Some of my concerns have been brought to my mind as a person who has been living off the reserve and on the reserve and watching things happen for the past number of years: what has happened on reserve, what has been happening in the Metis settlements, with government, also what has been happening to the aboriginal people that are off the reserves who are treaty, and now more recently with the Bill C-31 subjects, which I seem to have fallen under as a Bill C-31 subject. I have my concerns regarding these people, that they must have a say or be a participant in what goes on in Canada.

I'm not quite sure if I share the thoughts that I'm not a Canadian because I'm a treaty Indian. I, too, was born in Canada, and I've always thought of myself as a Canadian. However, after hearing some of the comments at this table this afternoon, it occurs to me that it was never really clarified to us if we really were Canadians or prisoner of war subjects. I've heard that terminology before.

MR. CHAIRMAN: I just missed that comment. The what subjects?

MR. CALLIHOO: Prisoner of war subjects.

MR. CHAIRMAN: Oh. I'm sorry.

MR. CALLIHOO: I'm proud of the fact that I was born in Canada, and I wish to have a say about what goes on in Canada. That is why I have concern for the native people - no; wrong terminology; I don't like "native" either - our aboriginal people to have a say in Parliament, be a part in this Constitution. I don't share the terminology that I've been completely sovereign either. I feel we are a part of this country, and we'll fight to be a part of

this country or on the same side as this country. However, a lot of us are distinct people, and I guess that's where we have to start defining where we're really coming from.

I don't feel that my brothers and sisters are really wanting to be a separate country altogether, but I think they want to be a distinct society to be dealt with within this country of Canada, to have a say and have a right to say what goes on in this country. Although I see that we are having a lot of that through our political organizations such as the Indian Association and the AFN, - and now I understand they're having more say through the Metis Nation - there's a group of people that still seem to be left out. They're the ones that are off the reserve. There are people out there that are not only Bill C-31s but have been treaty all their lives. I understand that up in the Grande Cache area there are some of those groups of people that don't have a land base and don't have a say in any of the native organizations - and that's the AFN, Indian Association, or Metis Association - because they happen to be treaty Indians that were out there and left in limbo. Those are the people I'm concerned about. Those are the people I'd like to see get included along with the Constitution, so that they, too, have a say in what goes on.

When I left the reserve and started dealing with people in the service organizations and they started telling me that once they've left the reserve, they don't have the same say or they start losing some of their rights, I disagree with that. I still feel that they are treaty Indians that should be dealt with under federal jurisdiction. I feel that it's been a long time coming that the Metis Association be recognized as a people that deserve to have more than they've ever gotten in the past.

Being a member of the Metis Nation at one time, I recall wondering why they were left out in so many ways. One, being of aboriginal descent and not being treaty: they paid a penalty because of what our forefathers did. On the other hand, I felt that the Metis people were further ahead than some of the treaty people because - and here's what I may get in trouble for - I feel they've been fighting for their rights longer than the treaty people have. They've done a good job of it, and I feel quite proud of where they're at now. I've watched them grow in Alberta.

I go back and reiterate my main concern as a person that's off the reserve and living in a city: what rights do I have? This is the first time I've been able to sit at a table and speak on my own behalf for the rights of native people. I didn't have that right because I haven't been able to be a member of the Indian Association or AFN or any of those political arms. Now I get this chance. So I would like to see my children and their children have the same right that we're having today. In having these negotiations that are starting with the governments, I feel that all aboriginal people should be included in the Constitution.

Self-government we still have to define better, but it's something we can work on.

MR. CHAIRMAN: Thanks very much.

Clint.

8:45

MR. BUEHLER: Thank you, Mr. Chairman. I've been sitting here all afternoon, and I've heard a lot of positive things happening. I think I understand a lot of the positions here. My wife is a treaty Indian, a band member. Our oldest son is a treaty Indian and a band member. His brother, who was born during the moratorium on band membership, is a C-31 Indian. I have a granddaughter who is Metis. They're all Canadians. My two young sons' offspring probably will not be eligible for Indian status; they'll become Metis. So the future of what happens to the

aboriginal people of Canada hits me personally on a number of levels. I'm delighted to see that after 1987, when it appeared that there might not be any future for negotiations and so on, there's a new process in place.

I'd like to think I'm a pragmatist, not a Pollyanna, but I believe that we're all Canadians, even if sometimes we don't want to identify that because there's another identity that overwhelms that. We are part of this country, treaty Indians as well as the rest of us. I think what's important – sometimes we get so wrapped up in the legalities and the terminology and the syntax and everything else that we don't see the forest for the trees, and what has been exhibited here has been exhibited time and time again through all the various processes that are involved in this constitutional review: a willingness for all Canadians to find a common solution where we can really stand together to build a country that takes into account all of our differences and all the ways that we're the same, an acceptance and realization that we have much more in common than we have different, and that it is vital to the future of ourselves as well as our country that we find a way to work together.

We talk about a 10-year period to sort this all out. Ten years is a long time in some terms; it's a very short time in others. The important thing, I think, is that we come together with a spirit of goodwill, that we have a sense of commitment, all of us, to resolve our differences and to make it our priority to find a way that we can build this country together, that we can accommodate all of our differences and make the essential compromises to enable us to do that. There's too much at stake to do anything else. We have to override all of those petty considerations of power and position and protocol and all those things and just say we're Canadians and that as Canadians we find a way to work together, because that's what Canadians do. We work together to build our country, to help each other achieve our objectives and our goals. For me and my family and the generations that succeed us and for all of my friends, who regardless of their label are aboriginal people, and for all other Canadians it is critical that that be our first objective, to identify ourselves as Canadians and as Canadians to commit ourselves to finding a way to make that work.

MR. CHAIRMAN: Thank you very much. Well, I'm sure Prince Charles would have been happy to have heard your comments in view of what he had to say yesterday.

I think that perhaps on that note it might be an opportune time to conclude and to thank you all for coming, for giving us your views and for being so frank and open with us.

Yes, William.

MR. BEAVER: Yes. I have a comment here tonight before we close. Since God made government, I'd like to close with a prayer before we close tonight.

MR. CHAIRMAN: Okay. I'll let you have the last word then, Chief. Perhaps I'll just be the politician, and you can add the spiritual concluding words.

This process has been useful. I'm certainly pleased that we all had this opportunity as members of the committee, and I'm sure I speak on behalf of everyone here in saying that the decision to hold this round table discussion was a wise one. It has been very beneficial to the members of the committee in understanding the issues and helping us in the process by which we will write a report and submit it to the people of Alberta and to our Legislature in due course for consideration.

We are not going to be able at all times to please everybody. I didn't hear some of the extremist comments that we've heard at other meetings such as "All those people in Quebec should be forced to speak English," on one side, and other people saying, "Everybody in Canada should be forced to be bilingual, French and English." I've sensed a much more open willingness to talk here. But I must say this. I am disturbed by the notion that people around this table – some, in any event – do not consider themselves to be Canadians. I hope that really can be talked about a great deal more as we go through this process, because whether or not we are entirely happy with the governmental structure or the party which happens to form the government or whatever, the key thing is to try and find a way, by working together, to make life better for our individual citizens, to give more opportunity for everybody in this country to succeed. To that end I think all members of the committee are taking on this challenge with a great deal of sincerity and devotion to Canada first. I hope that we will succeed.

Chief Beaver, will you lead us in the concluding prayer? Would you like us to stand?

MR. BEAVER: [remarks in Cree]

Amen.

[The meeting adjourned at 8:53 p.m.]