

ASSOCIATION OF METIS AND NON-STATUS INDIANS OF SASKATCHEWAN

POSITION PAPER ON NATIVE RIGHTS
AND CONSTITUTIONAL PATRIATION

I. INTRODUCTION

The federal government has begun a new round of discussions with the provinces on constitutional reform and patriation. For some reason, which is not clear, the government seems to be moving with great haste to bring the constitution home from Great Britain. The government has publicly stated that it hopes to have achieved this goal within one year. We have made several representations to the government on this matter. In letters to the Prime Minister we have asked to be involved in the discussions and we have asked for financial assistance to assist us to prepare our position. We have now received a reply which is attached as Appendix A.

The attached letter from the Prime Minister implies that the government will only consult with the three Native organizations named and that all financial assistance will go to them. The National Indian Brotherhood and the Native Council of Canada have received similar letters on this subject. (See N.I.B. letter attached Appendix B). This letter also identifies five narrow areas in which the government is prepared to consult Native people. These are Aboriginal Rights, Treaty Rights, Internal Indian Self-Government, Native representation in political institutions, and how and the extent to which the provinces will provide services to Native peoples. We will be allowed no involvement in discussions on other questions, nor will we be allowed to sit at the conference table with the representatives of the two levels of government. In addition consultations on the above topics and how they will be handled in the constitution will take place after patriation not prior to patriation.

II SASKATCHEWAN POSITION ON PATRIATION

The actions of the federal government to date and the approach spelled out in the attached letters (Appendix A & B), are completely unsatisfactory to our Association. Our membership adopted a resolution at our Annual Conference on August 16, 1980 which is attached as (Appendix C). The position of our Association is that we are opposed to constitutional patriation until such time as certain conditions are met. These conditions are as follows:

- a) All provincial and territorial Native political organizations be allowed to participate in the discussions as full partners in all areas of Constitutional Reform.
- b) The federal government provide each Native organization with funds to develop its position and facilitate its input.
- c) That there be no patriation until there is unanimous agreement on a Native bill of rights to be entrenched in the constitution. We are not prepared to relinquish the present protection provided by the B.N.A. Act and other British law and precedents, for Native Rights, until an acceptable alternative is guaranteed.

III FULL PARTNERSHIP

By full partnership we mean that Native representatives must be involved in all constitutional working groups, that we participate on an equal basis in ministerial meetings with the provinces and the federal government, and that the leaders of Natives organization sit as full participants in meetings between the Prime Minister and the Provincial Premiers. By full partnership will also mean that we want to be involved in all aspects of constitutional discussions. The government has indicated that Native organizations will only be consulted on areas which directly affect them. These are narrowly defined as in the attached letter. Our position is that all areas and aspects of constitutional reform affect our people directly and therefore we must be involved in all areas of discussion involving constitutional reform.

IV CONSULTATION ON ALL MATTERS

We contend that we are directly affected by everything in the constitution. It is not possible to make the kind of artificial divisions as is being suggested by the federal government. The following are some examples of areas of constitutional law which vitally affect us:

- a) Natural Resources are a key issue in the constitutional talks. Settlements on Natural Resources vitally affect our aboriginal rights and land claims. If control over Natural Resources are divided up between the two levels of government our ability to have access to any of these resources for our own development will not be provided for in the constitution. Neither will the reforms dealing with the question of adequate compensation for those resources which already have been taken over by governments.
- b) Economics Development is vital to our people. Jobs, adequate income, and independence for our people, are tied to our ability to develop our own economic base and to have control over our own economic institutions. This must be dealt with in the constitution.
- c) Education is vitally important to our people. The present education system has failed us. If we are to develop and become full citizens and partners in the development of Canada, we must have some of our own educational institutions and we must have control over these institutions. This too must be dealt with in the constitution.
- d) Even an area of concern such as immigration affects our people. As the population of Canada increases through immigration more inroads are made by Non-Natives into geographic areas traditionally occupied by Native people. Immigrants also directly compete with our people for jobs and income. Because they have had or are given superior training and educational opportunities, immigrants are almost always favored over Natives in employment and in particular they generally receive the higher paying jobs.

I could go on and develop an argument as to how we are affected by everything dealt with in the constitution. We therefore need a charter of rights which protects our interests in all areas of constitutional law. Attached as Appendix D, is a charter of Native Rights adopted at our Annual Assembly. This we see as being a minimal statement of rights which must be guaranteed before the constitution is patriated.

V REPRESENTATION

We have consistently taken and continue to take the position that the Native Council of Canada does not represent us and in particular that it cannot represent us in constitutional discussions. First, we are not a member of the Native Council of Canada nor are the Manitoba and B.C. Associations members of the Native Council of Canada. This means that these organizations, representing as many as 300,000 of the Metis and Non-Status Indians in Canada, are not represented by Native Council of Canada and therefore will not be represented in constitutional discussions. Second, Native Council of Canada is dominated by delegates from Northern, Central and Eastern Canadian Native Organizations. In some cases these organizations were artificially created by federal government policies and funding programs. There is no significant Non-Status Native population in some of these areas of Canada. Where such populations do exist they have tended to identify their interests as identical with those of the Indians or Inuit people of the areas and have acted in co-operation with them. (James Bay Metis, N.W.T. Metis) Therefore, Native Council of Canada does not represent a significant portion of the Non-Status Native population of Canada. Only the leaders of provincial and territorial organizations can represent their people.

VI STRATEGY

The Saskatchewan organization proposes a number of steps which should be taken, some simultaneously and others in chronological order, depending on the response of the government. These are as follows:

- a) The Western Non-Status Native Associations develop a joint position on constitutional reform and repatriation and that they jointly present this to the government of Canada.
- b) At the same time the Association petition the Queen, the British Parliament, the Secretary General of the United Nations, and his Holiness Pope John, requesting their support for our position. (See Sample letter Appendix E).

- c) That we consult legal experts immediately to determine what steps we can take to prevent patriation until our rights are guaranteed.
- d) That we have our research staff along with legal experts begin work on a statement on Constitutional Reform, linking the findings of our Aboriginal Rights research with and incorporating it into constitutional positions.
- e) That we continue to press for a Royal Commission into the question of Aboriginal Rights.
- f) That failing a federal government response to this request we will find the means to hold our own public hearings to air these questions; and,
- g) That we proceed with such legal action as is recommended by legal experts.

VII CONCLUSION

In closing I want to stress the importance of the question of Constitutional Reform and patriation to our people. It is urgent that we agree on a course of joint action and that we take such action in the very near future. We cannot, based on historical experience, depend on the government to act in our interests, when those interests conflict with the interests of the majority population. We must fight for the recognition of our rights and ensure that there are clear and enforceable guarantees before the constitution is patriated.

Respectfully Submitted

Jim Sinclair
President

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