

NATION: WHAT DOES IT MEAN AND
WHAT ARE ITS IMPLICATIONS.

AMNSIS DISCUSSION PAPER
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I INTRODUCTION

This discussion paper will give examples of what the term "Nation" means to different writers, Indigenous Peoples and how it has been used to date by our Association. A short section will outline a possible working definition that we may adopt for our own purposes, or at least for helping the Board to develop a "concept" as to Nationhood. The conclusion will point out that there is a necessity of determining what we will do with our "Nation."

II WHAT DOES THE TERM "NATION" MEAN IN INTERNATIONAL LAW?

It is important to immediately point out that there is a difference between a "nation" and a "state." A "state" may be made up of one or several "nations."¹ This is important to remember because of our situation within Canada, which is recognized as a "state" under the rules of International law.

Brierly describes the necessary ingredients of a state as follows:

A new state comes into existence when a community acquires, with a reasonable probability of permanence, the essential characteristics of a state, namely an organized government, a defined territory, and such a degree of independence of control by any other state as to be capable of conducting its own international relations.²

Michael Akehurst, another International Law writer defines it as follows:

It is usually agreed that a state must satisfy three conditions:

(1) It must have territory. But absolute certainty about a state's frontiers is not required; many states have long standing disputes with their neighbours.

(2) A state must have a population.

(3) A state must have a government capable of maintaining effective control over its territory, and of conducting international relations with other states.³

The definition of a "state" within the meaning given by International Law is basically the same, as a review of several writers has portrayed. The distinction must now be made between a "state" and a "nation."

The following quotations from two text writers, Emerson and Claude, may help us to arrive at a clearer understanding.

According to Rupert Emerson,

The simplest statement that can be made about a nation is that it is a body of people who feel that they are a nation; and it may be that when all the fine-spun analysis is concluded this will be the ultimate statement as well.⁴

In the many definitions of the nation which have been attempted, four elements which insistently recur as essential to the creation of a sense of common destiny are territory, language, a common historical tradition, and the intricate interconnections of state and nation. Others which have appeared with somewhat less regularity and whose relevance for this purpose is more dubious are race,⁵ religion, and a common economic system.⁵

... The national principle and the state principle, despite the close ties which have grown up between them in modern times, are far from being identical and not infrequently come into dramatic conflict with each other. The existence in almost all corners of the earth of explosive minority issues and in others of troublesome irredenta is the political expression of this disparity.⁶

According to the work of A. L. Claude, the idea of national self-determination originated in the French Revolution and reached its peak of influence during the period from 1848 to 1870. He further states that it re-emerged during World War One and of course, it is very much alive today.

Claude had this to say,

... A group of people constitute a nation when they feel that they do-- when they have an active sense of belonging together and of being distinct from other groups, a sense of solidarity and of differentiation. While these feelings may be related, as cause or effect, to observable characteristics of the groups, there is no uniform or necessary pattern of objective factors whence national feeling is derived or in which it manifests itself.

The fundamentally subjective nature of the concept of the nation prevents a precise statement of the scope of our problem. Racial, religious, or linguistic differentiations may be treated as useful clues to the existence of national minorities, but not as infallible indices. We can only say that a national minority exists when a group of people within a state exhibits the conviction that it constitutes a nation, or a part of a nation, which is distinct from the national body to which the majority of the population of that state belongs, or when the element of the population of a state feels that it possesses a national character in which minority groups do not, and perhaps cannot, share.

The relationship between majority and minority national groups is a constitutional problem of prime importance, profoundly affecting the political, cultural, and economic life of states. The minority problem is first

of all an issue of domestic policy,
a matter of internal adjustment.

The conflict of national groups within the state is also a matter of serious international concern. ... If a state persecutes its minority national groups, the moral indignation of other peoples may lead to international action against the offending government.

In dealing with the conflict between a "state" and "national minorities," Claude states:

The attempt to impose an artificial uniformity upon self-conscious groups was in no case successful. The effort of the state to become a nation aroused the determination of the nation to become a state. Oppression of minorities intensified their sense of national identity. Assimilative policies strengthened the determination of minorities to perpetuate the linguistic, cultural, and religious characteristics which they regarded as symbolic of their solidarity and exclusiveness. The evidence of experience pointed clearly to the conclusion 'that a unitary national state is impossible, where even a relatively small but fully conscious national minority is determined to preserve its individuality.'⁹

The Permanent Court of International Justice in the Greco-Bulgarian 'Communities' Case in 1930, had an opportunity to examine the concept of equality for minorities and adopted the following definition as to the nature of a minority community,

... a group of persons living in a given country or locality, having a race, religion, language and traditions in a sentiment of solidarity, with a view to preserving their traditions, maintaining their form of worship, ensuring the instruction and upbringing of their children in accordance with the spirit and traditions of their race and

rendering mutual assistance to each other, ... (and their) existence ... is a question of fact; it is not a question of law.¹⁰

Getting closer to home, R. Sampat-Mehta in his book, Minority Rights and Obligations, had this to say;

The Supreme Court of Canada accepted the dictionary meaning of an ethnic group or race recently. "According to the Oxford Dictionary, the meaning of the word ethnic here appropriate, is "pertaining to race; peculiar to a race or nation; ethnological." An example given of the use of the word is "that ethnic stock which embraces all existing European race." Similarly the word "ethnically" is equated to "racially." Further, one of the meanings given to the word "race" is a group of persons connected by common descent or origin. In the widest sense, the term includes all descendants from the original stock but may also be limited to a single line of descent or to the group as it exists at a particular period.¹²

Mr. Sampat-Mehta goes on to state that minority groups can be either classified as racial minorities, i.e., Negroes in U.S.A. or Indians in North America, religious minorities or linguistic minorities, i.e., French-Canadians. He does, however, point out that most minority groups fall under all three categories, which would be the case for North American Indians.

He feels that,

The constitution or the governing instrument of the State should be so engineered as to make adequate provisions for the inclusion of those groups in the affairs of the state. They should be given incentives to the extent of allotting to them in proportion to their numbers representation in Parliament, in the Councils of State and generally to participate in the

administration of the government.¹³

III HOW HAVE OTHER INDIGENOUS¹⁴ PEOPLES USED THE TERM?

The most recent and popular use of the term "nation" has been in conjunction with the Dene People's desire for self-determination and the evidence presented to the Berger Inquiry.

Mr. Peter Russell of the Department of Political Economy at the University of Toronto, presented a paper to the Berger Inquiry on behalf of the Dene. This was entitled, The Dene Nation and Confederation. Mr. Russell explains in some detail the meaning of "nation" as it applies to Canada and to the Dene, or as we can interpret it, to other indigenous groups.

There are two ways in which the word 'nation' has been used. The oldest and most continuous usage associates the concept of nation or nationality with what is basically a cultural entity. The American historian, Carlton Hayes, thus defines a nationality as 'a group of people who speak either the same language or closely related dialects, who cherish common historical traditions, and who constitute or think they constitute a distinct cultural society.' Similarly, the European historian, Georg Jellinek, defines nation as 'a multitude of humans characterized by common and unique cultural factors. This multitude shares in a common historical past and is linked by an awareness of its uniqueness.' (cited in Heiman). Nations and nationalities so defined existed in human history as social and cultural collectivities long before the emergence of the nation state and that other usage of nation and nationality which is primarily legal and juridical. It is the distinctive mark of the modern political era, beginning about the sixteenth century,

to have organized the world into nation states, each governed by a sovereign authority based on a distinct territory and claiming a monopoly of legal control over all who inhabit that territory and legal independence from any external authority. In this context, nation is identified with the sovereign state: the nation is the sovereign legal entity which participates as an individual and independent member in the international community of nations, and nationality is a legal capacity bestowed by the sovereign nation on all of its citizens regardless of their cultural characteristics.

. . . .
Thus, both usages of the word "nation" have survived in Canada.

. . . .
... The concept of nation, the right to be recognized as a national group, as used and claimed by the Dene people, is in accord with the first and oldest usage of these terms. They are claiming the right to survive as a distinct cultural entity 'within the country of Canada.'

. . . .
The main end which the Dene seek is their survival as a distinct ethnic entity, a distinct people, and in that sense a distinct nation or national group within the Canadian State.¹⁵

Dr. R. A. Falk, Professor of International Law at Princeton University, also gave testimony on behalf of the Dene people. In essence, he stated that the Dene, as a "nation" of people had the right, under International law, to self-determination. In making this point, Professor Falk also gives a definition for determining national identity, which is as follows,

... it seems to me appropriate to say that the self-determination of people which is the phrase that is used in all the authoritative legal documents

that exist, has to do with people that have a separate national identity, that they themselves experience and perceive and that is reinforced by such objective factors as an attachment to a particular part of the land, enduring tradition, and a distinct language and belief structure and myth, and that this separate form of national self-determination does not depend, for its validity, on the claim that the nation must seek to become a state.¹⁶

George Erasmus, President of the Dene Nation, formerly the Indian Brotherhood of the N.W.T., expressed his view of the Dene Nation in the following terms,

Long before the Europeans decided to look for resources and riches outside of their own boundaries, the Dene Nation existed. We had our own way of life, we had our own laws by which we governed ourselves, by which we lived together-- laws for educating young people, laws for respecting old people, laws respecting our land. We had our own ways of worship and our own economic system. We had a complete way of life. We ourselves decided what was best for us and for our land.¹⁷

Although not presenting clear definitions of a "nation", the Federation of Saskatchewan Indians in 1977 have proposed the establishment of Indian Government on the basis that they have not given up their right to self government, and as such still retain some sovereignty as a nation. However in describing their traditional Indian Governments, the F.S.I. give an indication of their requirements for Nationhood Status.

When Europeans first arrived in North America they found thriving political, cultural and social institutions. Indian governments were highly structured and exercised all the powers necessary to maintain political and social stability.

As distinct governments with clearly defined lines of authority and jurisdiction, there can be no doubt that they were nations.

Traditional Indian governments were usually democratic in the sense that power and authority were spread among several institutions. Important decisions affecting the entire tribe were usually made by a Council or assembly who represented the various clans or bands of the tribe ...¹⁸

The Indians, Cree-Objibway, of Treaty No. 9 in Ontario have also declared their Nationhood status in a Declaration presented to the Ontario Cabinet in July, 1977. Here again, their concept of nation wasn't outlined, but appears to be based on their traditional ownership of their homelands, as a distinct and identifiable group of people.

Although we have no material on the National Indian Brotherhood and the issue of "nation" or "nationhood," their official position is that they are "Indian Nations." See Appendix No. 1 for an open letter written to Prime Minister Trudeau and the Provincial Premiers assembled at the First Ministers Conference, October 30 - November 1, 1978. This declares their nationhood claim and their position in regard to future discussions on the changing of the British North America Act, 1867.

The Native Council of Canada is the National Body representing the Metis and Non-Status Indians of Canada, except for AMNSIS (Sask.), the Manitoba Metis Federation and the United Native Nations of B.C. The Native Council of Canada (NCC) presented a Brief to the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada, dated August 23, 1978. In this Brief, the NCC has put forward its views as to who is an Indian for the purposes of the Constitution, as well as to

the role of Indian or native "nations" within the rest of Canadian society.

The Concept of Native Collectivity:

In re-affirming for native people a special place in the Constitution and a special role in the development of a Canadian identity, the foundations would be laid for a policy which would include some of the following elements:

- (i) All native people would be included in such a reference, including Metis, Inuit, and "non-status" Indians.
- (ii) Special status under the Constitution would provide the opportunity for native groups, in their various regions, to exercise the rights of self-determination within the framework of Confederation and to develop as "nations" in a cultural and linguistic sense.
- (iii) Consistent with this aim, native people would exercise the right to possess and use lands needed to ensure their economic self-reliance.
- (iv) Native people would also have the right to practice and preserve their languages, traditions, customs and values, and to develop their own special institutions.
- (v) As a "nation," each native group which achieves this development, would have full jurisdiction over a specific geographic area as a form of government within the framework of Confederation.
- (vi) The Federal Government, in keeping with its special responsibility for native people, would facilitate and finance the development of such native "nations" as an integral new dimension to Confederation.

Assumptions underlying the concept:

- (i) Prevailing notions of "unity" and a concept of "Confederation" based on geographic and historical considerations, is flexible enough to accommodate the added dimension of "nation," referring to native race, culture and aboriginal origin.¹⁹

The Brief goes on to outline three other assumptions and the rights and entitlements of native people, including the right to determine membership, the right to develop as native nations and the right to manage their affairs and rights in land as native nations.²⁰

However, in a subsequent Brief presented by N.C.C. to the First Ministers' Conference on the Constitution, held on October 30 - November 1, 1978, at Ottawa, the identity of native peoples was presented as historic national minorities. On this basis, N.C.C. points out that native people are not merely another ethnic minority requiring equality of opportunity, but are a group of people with the right of self-determination and a right for special status which goes beyond mere equality of opportunity.

We are an historical national minority with rights inherent in that status which go beyond the right to equality of opportunity. The latter right assumes that we be assimilated into either French or English versions of Canadian society. As a historical national minority, we have the right to remain separate and distinct from both versions and develop along lines dictated by our own cultural aspirations. The question for us therefore, is not the vague, charitable one of gaining access to "equality of opportunity" in "the Canadian Mosaic," but more correctly, how to relate to Canadian society without losing our identity, lands and those rights inherent in our aboriginal status in the process.

.
... we repeat, we are not just another cultural group, but an historical national minority, that is, a people with a right to stay in Confederation or get out of it. Ethnic groups do not have this right. They are not historical national minorities and do require measures to guarantee access to equality of opportunity. We need more than this.

.

... Native people, it must be repeated, have a co-existential right within Confederation which makes us "special," not equal to other Canadians.²¹

Having stated all this, the N.C.C. concluded that there are basically three options open to them concerning how they should relate to Canadian society. These are;

... to accept assimilation as being inevitable and become full participants in your society, thereby foresaking our history and distinctive identity. The second is to exercise our right of self determination and establish ourselves as a separate political entity in Canada. The third is to work out a political formula whereby we become integrated into your society but with guarantees which allow us to retain our identity as distinctive, historical national minorities. We favour the third. However, we do not believe this can be accomplished through multi-culturalism. It can only be accomplished through opportunities for us to represent ourselves in legislatures.²²

By adopting the third option, it appears that N.C.C. is changing the position that they presented to the Joint Committee in September, 1978. As noted above, the N.C.C. in September advocated "full jurisdiction over a specific geographic area as a form of government within the framework of Confederation." This would be the second option outlined to the First Ministers' Conference and the position taken by the Dene Nation.

A brief explanation of the three options may help in clarifying what the N.C.C. is advocating. The first option would be outright and total assimilation as has been the Government's policy for the last few centuries. This would be accepting the theories of equal participation or equality of opportunity and would disregard the political rights of historic national minorities and aboriginal title: This is the so-called melting-pot theory where everyone is

supposedly treated equally.

The second option is that which is being pursued by the Dene Nation. They want a specific geographic area, wherein they can exercise self-government and self determination within the structure of Confederation. This view is opposed by the Metis Association of the N.W.T., who are pursuing option number three. This is due to the belief that in the context of the Canadian economy, especially in the north where multi-national corporations have control, that this would lead to dual economies; one for native people (pre-capitalist) and one of capital reserve for multi-national corporations. Basically there would be lack of involvement by native people in the exploitation of natural resources and the economic structure.

The third option is based on collective integration as opposed to individual integration, which in essence, is assimilation or multi-culturalism. This collective integration is a rejection of multi-culturalism and must be implemented on terms designed by native people in conjunction with the Federal Government. This would be based on the rights of historic national minorities, which has a legal basis or recognition in International law. The starting point would be that native people should be guaranteed participation or involvement in the political and economic structures of Canada. This is to be based on the principle of partnership rather than the notion of equal participation or equality of opportunity, which as pointed out above, is part of the first option.

Although the Brief only deals with the principle of guaranteed representation in legislative assemblies, N.C.C. will in the near future, be publishing a Position Paper which deals with 5 major principles, including partnership in economic development.

The major impact of Half-breed or Metis historical national relevance in terms of the relationship to the government, was the entry of Manitoba into Confederation in 1870. At that time the Federal Government, although it has since continuously tried to deny its recognition of the Provisional Government, dealt with the Metis on the basis of their Bill of Rights. These rights are reflective of the nationalistic views of the Red River Metis and are reproduced in Appendix No. 2.

IV HOW HAS OUR ASSOCIATION BEEN USING THE TERM?

The following position was taken in the submission to the National Unity Task Force in 1977.

III The Position of the Association
On Nationhood.

Our Association lays claim to nationhood rights for all native peoples in Canada. However, we recognize that we can only speak for our own people, the non-status Indians in Saskatchewan. We further recognize that each legitimate native group and organization has the right to interpret the fact of nationhood from its own perspective and that it has the right to negotiate a settlement of this claim to its own satisfaction.

Our Association believes that there are a number of important attributes which make up nationhood. These include a national territory over which the group exercises sovereignty. It also includes the right to use and occupy the land, i.e., control of the economic system. Other national attributes include the following:

- a) common language, religion and educational system;
- b) other common institutions such as government bodies, judicial system, civil and criminal law, etc.;
- c) common customs, values, usages and lifestyles;
- d) commonly recognized and accepted rights and privileges, etc.;

- e) the right to levy and collect taxes to finance public works and public services.

It will be noted that some of these rights can only be exercised within a national territory. Others could be exercised regardless of control over national territory.

Some four centuries back when the first white men came, our ancestors welcomed them and they stayed. Surely from the point of view of the indigenous peoples, that was a mistake. However, we recognize that we cannot undo the history of the past four centuries, we cannot turn back the clock of time. Therefore, for our people in Saskatchewan, at least the possibility of once again attaining a position of full nationhood seems not possible. We can no longer lay claim to a national territory or to the right to exercise sovereignty over that area. We, however, can and will in the near future be laying historical claim to the territory which makes up this province and will be demanding a just settlement for no longer being able to exercise that claim. In other words, we plan to present the government with our aboriginal rights claim, which we will establish, has never been ceded by our people to the government.

However, even though we cannot claim nationhood today, we can claim our national identity. We claim the right to be considered as one of the founding nations of Canada. Further, we claim along with that a constitutional guarantee of our national cultural rights. We are not just another ethnic group. We are a national group, easily identifiable, and with claims and rights no other group in Canada can make. We want the constitution of Canada to recognize the native people as one of the national groups making up Canada. Furthermore, we want those national rights which will help us to maintain our national identity

and culture, to be guaranteed by the Canadian Constitution. In other words, we demand the right to be full partners in Confederation. The day when the English and the French can pretend that they alone are the founding nations is past. There can be no justice and there can be no true unity in Canada until this fact is recognized and until our rights are guaranteed along with those of the other two so-called "founding races."

In the Submission to the Bayda Inquiry in 1977, the Association defined a nation as follows;

In 1870 the Metis people of Rupertsland existed as a nation. We shared a common language, a common view of the world. We were a developing nation with an autonomous economic basis, system of trade, communication and political organization.

In our September 28, 1978, Submission to the Joint Senate-Commons Committee on the Constitution, we based our claim to nationhood upon the Law of Nations. The definition used in the Bayda Submission was adopted, as seen below;

B) As the Basis of Nationhood.

There are certain attributes or conditions necessary to create a nation under the Law of Nations. In 1870 the Metis of Rupertsland shared a common language, culture and view of the world. They had an autonomous economic base, system of trade, communication and political organization. On this basis the Metis of Manitoba were admitted into Confederation. Although they, as were the French of Quebec, admitted as a Nation, the Prime Minister of the day, Sir John A. MacDonal, as seen above, had already hatched a scheme whereby the Metis Nation would be swamped by immigrants.

This wave of immigration did in fact happen and a large number of the Metis moved further west. The Metis of

the Northwest Territories again began to reassert their national rights in 1884 - 85 and by the force of arms of the Canadian Government, a portion of the Metis nation was persecuted. The events from that period have not so drastically altered the status and aspirations of the Metis to have their national rights recognized. In fact, the oppressiveness of the colonial system has so impoverished and excluded the Metis that our characteristics and lifestyles have remained relatively the same. We are currently a landless people in our own homeland and live on the fringe of Canadian society, if not in reality outside of it.

In discussing the meaning of "nation" or "nationhood," it is also important to keep in mind what our objectives or possibilities of achievement are. Keeping this in mind, the following is our position as contained in the above-mentioned submission to the Constitutional Committee.

B) Our Position as a Nation.
Because we are a distinct and separate people in what can only be described as our homeland, we are asserting our nationhood rights. We firmly believe that a new section should be added to the proposed Amendment Bill which would establish for the "aboriginal" peoples the rights of full partnership in Confederation.

Our position would be as a province is to the Federal Government. We will have to be allowed retention of sufficient territory to enable an effective and adequate lifestyle. Our rights will have to be entrenched so that we once again do not get "swamped" by white immigrants. We will have to be afforded our own institutions, including amongst others, legislative, legal, judicial, enforcement, religious, social, educational, health, linguistic and economic, including control of all natural

resources, both renewable and non renewable. We will also have to be allowed the right to determine our own citizenship. In essence, our Nation or Nations would operate upon the same model that Quebec does with the Federal Government.

The decision to be treated as a Nation as proposed above, will have to be left to the "Aborigines" themselves. Some may decide to remain under the current structure, however, there are others, such as the Dene Nation and our Association, who have declared in favour of self-determination within Confederation.

The issue of the territory or territories across Canada, which can be retained or established for Native Nations may have to be done on a pragmatic basis, but this issue can be resolved between the Government and the Native Nationals at future meetings.

In referring back to the second and third sections of this paper, it can be seen that we have not been distinguishing or taking any notice of the difference between a "state" and a "nation." We have been consistently using the definition of a "state" for the purposes of establishing our "nationhood" claim. This really isn't necessary.

When we speak about the Provisional Government of the Red River in 1870, what we really are referring to is a "state." This is so because the Provisional Government had the attributes or makings of a state and, as we believe, was recognized as such by virtue of the Law of Nations and by the historic dealings of the Canadian Government with that Provisional Government. In this context, it is arguable that the descendants of the Red River Half-breeds would be the nationals of that former state.

V POSSIBLE WORKING DEFINITION.

In defining what we mean by "nation" or "nationhood," it is not necessary to use the attributes of a "state" or "statehood." As noted above, there are various methods or criteria that can be used to arrive at the decision as to which peoples are a nation within a given "state."

Some writers suggest that the expression or statement by a body of people that they are a nation, is sufficient. That it is sufficient if they have an active sense of belonging together and of being different from other groups or the rest of the state population. They do, however, give some criteria which could be used to characterize that body of persons or nation of people. These include: language, a common historical tradition, religion and race. It is to be noted that these groups or bodies of people are also termed national minorities.

The term nation has also been used to describe distinct cultural entities or distinct ethnic entities.

The better definition, however, appears to be the one presented by Professor Falk to the Berger Inquiry. He stated that people, such as the Dene, have a separate national identity "that they themselves experience and perceive" and which is backed up by such things as an attachment to a particular part of the land, persisting tradition, distinct language and religion and "that this separate form of national self-determination does not depend, ...on the claim that the nation must seek to become a state."

From all of this we can see that we fit into the criteria of feeling separate from the rest of Canadian society by the fact of our legal position based on aboriginal title or race and on our lifestyles and

cultural traditions. This is further enforced by other factors such as the lack of economic and educational opportunities, unemployment, high rates of incarceration and generally, by discriminatory practices against our people.

A working definition of nation should be adopted which can be used consistently in all future dealings with the government or other groups and for future policy decisions.

VI CONCLUSION

After we have adopted a working definition or concept of the term "nation," we will still have to make a political decision as to the nature and form of relationship we wish to exercise in regard to the major "state" population and in particular with other Native Nations or Associations.

This is especially important in terms of dealing with the proposed Constitutional Amendments and the repatriation of the Constitution (B.N.A. Act, 1867). We have already made our views known in the submission to the Joint Committee in September, as is quoted on pages 17 to 18 above.

One point of difference in our Briefs is that in the one to the National Unity Task Force it was stated that "we can no longer lay claim to a national territory," ...²³ whereas in our recent one to the Joint Committee, we have stated that we want to retain sufficient territory to enable an effective and adequate lifestyle, in other words we have declared in favour of self-determination. This does not mean that we are extinguishing or dealing with our aboriginal title, whereas in the Brief to the Task Force, we may have meant that we could not claim territory as a sovereign state, but nevertheless may be making a land claim on the basis of an aboriginal rights settlement. This

point aside, our last submission merely builds-on to the position taken in 1977.

The remaining question to consider is the position taken by the Native Council of Canada.²⁴ Do we want to pursue the concept of historical national minorities and become collectively integrated with guaranteed rights of partnership, etc., or do we want to pursue self-determination as a separate political entity in Canada, as is the position of the Dene Nation and our Submission.

It should be kept in mind through all of this, that even if our aboriginal title is denied us or if the Government and the Courts state that it was validly extinguished, we are still a "nation" of people and are still a national minority possessing deep historical roots and have to be dealt with as such.

The National Indian, Vol. 2, No. 3, Sept. - Oct., 1978.

Starblanket slams conference

The following is an open letter to the Prime Minister of Canada and the Premiers of the provinces of Canada from Noel Starblanket which was distributed at the Constitutional Conference in Ottawa, October 31.



Dear Sirs:

Following a letter sent by me to the Honourable Pierre Elliot Trudeau, Prime Minister of Canada, representatives of the National Indian Brotherhood were invited to sit at this conference as observers.

We accepted this invitation.

We wish to state categorically, however, that we do not intend to remain perpetual observers at any future events that debate and decide upon grave matters that affect the future destiny of our Indian Nations.

We do not intend to sit silently while the future of our peoples is being decided by immigrant nations who have claimed our land.

Therefore, we take this opportunity to announce on behalf of the Indian Nations of Canada, the original inhabitants of this land, that we have a deep concern and very direct interest in any revisions to the British North America Act or any other constitutional changes

Before the French came here, our Indian Nations were here. Before the English came here, our Indian nations were here. There is no one here present who can deny this undisputable fact.

Before the Confederation of Canada was here, we had our own several confederations of Indian Nations.

Before the British North America Act was enacted our Indian Nations existed in this land, and we continue to exist here today and will continue to exist for all tomorrows.

Our Indian Nations have faced policies of annihilation, policies of subjugation, policies of dispossession, policies of usurpation and policies of termination of our rights, poli-

cies that were destructive of our Indian Nations.

Yet we continue to exist as Indian Nations. We will not surrender our several Nationhoods.

As you, the so-called co-founding nations of Canada, go about your business of re-defining the powers of various groups under the British North America Act, you would relegate us to being mere observers and watchers while you continue to carve up among yourselves not only the powers invested in the land, but the very land itself. And in so doing you would ignore us entirely.

Canada is our land.

Canada is our home.

We do not trace our history to France.

We do not trace our history to England.

We do not trace our history to other lands across the oceans, even though others attempt to do so. We trace our history to this land.

This reality was recognized by the drafters of the British North America Act, Canada's Constitution.

There are only three peoples mentioned in the British North America Act, the English, the French and the Indians. At this conference only two of these peoples have direct participation in the constitutional discussions - the English and French

Yet it is our country they are discussing. We feel it is clearly unreasonable to exclude us any longer.

As an elected leader I would be irresponsible if I were content to sit back and watch my people's future being decided without direct input in these discussions. We are putting the Prime Minister on notice that from here on in Indian Nations intend to sit at the table of Confederation and negotiate our future relationship with the immigrant groups who are debating future governmental arrangements in our country. We will no longer be merely content to sit as observers.

No other peoples, neither the French nor English have a greater right to speak in the constitutional debates. I look forward to exchanging views with you on the nature of relationships between our nations will take.



In 1835, the Hudson's Bay Company bought back the land it had granted to the Selkirk Settlers. Up to 1869 it granted land by sale and one thousand year leases.

There were some Metis who bought or leased land from the Hudson's Bay Company, but many totally rejected the right of the Company to own land they felt that they, as a people, had owned for centuries.

By the 1860's a new threat to Metis land emerged as the Canadian nation began to expand westward. While the new Canadian government recognized the Hudson's Bay Company as having legal right to land of the west, no assurances were given to the Metis on rights to the land. It was a time of crises for the Metis. It was also a time that produced their greatest leader - Louis Riel.

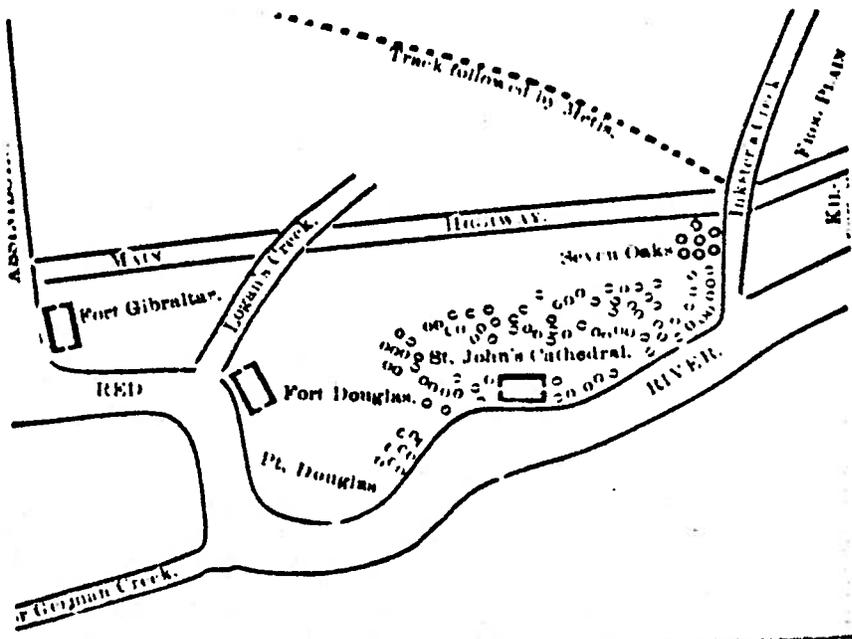
On October 19, 1869, the Metis formed a National Committee. The president was Jack Bruce and its secretary Louis Riel. In a symbolic act of defiance, the Metis halted surveyors, prevented the new Lt. Governor of the Northwest Territory from entering the area and seized Fort Garry on November 2, 1869.

In January of 1869 a convention of twenty French speaking delegates agreed to form a provisional government with Louis Riel as its president. The first act of the provisional government was to draw up a list of rights for negotiation on entering into confederation with Canada. The list was to be presented to the Canadian Government by a delegation chosen by the provisional government.

METIS LIST OF RIGHTS

On March 8, 1869 the Hudson's Bay Company turned over its ownership of Rupert's Land to Canada for 300 thousand pounds sterling. Land which the Hudson's Bay Company had sold or leased would be recognized by Canada. The Metis insisted, as they had done so long before, that their land was not the Hudson's Bay Company's to give.

The Metis had a certain amount of political power as they were by far, the majority in the land that was to become the province of Manitoba. A census taken in 1870 showed that out of a total population of 11,963, five thousand seven hundred, fifty-seven were French Metis; four thousand, eighty-three were English Metis and some fifteen hundred were classified as white. The Indian, because of the devastating effect of small pox and measles, numbered only 560.



Scene of the Battle of Seven Oaks.

Metis List of Rights

1. That the Territories, heretofore known as Rupert's Land and North-West, shall not enter into the Confederation of the Dominion of Canada, except as a Province, to be styled and known as the Province of Assiniboia, and with all the rights and privileges common to the different Provinces of the Dominion.
2. That we have two Representatives in the Senate and four in the House of Commons of Canada, until such time as an increase of population entitle the Province to a greater representation.
3. That the Province of Assiniboia shall not be held liable, at any time, for any portion of the public debt of the Dominion contracted before the date the said Province shall have entered the Confederation, unless the said Province shall have first received from the Dominion the full amount for which the said Province is to be held liable.
4. That the sum of eighty thousand dollars (\$80,000) be paid annually by the Dominion Government to the Local Legislature of this Province.
5. That all properties, rights, and privileges enjoyed by the people of this Province, up to the date of our entering into Confederation, be respected, and that the arrangement and confirmation of all customs, usages, and privileges be left exclusively to the Local Legislature.
6. That during the term of five years, the Province of Assiniboia shall not be subjected to any direct taxation except such as may be imposed by the Local Legislature for municipal or local purposes.
7. That a sum of money equal to eighty cents per head of the population of this Province be paid annually by the Canadian Government to the Local Legislature of the said Province, until such time as the said population shall have increased to six hundred thousand (600,000).
8. That the Local Legislature shall have the right to determine the qualifications of members to represent this Province in the Parliament of Canada, and the Local Legislature.
9. That, in this Province, with the exception of uncivilized and unsettled Indians, every male native citizen who has attained the age of twenty-one years, and every foreigner, being a British subject, who has attained the

same age, and has resided three years in the Province, and is a householder; and every foreigner other than a British subject who has resided here during the same period, being a householder, and having taken the oath of allegiance, shall be entitled to vote at the election of members for the Local Legislature and for the Canadian Parliament. It being understood that this Article be subject to amendment exclusively by the Local Legislature.

10. That the bargain of the Hudson's Bay Company with respect to the transfer of the Government of this country to the Dominion of Canada be annulled, so far as it interferes with the rights of the people of Assiniboia, and so far as it would affect our future relations with Canada.

11. That the Local Legislature of the Province of Assiniboia shall have full control over all the public lands of the Province, and the right to amend all acts or arrangements made or entered into with reference to the public lands of Rupert's Land and the North West, now called the Province of Assiniboia.

12. That the Government of Canada appoint a Commission of Engineers to explore the various districts of the Province of Assiniboia, and to lay before the Local Legislature a report of the mineral wealth of the Province within five years from the date of our entering into Confederation.

13. That treaties be concluded between Canada and the different Indian tribes of the Province of Assiniboia, by and with the advice and cooperation of the Local Legislature of this province.

14. That an uninterrupted steam communication from Lake Superior to Fort Garry be guaranteed to be completed within the space of five years.

15. That all public buildings, bridges, roads, and other public works be at the cost of the Dominion Treasury.

16. That the English and French languages be common in the Courts and that all public documents as well as Acts of Legislature, be published in both languages.

17. That whereas the French and English-speaking people of Assiniboia are so equally divided as to number, yet so united in their interests and so connected by commerce, family connections, and other political and social relations, that it has happily been found impossible to bring them into hostile collision, although repeated attempts have been made by designing strangers, for reasons known to themselves, to bring about so ruinous and disastrous an event.

And whereas after all the troubles and apparent dissensions of the past, the result of misunderstanding among themselves, they have, as soon as the evil agencies referred to above were removed, become as united and friendly as ever.

Therefore as a means to strengthen this union the friendly feeling among all classes we deem it expedient and advisable—That the Lieutenant-Governor who may be appointed for the Province of Assiniboia should be familiar with both the French and English languages.

18. That the Judge of the Supreme Court speak the English and French languages.

19. That all debts contracted by the Provincial Government of the Territory of the North West, now called Assiniboia, in consequence of the illegal and inconsiderate measures adopted by Canadian officials to bring about the civil war in our midst, be paid out of the Dominion Treasurer; and that none of the members of the Provisional Government, or any of those acting under them, be in any way liable or responsible with regard to the movement or any of the actions which led to the present negotiations.



Regina, L.P., Wednesday, Dec 6, 1978

36 National

Native council disunity

OTTAWA (CP) — The Native Council of Canada, which represents the country's 750,000 Metis and non-status Indians, must pull itself together and overcome regional differences if it hopes to participate in the constitutional debate.

"We can't afford the fragmentation that's bothered us in the past and our position must be accepted across the country," George Munroe, council vice-president, said in an interview.

Council members from the two territories and all provinces except Manitoba and Saskatchewan, began a two-day summit here Tuesday to hammer out "a declaration in specific terms of exactly what we expect from the federal government."

The Metis and non-status Indians are not protected by the Indian Act or any other federal legislation and have asked for "equal partnership" in federal-provincial negotiations to amend the constitution which resume in February.

Some native groups have attended constitutional debates but have been restricted to the status of observers.

Brief presented

During last month's first minister's meeting on the constitution, the council presented a brief calling for a guaranteed number of seats for natives in provincial and federal legislatures.

Council president Harry Daniels said a political system must be worked out "whereby we become integrated into our society but with guarantees which allow us to retain our identity as distinctive, historical national minorities."

Munroe said the council's position hasn't changed and the declaration "will be more comprehensive, will set out federal responsibility and define the role our regional associations can play."

But Munroe said there are so many divisions within the council that discussion on the constitution and the declaration is expected to be fierce.

Munroe was reluctant to discuss regional differences prior to the meeting but he indicated delegates are split over Daniels' proposal for guaranteed representation at various levels of government.

"Do we really want that or will it just be another political patronage system that won't amount to a hill of beans?"

Other delegates have expressed concern over the kinds of guarantees the council should be pressing for in a new constitution.

Munroe said the declaration will be ready sometime in the new year and the council is working with federal officials on a mechanism for representation at the future constitutional debates.

FOOTNOTES

1. Brierly, The Law of Nations, 6th Ed., p. 126 - 127.
2. Ibid., p. 137.
3. Akehurst, A Modern Introduction to International Law, 3rd Ed., p. 57.
4. Emerson, From Empire to Nation, p. 102.
5. Ibid., at 104.
6. Ibid., at 105.
7. Claude, National Minorities, an International Problem, p. 2.
8. Ibid., p. 3 - 4.
9. Ibid., p. 9 - 10.
10. L. C. Green, Canada's Indians: Federal Policy, International and Constitutional Law, 4:62 Ottawa Law Review 1970, at 101.
11. Per Kellock, J. delivering the majority judgment in Narine Singh et al v. A. G. of Canada, S.C.R. (1965) 397.
12. R. Sampat-Mehta, Minority Rights & Obligations, at 3 - 4.
13. Ibid., page 4.
14. What is meant by Indigenous?

According to the New Merriam-Webster Pocket Dictionary, 1970, Indigenous means native. Native is defined, as amongst others, "4: grown, produced or originating in a particular place: Indigenous." Indian is defined as "2: a member of any of the aboriginal peoples of No. and So. America except the Eskimo." Aboriginal means original, indigenous, primitive. Aboriginal is defined as "a member of the original race of inhabitants of a region: Native."

It would therefore appear that all of these terms end up meaning "native" which is used to describe our people.

15. Mel Watkins, Dene Nation: The Colony Within, p.p. 163 - 165.
16. R. A. Falk, Testimony in Chief, before the Berger Inquiry, page 29082.

17. Supra, note 15, at 177.
18. Indian Government, June, 1977, F.S.I., pages 49 - 50.
19. The Metis Cornerstone of Canadian Confederation, N.C.C., August 23, 1978, at p.p. 11 - 13.
20. Ibid., p.p. 13 - 16.
21. N.C.C. Brief to First Ministers Conference on the Constitution, 1978, pages 2, 4 and 5.
22. Ibid., page 6.
23. See page 20 for the relevant quote.
24. See page 21 and also Appendix No. 3 for a news clipping.