THE UNITED NATIVE NATIONS

PRESENTATION

TO THE

PARLIAMENTARY STANDING COMMITTEE ON

INDIAN AFFAIRS

RESPECTING BILL C-31

Introduction

Mr. Chairman, Honorable Members of the Standing Committee, we are here on behalf of the members of the United Native Nations Organization of British Columbia. As advocates of our Nationhood, the Sovereignty of our People, the Self-Determination of our Governing Institutions, our Aboriginal Title and Rights, we reviewed Bill C-31 from this perspective. Throughout our presentation, positions respecting Bill C-31 are complemented by an equivalent development within our Aboriginal Nations.

We have a concern in how your political institutions deal with the Membership issue. It is generally recognized that the Federal Government created this painful and exacting process infringing on our rights through its development of the Indian Act. We object to the processes of correcting this situation where our people are required to bare their souls in a political forum for the sake of cleaning up what past Governments have done. It is a humiliating and painful exercise, to say the least, when our people must bring out the emotional impact of our experiences for you to understand our point of view. These experiences are personal and not for public consumption. At the same time, we recognize a need to bridge the gap of misunderstandings created by two differing philosophies developed over time on two separate Continents. Our common philosophy among the Aboriginal Nations and the Democratic Ideals which emerged out of Europe in the 19th century are the subject of this paper in relation to Bill C-31 and the Indian Act.

Our highest law is respect and consent. We recognize each Nation's right to self-determination and non-interference. We are, therefore, presenting our philosophy in general terms out of respect for the sacredness of our traditions and those of other Aboriginal Nations. To show the common thread of our values and philosophy extending to all Aboriginal Nations in Canada, we are using traditional

evidence which was presented to the Parliamentary Sub-Committee on Indian Self-Government during its Hearings. Out of some 3,000 pages of evidence, our Aboriginal Nations expressed a common philosophy from which each formed their systems and processes for governing and developing their relations with one another. Our values survive to this day and is re-emerging in greater strength as we recognize the need to separate ourselves from the Colonialism exacted on us. We cannot help but grow and learn. We see this re-emergence gaining in momentum as our young people continue to discover their roots and take strength from its source.

Sovereignty:

We begin with our Sovereignty which comes from the Creator. The land, we call the Great Island, now called North America. People are Nations and/or Tribes, placed in their territories to care for and protect it. Under their jurisdiction is their respective Homelands. Our first relationship, therefore, is a sovereign relationship which each Aboriginal Nation has with the Creator in the form of an obligation to care for and protect our respective lands under our jurisdiction. (No man-made laws can override or interfere in this relationship.) To fulfill our obligation, the Creator gave us laws to protect us, which are rights and responsibilities that govern all our relations, and maintain our identities. He also gave us Spiritual laws reflected through our languages, traditions and cultures that promote living in harmony with Nature and All Mankind. For lack of a better word, and there is no common "Indian" word, we can term this an "Aboriginal" philosophy which is neither Democratic or Socialist in intent. Just as the African Nations have a philosophy called "Ujamma", so we have ours.

In our review of European history, we found sovereignty to

have a different meaning which changed over time to its present definition in International Law where Nations are sovereign. This term formerly held the meanings of Papal supremacy over worldly matters, and the rule of Kings and Queens over their "subjects". The modern definition evolved out of the formation of Democratic Institutions in the rise of Nation-States and International Law which allows all Nations to respect each other's Sovereign Jurisdiction in their respective territories whose people share a common language, religion, and laws.

Our Lands:

Our lands belong to the Creator, we belong to our Lands. There is no separation. This relationship underlies our modern expression of Aboriginal Title. This is why our people continue to take the position that our Aboriginal Title cannot be bought, sold, traded or extinguished, but rather, must be recognized. Again, in our historical review of European democratic institutions and philosophy, the idea of Title has a different meaning of "ownership" of the land by Governments and individuals. The International, Nation-State and individual interpretation of Title is an "owned territory" or a "private ownership" of property.

Co-Existence:

To live in harmony with Nature and All Mankind, we embrace the value of sharing. Respect for one another's territory and sovereign relationship developed relations in which Nations shared in one another's cultures and traditions. From our philosophy, our Governing Institutions emerged and were identified. Within our societies, our Nations paid Nature's laws the highest respect. We view Natural Law as inviolate and supreme - not to be tampered with. Our Nations, therefore, designed our laws to flow with Nature in which

we view ourselves as part of the cycle of life, not separate from it. Within our Great Island, no Nation's laws were superior to another. The Natural Law is above all Nations' laws and all Nations are regarded as equal. Our Nations related to one another through respect, friendship and peace. We lived side by side. This sharing can best be described in modern terms as "Co-existence". Co-existence implies harmony and is the spirit by which our ancestors moved towards developing a relationship with those who arrived from Europe.

Evidence of our Nations' efforts exist today. On both the East and West Coast, there is an understanding of an original compact which outlined a co-existing relationship. This compact is signified with the Crown in Right of England through the Royal Proclamation of 1763, the Gus-Wen-Tah or Two-Row Wampum Belt of the Haudeno sau no nee Confederacy and the present flag of British Columbia. As our Forefathers have done, so our Aboriginal Nations today continue to seek a co-existing relationship with Canada.

Self-Government:

Our Governments encompassed the wholeness of life itself. We did not perceive a separation of the spiritual from the physical. In flowing with the Cycles of Nature, our governing institutions celebrated all aspects of the Universe with thanksgiving and respect. We view the plants, animals, fish, sun, moon, sky, stars, mountains, waters and all living beings as our relations. The Earth is our Mother. Our spiritual, emotional, physical, economic, political and social systems inter-related through our governing institutions where giving and recognition of our citizens on an individual basis kept us and our Nations strong as a collective body. Democratic Institutions, long ago, separated the Church from the State and this is a major difference in the two Governing systems.

Within a Nation, and, Nation-to-Nation, we had no concept of majority/minority rule in our decision-making process. Nations were regarded as "equal" regardless of size or population. Our decisions evolved through a process of "consensus" in which time was not a factor but dealing with the issue was. Our Elders guided the deliberations as our people spoke from their hearts. There was no interference when someone spoke and since our traditions are oral, we learned to listen with our hearts. In Democratic Institutions, the majority/minority rule prevails with Roberts' Rules of Order guiding the deliberations. A balance of power is maintained by separate aspects to the Governing institutions of: Parliament, Executive and Judiciary functions. Our balance of power derives from the balance of nature in which we know she will exact retribution in direct ratio to the violations committed. We respect this balance.

Self-Determination: The Doctrine of Consent

In our Nation-to-Nation relations, the fundamental principle by which relations developed and develop today is the principle of consent. The right of each Nation, family, clan and individuals to give or withhold consent is fundamental to developing our relations within and outside our Nations. The only time problems arose was when the law of respect and consent was violated. In a Nation, there are individuals gifted with powers which no government of any Nation, clan or family could dictate. These powers are purely the domain of the individual who holds them and respect is accorded. Sharing ensured citizens would benefit when required. It is natural, therefore, for us to adopt the modern expression of our right of Consent termed "self-determination" recognized in International law and by Nations around the world. In seeking consent, the value of sharing ensured the practise of "equality" for our citizens in benefitting of the Nation's resources and each others' abilities and gifts. Our Nations ratified their agreements, based on consent, through many forms as

traditions and customs were shared and ceremonies finalized agreements.

One of the principles which gained European Nation-States a right to colonize Non-Christian lands was consent. The significant document to embody this principle of consent between our Nations and a European Nation-State was the Royal Proclamation of 1763, proclaimed by King George III of England. The Two-Row Wampum Belt and British Columbia flag reflect this principle as well. These represent agreement to a co-existing relationship with the Crown in right of England through a process of consent. The relationship intended, was one of a parallel relationship in which our laws and government would be for our people, and, England's laws and government would be for her people. On this basis, England concluded Treaty with several Aboriginal Nations for the sharing of territory. The principles of peace, friendship and respect would be the bond between the two. Further, England had to obtain the Consent of each Aboriginal Nation to settle in their lands.

Relations with Canada

The British North America Act, 1867:

When King George III proclaimed the Royal Proclamation in 1763, the King in England had the force to make law and not Parliament. The British North America Act, on the other hand, was passed by the English Parliament in 1867 as it had gained the power to make laws by this time. In Indian/Canada relations, this is where the process of consent began to be ignored. Section 91(24) of the BNA Act, 1867, did not receive the consent of the Aboriginal Nations nor were any consulted on its terms. The arrangement was strictly between the Colonies in the East and England. Canada's obligation was to administer England's obligations to the Aboriginal Nations. Canada continued to conclude Treaties with several Aboriginal Nations in the name of a Queen who had no power or force of law. Our Nations had no way of knowing. Our

Nations continued to believe they were developing relations with the Queen in right of England. As a result, Canada's Agents were looked upon as Agents of the Crown and not of the Canadian Government. We, therefore, view the Constitutional Process entrenched in Section 37 of the Canada Act, 1982, as the first time Aboriginal Nations are developing a political relationship with Canada.

Canada's Trust Obligation:

When Canada agreed to administer England's obligations to the Aboriginal Nations through Section 91(24) of the BNA Act, 1867, this created a Trust Relationship between the Aboriginal Nations and Canada. Under International Law, a Trust obligation is intended to promote the realization of the right of self-determination for those to whom a Trust obligation is owed. In the Indian/Canada relations which followed, Canada has used this Trust as a means to assimilate the Aboriginal People of Canada. Assimilation denies the right of self-determination and is a tool of Colonialism which has been condemned by the United Nations Covenant on Decolonization in ALL ITS FORMS. Further, the United Nations Covenant on Civil and Political Rights to which Canada is a signatory states in Articles 1 and 3:

1. "All people have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

3. "The States Parties in the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations."

Canada has a duty under the Trust Obligation to decolonize which leads to self-determination of our Nations - Not assimilation.

We concur with the Assembly of First Nations that Bill C-31 can be the first small but significant step towards Decolonization and is transitional in this regard. We say, however, by not moving the whole way towards the total recognition of All People of Aboriginal Ancestry as having equal rights and status, the present government will continue a colonial practise which can still be corrected by amendment if we have been led to correctly believe that decolonization is the intent of this new government.

The Canada Act, 1982:

The Constitutional Process:

We simply state, the legislation of Bill C-31 should not overtake the identification and definition of Aboriginal Rights and Title in the Section 37 Process but should, in fact, complement it. Our participation in this legislative process should not be viewed as our preference for the recognition of our fundamental rights as Aboriginal Peoples over entrenchment in the Constitution. The Canada Act must embody the right of each Aboriginal Nation to consent to its terms.

The Equality Clause: Section 15 (1)

Bill C-31 is proposed to remove discriminatory sections of the Indian Act before Section 15 (1) & (2) of the Charter of Rights and Freedoms come into force. In doing so, Bill C-31 has created a discrimination against another class of people, namely our children. Section 15 (1) is not only meant to protect citizens against discrimination based on race, national or ethnic origin, colour, religion, mental or physical disability but it also prevents discrimination based on age. We submit that this Bill will continue to violate the Equality Clause of the Charter if our children are not provided equal status and access in Bill C-31's amendments to the Indian Act. We feel either Section 15(1) applies equally or it does not.

We recognize, in this process, the Committee Members have concerns in the limitations imposed by legislating but not wanting to dictate to Aboriginal Governments. This can be avoided if the Standing Committee and Parliament are prepared to embody those features which our people desire and not what Parliament believes we should be governed by. Our people, at all levels, have gone to great pains to attempt to inform you - let it not be for nothing. No person would come before you without good reason. The needs of our people back home are profound enough without our making a meaningless trip. This rejection of the principle of Parliament dictating to our people relates to Anti-colonialism and not necessarily to denying rights to those entitled to it as their Birthright.

The Indian Act

We now come to the infamous "Indian Act", a brainchild of the colonial regime in its infancy. Since Aboriginal Nations did not know assimilation processes and techniques were being practised on the Irish some 800 years ago, they could not foresee its devastating consequences for the future. As colonialism progressed, the genocide and cruelties inflicted on colonized peoples by those Nations preferring "conquest" to "consent" found their people back home protesting their practises. Consequently, and in Canada, assimilation was viewed as an alternative to outright killing the Indian. This process of gradually getting the Indian to cease to be Indian and become "white" is a major feature of the Indian Act. Canada's Parliament has used this Act as a colonial mechanism to weaken Aboriginal Nations and this feature is still very much evident. No Indian Act from 1868 to 1951 has carried the consent of Aboriginal Nations to its terms.

There are three major features of the Indian Act which have a direct bearing on Bill C-31. Notwithstanding all of the Indian Act is repugnant, two of these features were intended to divide us and the

third was to be controlled by Government indirectly. One feature is the discriminatory sections of the Indian Acts, 1868-1951. The second feature was its creation of "reserve" lands which in no way reflect the traditional tribal territories of Aboriginal Nations. These two features have created a false division and impression of who we are. In the first instance, the discriminatory sections created many classes of "Indians" - 17 at last count. The second feature created the division of On- and Off-Reserve "Indians". The third feature with respect to On-Reserve was the creation of Band Councils through which the Government indirectly controlled the Indian people on-reserve. Early on, Band Councils were used as a means of undermining our Governing Institutions which were outlawed by 1927. Despite this, our Institutions continued to practise, albeit secretly, and did not disappear as the Indian Agents had hoped.

Based on the knowledge of the intent of these features of the Indian Act to eradicate Aboriginal structures, we recognize the process of decolonization will take some time until a true "Indian Government" emerges based on modern realities combined with strength of our beliefs. We have no doubt Self-Government can be achieved with dignity. In the meantime, the structures of the Band Councils are necessary to prevent colonialism turning to chaos as long as Band Councils are moving in the direction of decolonization in respect of the rights of All Aboriginal Peoples equally. Under the General List proposal of Bill C-31, it allows the Government and Band Councils to be more liberal with the General List than with the Band List. This is not a good proposition for re-instatement and we intend to show later in our position on registration, how the General List leads to termination of our rights.

Voluntary/Involuntary Enfranchisement:

Since the Indian Act was developed without the consent of

Aboriginal Nations, a majority of our people were not aware of its existence or of its content. We question the wisdom of inserting in Bill C-31 any reference to Voluntary Enfranchisement based on our awareness of how Compulsory Enfranchisement came about.

In 1918, Duncan Scott, Superintendent-General of Indian Affairs, reported only 65 families had enfranchised between Confederation and 1918. He felt this number inadequate, blaming some of the requirements imposed by the Indian Act for the failure to achieve more. These requirements were described to the House of Commons by Prime Minister Meighen in his introduction of an amendment to simplify the procedure and facilitate enfranchisement.

> "There is nothing obligatory on the Superintendent-General. The Indian must not only be willing to surrender his interests and receive his share of the capital funds, but he must make application to be enfranchised; he must have ceased to follow the Indian mode of life, and, most important of all, he must satisfy the Superintendent-General that he is self-supporting and fit to be enfranchised. Similar provision was made in the Act heretofore, but it was hedged around by the restraint: that before an Indian could have the privilege of establishing his rights to enfranchisement, he had to be a landed Indian. That is to say, he had to be in possession of a share of the landed estate of the band...This provision is to remove that restraint."

An unsigned memorandum in the Indian Affairs' records reveal some of the features of the 1918 amendment. It allowed the Department to enfranchise any Indian on application, even one without land on a reserve, providing he was willing to accept his share of the funds of the Band and to give up any Title to the lands on the reserve. Fear of carving up or losing their reserves altogether had led many bands to refuse their consent to enfranchisement. Since the Band's consent continued to be a hindrance, this obstacle was a major factor in the introduction of compulsory enfranchisement two years later. The

proposed amendment became Section 122A when the Indian Act amendment Bill of 1918 was passed. That year, Scott proposed compulsory enfranchisement of the Indian soldiers which he saw as their reward. We had a similar gentleman in B.C., named Trutch, who felt European civilization was enough compensation for the taking of our lands.

In his annual report of 1919, Scott again raised the issue of compulsory enfranchisement having in mind those Indians who were self-supporting and living as members of the general community but who, nevertheless, refused enfranchisement or whose band denied consent. He also wanted to shorten the time of the enfranchisement procedure from six years to a maximum of two years. Appearing before a Special Committee of the House, Scott left no doubt of his intention.

> "It has been stated that the franchise provided for under this Bill is a compulsory franchise, and I have been asked the question whether that is so. I have been asked that question in the hope, apparently, that I would endeavour to conceal the fact, but it is a compulsory system, and I hope the committee will support it."

He also used the issue of jobs for those who worked in nearby towns who could not enfranchise to move near their work because of band refusal of consent. Further, many women, who could not feed their children on the reserve, left with the man for the sake of the children.

Among the 1880 Common's Debates, a Member of Parliament was quoted as saying: "Some 57 persons, including children, out of the 90,000 Indians of the Dominion, have been enfranchised. At this rate, 5 persons every two years, it would take 36,000 years to enfranchise the Indian population of Canada."

Scott confided to Commissioner Sells of the United States in a letter: "there seems to be a good deal of timidity regarding enfranchising an Indian <u>without his consent</u>." Again, J.A. Robb, Member

for Chateauguay-Huntington asked whether the Indians throughout the provinces had expressed any desire to become enfranchised. W.A. Boys of Simcoe-South, who had chaired the Committee, replied that the majority of the Indians who had appeared before the Committee were not in favour of compulsory enfranchisement.

Some Members of the House agreed with the Indians. New leader of the Opposition, MacKenzie King, read into the record the statement prepared by the Allied Tribes of British Columbia put before the Special Committee. The Allied Tribes expressed concern that the provision for compulsory enfranchisement would break up tribes and their reserves and prevent them from pursuing their Aboriginal Rights Claim. They pointed out that the Superintendent-General could "forcibly separate from the Tribes by enfranchisement any Indian who takes an independent stand or is active against the autocratic decrees of the Indian Department or its agents." They were disturbed that the Bill did not provide for consultation with them or for a method of obtaining their consent.

The Allied Tribes were not far wrong. Scott confided in a memorandum to Meighen: "It would also check the intrigues of smart Indians on the reserves, who are forming organizations to foster these aboriginal feelings, and to thwart the efforts and policy of the Department." He gave F.O. Lofts of the Six Nations as an example: "Such a man should be enfranchised." Loft and his League of Indians of Canada opposed compulsory enfranchisement, as did the Six Nations Council, other Indian groups and individuals who made their views known.

Members argued to include certain professionals in the provisions on compulsory enfranchisement. MacKenzie King continued to defend his position: "We are not objecting in the least to permitting Indians to be enfranchised, if they wish to be...What we are objecting

to is a policy of coercion - compelling men to be enfranchised against their will." He saw this as a fundamental right of the Indians who should have been thoroughly represented in their views before passage of the Bill.

Ironically, Scott was given authority to appoint a Board of two members of the Department and a member of the relevant band "to make enquiry and report as to the fitness of any Indian or Indians to be enfranchised." Today, this Standing Committee has recommendations before it to establish a Commission for those "voluntary" or "involuntarily" enfranchised Indians to be considered for re-instatement.

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"Voluntary" implies "consent". Clearly, neither individuals nor Band Councils were prepared to give it. Due to this, the Department and Government remedied this with "compulsory" enfranchisement. We further submit, Indian reasons for enfranchising were based on human needs and NOT NECESSARILY as a "political accomodation" or adoption of Canada's systems. Consent must be free and based on the principle of self-determination. To simply get pressure off your back is not consent. We believe those who "voluntarily" enfranchised did so freely because they wanted to and are not likely to seek reinstatement.

With respect to Bill C-31, we see no reason or necessity for confusing the issue of reinstatement. Any reference to "voluntary" enfranchisement regarding the past should be removed from Bill C-31. Following this, we see no need for any mechanism which will define who is Indian or who belongs to a Nation or "Band". We do see a process guaranteed by Legislation for implementing reinstatement. On "voluntary" enfranchisement for the future, we do not believe any citizen of Aboriginal Nations should lose the Birthright of the National identity of their Nation. The rights which flow from this should be equal to all of our rights. We view the likely event of "voluntary" enfranch-

* See Addendum "A" re: The Brown Book

isement in the future as one which accomodates a "dual" citizenship for those desiring this change. At no time should any of our citizens be required to give up their Birthright.

Registration: The General List

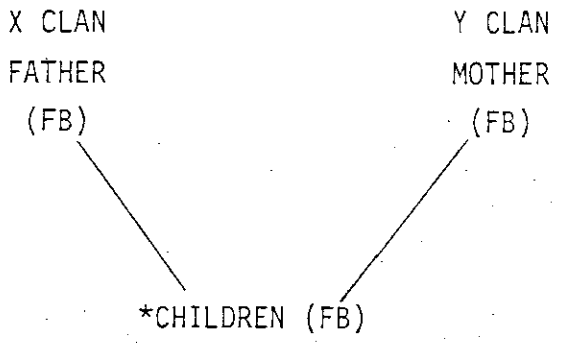
We recognize the realistic concerns of Band Councils with respect to Membership in a Band, at this time, when resources are already stretched to their limits. We do not view this as a reason for denying the God-given Birthright of any citizen, in his/her territory, to be denied an opportunity to find his/her way back to their community in total as time and resources allow. Our Birthright is not for sale. If lack of money and resources are the reasons for creation of a General List, then we view this as a "subtle" means of implementing "Blood Quantum" as a way to deny Bands further resources, and citizens their rights. We are talking here about the restoration of Ancestral Rights to all persons of "Indian" Ancestry who identify as such. The General List does not facilitate this process but leads instead to a "termination" of our rights rather than self-determination. The Process for reinstatement and Band Membership must be a decolonizing process leading to self-determination of each individual. Families should not be wholeheartedly enfranchised through the General List.

With respect to registration, the following 2 diagrams illustrate the process proposed by Bill C-31. Diagram 1: A & B show the hereditary lines in a traditional system of marriage. Diagram 2, which is based on an actual case, is based on a family in which all generations are full-bloods but whose father was trapping at the time of registration and was missed/omitted from the Registry. Bill C-31 has no provisions for this consideration. If full-bloods can be denied rights by Bill C-31, all those who are not full-bloods but entitled to status will be terminated even quicker as will those of mixed marriages in the future. This is not self-determination.

DIAGRAM 1-A

MARRIAGE WITHIN A NATION

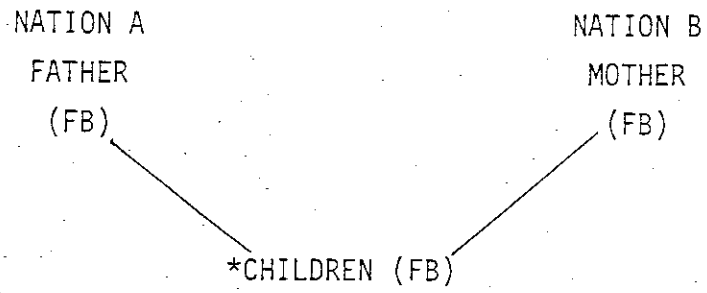
FB = FULL-BLOOD



*Depending on Descent-line of the Nation on Matrilineal or Patrilineal Descent, the children would be under one or the other and become a member of that Clan.

DIAGRAM 1-B

MARRIAGE BETWEEN TWO FIRST NATIONS



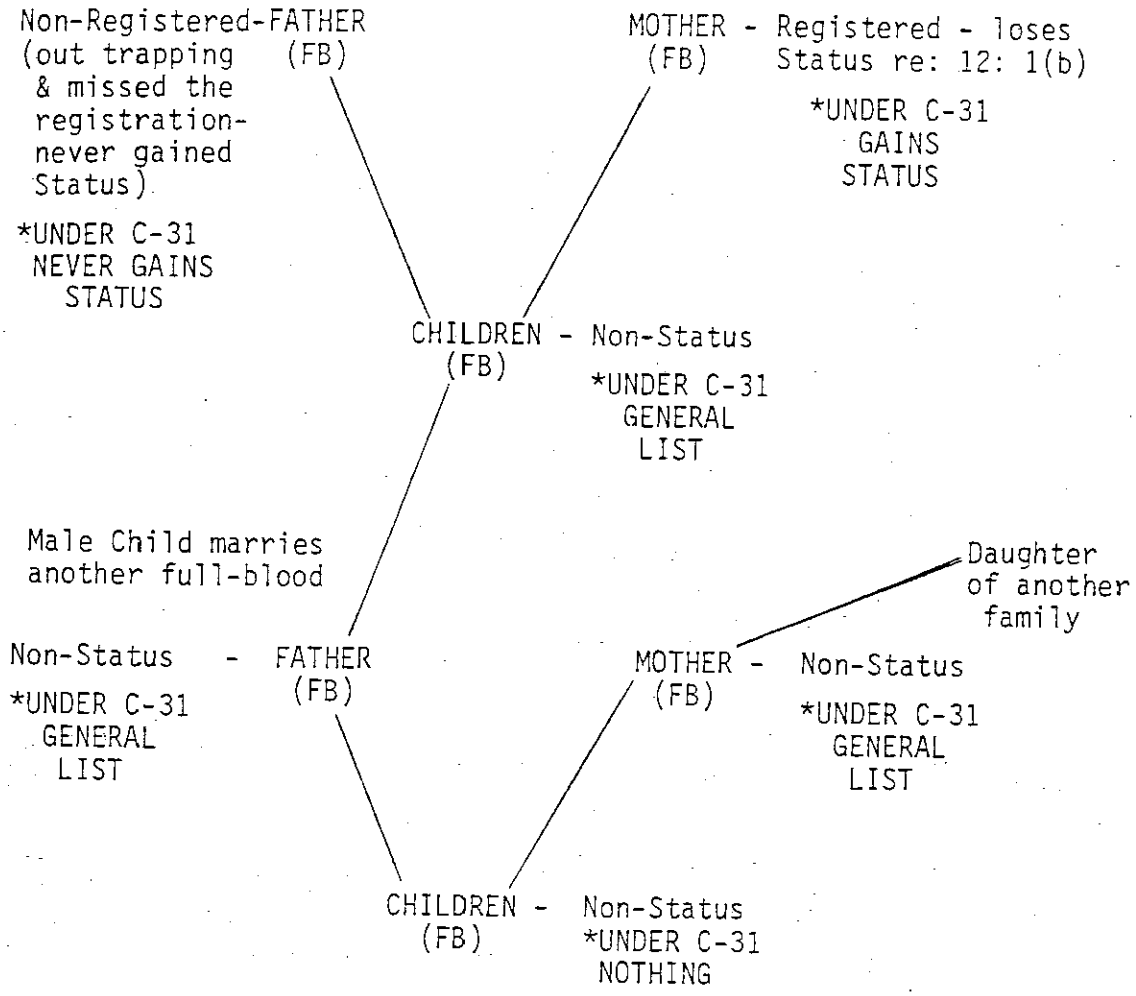
*Dependent on both Nations' lines of descent, children would be under either Nation A or B of Parent's Clan or citizens of both Nations.

Diagrams 1-A and 1-B are traditional forms of marriage.

DIAGRAM 2

MARRIAGE UNDER THE INDIAN ACT, 1951: *UNDER BILL C-31

(Based on an Actual Case) - 1985



All Generations are Full-Bloods. In 2 Generations, this Family will have no Status under the present Indian Act nor in Bill C-31. Both lead to termination of their Rights.

We submit, there should be no "Categories" of Aboriginal People as this leads to "termination" of "status".

Keeping in mind, concerns of Band Councils, those who oppose Band Councils determining Membership in a Band, categories of "Indians" created by Bill C-31, and the dilemma of the Standing Committee to resolve this conflict, we propose the following alternative to a General List being aware of the "floodgate" concerns as well.

We propose a registration list which reflects all Aboriginal Peoples' Membership in their Nation that recognizes their Birthright in their respective Homelands. We believe this list will permit Band Councils and the newly registered members to plan a proper and orderly process to absorb those registered citizens, who wish to return to their communities, as the Band Councils are able and capable.

We fail to understand the concern of the "floodgate" approach when we look at Canada's enormous land base. This discussion encourages the view that Canada is like some small Island in which land and resources are limited. Billions of dollars have been accrued from the resource bases of our traditional Tribal Territories for the profit of a few. Being the second largest country in the world, with a very small population, we find this narrow view incredible to believe. We see no apparent reason why the land base of the Reserves could not be "enlarged" or "new villages" and "Bands" created for those on a Nation-Registration List who so choose. New Villages should be guaranteed by Legislation and not subject to Policy in the likely event a new "Scott" emerges in the Department. We say this without prejudice to the Aboriginal Title of our Traditional Territories.

Recognizing our Traditional Tribal Territories as lands burdened by Aboriginal Title, we qualify that the "enlarged" land base of the reserves and/or "new villages" land bases as burdened by Aboriginal Title and must be so legislated beyond the reaches cont. pg. 17

of the Provincial Governments. The "Trust" Obligation owed by Canada to our Aboriginal Nations and the Protection this affords would extend these "new villages" beyond the reaches of the Provincial Governments. These "new villages" and "new bands" would continue to be a part of identifying and defining Aboriginal Rights in the Constitutional Process.

In Diagram 2, each Generation of "Indian" parents produced "full-bloods", yet were terminated by the Second Generation. We categorically state that we agree with Band Councils defining Membership provided this is done by "people of the blood" and not by the Indian Act since this leads to termination of our children's rights. We reiterate, if full-bloods cannot gain reinstatement according to Bill C-31, what hope do the rest have of being secure in their rights?

Bill C-31

Many attempts have been made to resolve the issue of membership by concerned citizens of Canada, Members of its Governing Institutions and, most especially, by the Aboriginal Peoples of Canada. The litany of past wrongs is enormous. We view the "Membership" issue as Canadian Government-designed, to erode our Aboriginal Title and our Rights which flow from that. The Canadian Public rarely distinguishes between classes of Indian people. Canadians do not ask what class of Indian we are. This distinction is, by and large, promoted by the Government of Canada through its political institutions which demand it legally, politically, administratively, socially and financially. It is therefore entirely encumbent on the Political Governing Institutions of this Land to correct this injustice in a fair manner.

In our generation of leadership, and, those of Canada, who make the laws, we hope this issue will be resolved once and for all. We say this in appreciation of the quality of Debate in the House of

Commons on Second Reading of Bill C-31. Clearly, many of you sitting here today understand what needs to be done. The spirit in which we study your systems is with the hope of developing co-operation as we proceed to work within your systems as best we can. At the same time, we will never stop striving for the proper recognition of our Aboriginal Title and Rights to take our natural place and exercise our rights and responsibilities through Self-determination.

The Debate indicates to us a new spirit of genuine concern on the part of the Members of the House and the Minister of Indian Affairs for the Decolonizing of our Peoples and all that this encompasses. We encourage each one of you to continue in this spirit as we are encouraged to continue striving. We must all recognize, we are building a future for your children and ours to continue to live in peace and friendship. That is our goal. We also seek the stabilizing of our Families and Nations to be whole and healthy in their growth and development.

In your work towards the recognition of our people as Aboriginal People with distinct identities, philosophy, institutions, values, way of life and goals, we ask that you not let this diminish your view of us as human beings. We are not perfect nor should we be expected to be. In your Charter of Rights and Freedoms, you have embodied an Equality Clause because you have recognized the imperfections of Canadian Society and hope to alleviate some of the inequities created by this system. As your strive toward your Ideals of Democracy which came from the thoughts of ordinary men and women like you and I, so our people seek to amend the inequities among ourselves in a peaceful way.

It has been stated many times, Bill C-31 is only a transition to Self-Government and the Constitutional entrenchment of our Rights. This should not give rise to accepting it as is. The Bill will not be perfect nor solve every situation which arises. But we are

confident and believe that it can alleviate a major thorn in all our sides through improved amendments. The views we take and recommendations we have made here are reasonable arguments for this Committee to make further amendments since it is unlikely to be dealt with again in the near future. The potential of Bill C-31 to engage your government and our leaders in a meaningful process for change is a positive one. Should the potential of the Bill be fulfilled, we and our people can look forward to a better future with confidence. Thank you.

LIST OF ADDENDUMS

A. "THE BROWN BOOK" of Indian Affairs
1975 - UBCIC attempt to join with BCANSI

B. FUNDING -Lack of Resources to Non-Status

C. THE INDIAN ACT _ Protection versus Restriction
Defining Citizenship in our Nations re: Membership Codes

D. URBAN GOVERNMENTS FOR ABORIGINAL PEOPLES
LEGAL AMENDMENTS TO BILL C-31

E. QUOTES OF DEBATE IN THE HOUSE - SECOND READING
BILL C-31

D. Legal Amendments: 11 Quebec Recommendations attached

ADDENDUM "A"

"The Brown Book of Indian Affairs"

"The Brown Book" of Indian Affairs refers to a promotional scheme for Indian Affairs' Employees some 15 years ago and possible existing further back than that. This "Book" refers to the number of Indian people the Indian Affairs' Employees were able to "enfranchise" and based on numbers, these Employees received promotions within the Department.

We are unable to bring forth the witness who accounted this to us since he is sworn to an oath of secrecy with respect to his job in the Government.

We make mention of this testimony with respect to questions raised on Voluntary/Involuntary Enfranchisement. Voluntary or not, the Dept. intended to "enfranchise" all Indian people.

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Further, in 1975, when the Union of British Columbia Indian Chiefs (Status), were contemplating joining forces with the B.C. Association of Non-Status Indians (B.C.A.N.S.I.), the U.B.C.I.C. were told their funds would be cut off. -This is on record in 1975

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ADDENDUM "B"

FUNDING - LACK OF RESOURCES TO NON-STATUS

In addition, to the lack of consultation, the lack of resources availed to us regarding our future (Bill C-31) in comparison to the Status Groups, we are further penalized by our lack of accessibility to funding sources such as: Secretary of State, Canadian Employment & Immigration Commission, Department of Indian Affairs. We cannot fit the criteria of these sources which call for a community base, with an infrastructure that is afforded the Bands by the Department of Indian Affairs. Since we don't have a land and resource base to draw from, we are in a "Chicken and Egg" situation.

With the Government-inflicted burdens of the constant process of Revisions to the Indian Act - In addition, to our mandate of addressing our every day problems, we are being cutback in Secretary of State funds (Core) when the funding should reflect our additional workload.

We could cite several inequalities such as the $1.2 million Indian Act Revision Funds which none of the Non-Status groups were able to access, but, the message is clear that the Government has been instrumental in allowing this imbalance to continue. The underlying reason is always money.

We suggest our funding problems and the treatment given Non-Status Indians in the lack of consultation will continue if this Bill is passed in its present form.

ADDENDUM "C"

THE INDIAN ACT - PROTECTION VERSUS RESTRICTION

The purpose of the Trust Obligation is to protect Aboriginal Peoples against the encroachment of outside Canadian interference in Aboriginal Affairs.

In saying this, the Indian Act should be an Act to Protect our lands & resources, our people, our Self-Governments and all ov our rights. This includes protection against encroachments by Provincial Governments.

In this spirit, the Act should be one of Protection of the Aboriginal Peoples and not one which restricts the Affairs and Rights of Aboriginal Peoples.

DEFINING CITIZENSHIP IN OUR NATIONS

-MEMBERSHIP CODES

Looking at the Act as one for Protection, the defining of citizenship only applies to those that join our Nations that are not of our Blood. This co-incides with Canada's laws on Citizenship in which all people born in Canada are regarded as Canadian Citizens by right of Birth and those who come from other countries must meet the citizenship code of Canada to be considered for "Canadian Status".

We maintain only God/Great Spirit decided we were Indian and who is a higher power to say we can't be Indian. This was decided when we were born. We were born Indian and we will die Indian.

The Membership Code discussed should only apply to those "not of the Blood".

ADDENDUM "D"

URBAN GOVERNMENTS FOR ABORIGINAL PEOPLES

For those Aboriginal Peoples who choose not to return to their communities and yet are entitled to all their Aboriginal Rights, there must be "Urban" Aboriginal Governments which would serve the needs of All Aboriginal Peoples living in an Urban Centre.

Since we are still developing our ideas and thoughts on this aspect, we have not presented information outlining in detail what this would entail.

We would, however, be prepared to answer questions in general, if the Committee Members so wish.

LEGAL AMENDMENTS TO BILL C-31

Due to shortness of time in preparing our Brief, we have not had the time to prepare proposed Legal Amendments for the Committee's consideration. We are prepared to forward these in writing to the Committee at a later date to be considered part of our Brief of today.

We will state that we support the 11 recommendations of the Native Alliance of Quebec in their Brief to this Committee earlier.

Native Alliance of Quebec's 11 recommendations which

The United Native Nations supports.

The Minister in his press conference, clearly stated his openness to reasonable recommendations for changes. We take the Honourable gentleman at his word and make the following recommendations:

1. Whereas other nations with aboriginal peoples have recognized the need for a comprehensive review of similar situations (US, Norway, New Zealand) and
   Whereas, it is our contention that the federal government is responsible for all aboriginal peoples, we recommend that the Indian Act be overhauled in its entirety and be replaced by a proper Indian Code.
2. Whereas the Indian Act will be in force until replaced by a new Act(s) and could therefore be challenged,
   We recommend that all Indian peoples (i.e. status, non-status, Metis) be <u>full participants</u> in a complete overhaul of the Indian Act. With the understanding that no court action will be undertaken until the new legislation is in place.
3. Whereas the principles and parameters of self-government have not yet matured one,
   Whereas the FMC process has demonstrated that both governments and aboriginal peoples need more time to work on models of self-government to follow and to decide the extent of powers of these governments,
   We recommend that the government reconsider its plans to give bands quasi-judicial powers as one isolated element of self-

government.

4. Whereas many constituents on reserves are not convinced that band councils are the ultimate vehicles of self government, and
Whereas Bill C-52 never came about, and
Whereas other forms or styles of self-government for Metis and non-status Indians, off reserve status Indians and Inuit are not fully developed, and
Whereas self-government is a crucial issue in the FMC process.
We recommend that proposed amendments to the Indian Act relates to self-government and be in harmony with current diversity and creativity in developing models of self-government.
5. Whereas parliamentary committees are seen as sympathetic towards fertile work on self-government and
Whereas civil servents who have had great input into present changes in the Act, and
Whereas a parliamentary committee could, to a greater extent, ensure a full and public debate on self-government, and
Whereas self-government is a process of rethinking relationships between aboriginal peoples and government as well as relationships between aboriginal peoples,
We recommend that the government publicly state that any changes made to the Indian Act are merely part of an ongoing process and that the government put into place effective monitoring instruments.
6. Whereas the proposed amendments do not require the involvment of the new SI and present non-status Indians and Metis, and
Whereas the AFN in its presentation did not preclude the involvment of NS Indians and Metis,
We recommend that the development of these membership or citizenship codes take place with the full participation of these affected peoples.

They, the AFN, claim they do not want a bunch of people who are arbitrarily made Indians flooding their reserves. How soon we forget! They themselves were arbitrarily made Indians by the same Indian Act. With the changes, the government has entered the very sticky field of "pure race" laws even if they are glossed over with arguments

of "status". These are extremely questionable developments for which there are no precedents within Canadian Society. There may be legal arguments as to whether the Canadian Charter of Rights and Freedoms or International Covenants will condemn this Act. However, the creation of more inter-nature discrimination, as well as cleverly disguised general forms of discrimination are un-Canadian and abhorrent to us all.

When Bill C-31 ensures that the consequences of past discrimination are borne by the victims of that discrimination, something is very wrong.

When Bill C-31 ensures that SI on reserves are left to provide for a possible influx of new members without a guarantee of funding and resources, something is very wrong.

When Bill C-31 ensures that new SI's that apply for band membership are subjected to a membership procedure based on village justice, something is very wrong.

7. Whereas the "diluting of blood", "pure race law" aspect of Bill C-31 is disgraceful, racist and un-Canadian, and
   Whereas parents who registered as new SI under Bill C-31 should have the same transfer of rights as existing SI,
   We recommend that new SI be given the right to transfer status to their descendants, subject to the latter re-affirming such at the age of majority.
8. Whereas many of the amended provisions are unclear and undefined, and
   Whereas MNSI involvement in the drafting process was minimal,
   We recommend a full debate before the standing committee with the understanding that changes can still be made.
9. Whereas collective rights and individual rights are being weighted in the balance, and
   Whereas collective rights can be confused with the arbitrary exercise of power,

We recommend that should quasi-judicial powers given to bands be accompanied by proper guarantees for individual rights, in order to distinguish between collective right and collective might.

10. Whereas there is only minimal recognition of the economic consequences of shifting NSI to SI, and
Whereas there is no recognition of the economic needs of off reserve SI, Metis and NSI.
Whereas in the United States the practice is to extend reservation programs and services to off reservation non-contiguous zones, and
Whereas many native people live in the peripheral of reserves,
We recommend consideration of an extension of and more equitable access to programs and services to off reserve people and the creation of such if lacking.

11. Whereas the Minister explicitly stated this Bill was not being rushed through and that all reasonable contributions for improvement would be seriously considered,
We recommend that the Minister extend the consultation process, not only on Bill C-31 but on the entire Indian Act and that the Minister also ensure full consultation and participation of regional and local non registered (MNSI) groups in this process.

ADDENDUM "E"

QUALITY OF DEBATE IN THE HOUSE ON SECOND READING

Honorable David Crombie - "the amount of ignorance which exists about certain facts with respect to these definitions is striking."

- "what greater intrusion can there be than the arrogance of assuming the right to tell another people of another culture and tradition who is and who is not a member of their community and who can and who cannot live on their own lands?"

- "Decolonization is not a painless process."

Honorable Keith Penner - "the Indian people had no part to play at all in negotiating the Canadian Confederation. They were excluded. They did not have the smallest voice in the terms of the British North America Act of 1867. Yet that same Act, in Section 91(24), assumed legislative authority with respect to Indians and lands reserved for Indians to the Federal Government. The Federal Government used that section of the Constitution to erode Indian Governments. Well, in fact to do away with them. In its place the Government imposed upon Indian Nations a colonial regime, and then through the Indian Act of 1876 the Government consolidated its legislative control over the Indian people. Under the Indian Act traditional Indian governments were done away with and replaced with something known as Band Councils. This was not an invention of Indian people at all. It was not indigenous government but an imposed form of government.."

- "the Indian Act is, in fact, totalitarian."

- "We will do it?(recognize our right to Self-Government). We will do it by recognizing in our Constitution, the new Constitution of Canada, their aboriginal right to govern themselves. When we do that, then the entire Indian Act, not just Section 12: 1(b) or the enfranchisement provisions but the entire Indian Act, then becomes unconstitutional.

- "We have created heartbreak and misery through our intolerable meddling and tinkering."

Honorable Jim Manly - "By removing status and band memberships from Indian women who married a non-Indian, that section of the Indian Act robbed these women of their birthright. It robbed them of the right to belong to their own people and the right to live in the community where they had grown up, to inherit property left to them by their parents and even to be buried in ancestral graveyards.

Honorable Jim Manly - "If, on the other hand, people who are reinstated cannot come back to their reserve and have decent housing, then the entire reinstatement program is a cruel hoax."

- "If we recognized the legitimate needs of the Indian people, it would turn to our long-term economic advantage."

- "but I am concerned that the Bill does not specifically require that band membership provisions should conform to the Charter of Rights and Freedoms."

Right Honorable Joe Clark - "To many Canadian Indians, the principle at stake was not the equality of Indian women but the automony of Indian bands." (This is not a women's issue but an Indian rights issue)-our note

- "Indeed, while discrimination against women is an unhappy characteristic of many societies, the colonial treatment of the Indian people is a particular Canadian injustice."

Honorable Sheila Finestone - "This dicriminatory piece of legislation is but an attempt at assimilating our Indians into the "white" society."

- "I cannot support his restoration of status to the women but not to their children."