

BULLETIN



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VOLUME 1, NO. 3

A BACKGROUND TO THE FEDERAL-INDIAN BILATERAL PROCESS

Since 1978 when a "Time for Action" and federal Bill C-60 were made public, the Indian peoples of Canada have recognized the importance of the Canadian Constitution. Moreover, they have found new ways of expressing their rights and have launched a long and arduous battle plan to have the rights of the original people of Canada protected in the Constitution.

"Canada's Native People and the Constitution became an agenda item of the First Ministers' Conference on the Constitution and representatives of the then National Indian Brotherhood attended as observers at the October 1978, February 1979 and September 1980 meetings of First Ministers.

In June 1979 the then Progressive Conservative Government committed itself to consultation with Indians and promised the latter direct participation in constitutional work.

In December 1979 the Steering Committee

of the Continuing Committee of Ministers on the Constitution met with the National Indian Brotherhood. However, the Clark federal government was defeated shortly thereafter and recommendations were unfulfilled.

In April 1980 at the First Nations Constitutional Conference, Prime Minister Trudeau "formally reaffirmed the willing acceptance of federal responsibility for Indian people, Indian lands and Indian communities, and support for the unique status of Indian people within Canadian federation." In another statement he said, "We have set a valuable and historic precedent by involving closely with you in reforming the Canadian Constitution in ways which will better secure the rights and the status of the original people of this land."

In December 1980, the Assembly of First Nations in Ottawa unanimously accepted "A Declaration of the First Nations" in which the original peoples of this land pledged themselves to fulfill responsibilities given to them by the Creator. In so doing they declared their nationhood as an expression of their right to self-determination.

IN THIS ISSUE...

- Sub-Committee of the Standing Committee of Indian Affairs
- Treaty and Alliance of Mutual Friendship and Respect signed
- A Background to the Federal/Indian Bilateral Process

An intensive international lobby was launched in August 1981 at the NIB General Assembly as part of an overall strategy to block patriation and to apply pressure on the Canadian Government to properly protect aboriginal rights and title, and treaty rights. Delegates

(continued page 3)

TREATY AND ALLIANCE OF FRIENDSHIP AND
MUTUAL RESPECT AMONG THE INDIAN
NATIONS OF CANADA

At the Confederacy of Nations meeting held on August 17-19, 1982 in Ottawa, the members passed resolution No.14 adopting the "Treaty and Alliance of Friendship and Mutual Respect Among Indian Nations in Canada".

This Treaty and Alliance was endorsed by the Confederacy of Nations and signifies an agreement among the Indian Nations in Canada to work together and support each effort to regain for the First Nations their rightful place of honour in the world community. The Treaty and Alliance also reaffirms the Declaration of First Nations passed at the AFN Conference in December 1980.

The Treaty and Alliance was originally intended to be signed by all Chiefs in Canada at the AFN Conference held in Penticton, BC, in April 1982. However, the heavy work schedule at the Conference did not permit this. Therefore, the Treaty and Alliance will be made available at the AFN Secretariat for Chiefs to sign whenever they are in Ottawa.

Text of the Treaty and Alliance:

We, the people of the First Nations, determined to preserve and fulfill the destiny and responsibilities set out for us by the Creator, do hereby reassert our rights and duties that will stand forever.

We stand in the footprints of our ancestors in proclaiming the First Nations to the world community.

Laying aside the aspirations of each member, we intertwine our arms so strongly that the actions of each Chief (and Headman) shall become the action of the whole.

We have placed, as our goal and purpose, the attainment and protection of all the rights of humankind and shall support such efforts by other nations.

By right of kinship with the natural elements and fruits of Mother Earth, we join in our efforts to protect the riches of the earth and the animal and plant life from destruction and deterioration as though such attacks were upon our own bodies."

We repeat the Declaration of First Nations of December 1980 with a strong and united voice and keep it ever before us.

NOW THEREFORE, keeping each his own face and form but each adding his own strength and wisdom, we put aside all contention and doubt. We pledge our individual and collective efforts, our dignity and our lives so that the First Nations will be returned to a rightful place of honour in the world community.

Now, in the spirit of the Creator, upon whom we have called for wisdom, we place our names with the words of our heart, this twenty-second day of April 1982 in Penticton, British Columbia.

AFN BULLETIN CORRECTION

In the July 26, 1982 AFN Bulletin, Vol.1, No. 2, there was an error in the "Indians and the Law" article concerning the Federal Government's Specific Land Claims Policy entitled "In All Fairness". On Page 8, Section (2), the last sentence should read:

"The Government has agreed not to use these limitation provisions to reject claims outright, but reserves the right to use such provisions as defences in court."

We apologize for any inconvenience this error might have caused.

From the National Chief

EXCERPTS FROM DR. DAVID AHENAKEN'S STATEMENT
TO THE SUBCOMMITTEE ON "INDIAN WOMEN AND THE INDIAN ACT"
OF THE STANDING COMMITTEE ON INDIAN AFFAIRS
(HOUSE OF COMMONS - 8 SEPTEMBER, 1982)

*The membership issue has been a festering sore in our nations ever since the federal government passed the racist and discriminatory Indian Act. No one wants to end its discriminatory aspects more than our Indian governments. No one wants to see this divisive issue solved more than the people who have suffered under its unjust rules. No government is more determined than Indian governments to justly resolve this matter.

*I must also point out, however, that we are not only interested in ending the unjust provision of 12(1)(b). We want all the discriminatory provisions of the Indian Act removed.

*The First Nations of this land once governed their own affairs according to their own laws. One of the areas which they governed was their own citizenship -- who was and who was not a member of their respective communities and nations.

*And then came the Government of Canada and a system of laws... and in the typical fashion of European-style law, in order to have a law protecting Indian lands, they thought it necessary to define who an Indian is -- and ever since it has been downhill all the way to the present complexities of double-mothers and status and non-status and 12(1)(b) of the Indian Act.

*These definitions had deep effects in our communities and among our peoples, and they have created cruel injustices that have scarred us deeply. They have caused divisions when we needed unity. They interfered in our governments and our customs and intruded into our homes and divided our families.

*I acknowledge that the suffering was probably hardest on the women, and it was the women who stood up the best, even today.

*If we now had our constitutional entrenchment of rights, First Nation governments even now would have had their

citizenship matters in place, and operating at the highest standards of human rights in a manner appropriate to our cultures and to the democratic wishes of our peoples.

*It is not surprising that there has never been any assurance whatsoever from the government that the already excruciating poverty of many of our communities and the already limited financial and land resources would not be stretched even further by the addition of people to the Indian lists without a proportionate increase in resources being made available. That simple promise has never been made. It is no wonder there has been resistance to this whole divisive strategy, a resistance which has often been used to characterize certain responsible Indian leaders as male chauvinists and obstructionists to female equality. I don't appreciate having the government put me in that position.

*Citizenship in our nations is an inherited right. It is based on our economic and social realities. It is a way in which we protect the integrity of our extended families, what is called an Indian band. Our criteria for deciding these matters are not picked out of the air, but are justified by rational observation of social and economic functions within our nations. These are matters which Parliament cannot legislate.

*Our position has been that the question of membership and of discrimination cannot be looked at in isolation, and I don't intend to break that position. Obviously, if our recommendation is that the First Nation governments would define their own citizenship, it is important that we consider the nature of powers of those First Nation governments.

*We urge the Standing Committee to get on with its total, holistic reference as soon as possible, including the comprehensive look at discrimination against Indian women in all its aspects not just the question of membership.

Introducing the A.F.N. Executive

The following is an updated list of the AFN Executive:

REGIONAL VICE-CHIEFS

Herb Norwegian, Dene Nation, Northern Region
 Tom Sampson, Esquimalt Band, B.C. Region
 Chief Ernie Daniels, Long Plain Band, Prairie Region
 Chief Peter Kelly, Ojibway of Onegaming Band, Ontario Region
 Hector Pictou, Eel River Bar Band, New Brunswick & P.E.I. Region
 Stanley Johnson, Membertou Band, Nova Scotia and Newfoundland Region

CONFEDERACY OF NATIONS MEMBERS

British Columbia

Andrew Thomas, Esquimalt Band
 Chief Joe Mathias, Squamish Band
 George Watts, Sheshaht Band
 James Gosnell, Gitlakdamix Band
 Bill Mussell, Skawah, Sto:Lo Nation
 Al Speck, Kwakiutl, Alert Bay Tribal Council

Alberta

Charles Wood, Indian Association of Alberta
 Wilf McDougall, Peigan Band
 Eugene Steinhauer, Saddle Lake Band
 Harold Cardinal, Sucker Creek Band

Saskatchewan

Cy Standing, Federation of Saskatchewan Indians
 Felix Musqua, Federation of Saskatchewan Indians

Manitoba

Chief Jim Bear, Brokenhead Band
 Chief Esau Turner, Grand Rapids Band
 Chief Joe Guy Wood, St. Therese Band
 Chief Harvey Nepinak, Waterhen Band
 Chief Allen Pratt, Sioux Valley Band

Ontario

Gordon Peters, Delaware of Moraviantown of the Thames
 Joe Miskokomon, Chippewa of the Thames

Ontario (cont'd)

Chief Harvey Yesno, Ft. Hope Band
 Chief Bentley Cheechoo, Constance Lake Band
 Patrick Madahbee, Sucker Creek Band
 Chief Gary Potts, Temagami, Bear Island Band

New Brunswick

Chief Harold Sappier, St. Mary's Band

Nova Scotia

Chief Alex Christmas, Membertou Band

Newfoundland

Calvin White, Newfoundland Indian Government

In Your Resource & Info Centre

The Indian Resource Centre at the Assembly of First Nations Secretariat maintains a collection of published as well as unpublished materials, briefs, reports, papers, speeches, studies, etc. on Indian education, housing, economic development and many other topics and issues.

In each issue of the AFN Bulletin, we will provide information about additional material available from the AFN Secretariat Resource and information Centre on matters dealt with in the Bulletin.

National Indian Brotherhood. Child Welfare Workshop Report. April, 1982, Ottawa, Ontario.

Assembly of First Nations. AFN Resolutions and Transcript. April 20-22, 1982, Penticton, B.C. 149 p.

AFN Organizational Restructuring Brochure. August 1982. 6 p.



(continued from page 1).

vigorously lobbied British parliamentarians to stop patriation. Other groups attended international forums to explain how Indian rights were being violated in Canada.

On November 5 1981 the federal and provincial governments reached a constitutional accord, with the exception of the province of Quebec. The aboriginal rights clause (Section 34) was removed.

In November 1981, the Joint Council of the National Indian Brotherhood signed the Treaty and Aboriginal Rights Principles that were designed to guide them in future constitutional developments. November 19 1981 was declared National Indian Solidarity Day and thousands of Indians and their supporters demonstrated on Parliament Hill and across the country to have their rights protected in the Constitution.

On December 2 1981, the House of Commons voted 246-24 in favour of passing the Constitution Resolution. It was referred to the Senate and passed without amendment on December 8 1981.

Armed with the Declaration of the First Nations and the Treaty and Aboriginal Rights Principles, members of the NIB lobbied Parliamentarians, the Senate, and support groups in Canada to have Section 34 reinstated. After several days of vigorous lobbying and a demonstration of public support, Section 34, with the addition of the word "existing" was reinstated by a unanimous vote in the House of Commons on November 25 1981.

A number of provincial Indian organizations began court action in Britain to test the ability of the judicial system to deal with the issue of aboriginal and treaty rights and the Crown's obligations to Indians. Although no cases were won, strong arguments by distinguished jurists led to favourable judicial opinion on the subject of Indians in Canada.

Memorandum Process

On February 17 1982, the National Joint Council agreed "to pursue a political solution to the constitutional problem regarding the entrenchment and protection of aboriginal title and aboriginal treaty

rights". A national political lobby was launched by the Political Policy Committee of the Joint Council. No solution was reached prior to patriation and the Royal Proclamation was made on April 17 1982 bringing the Constitution Act 1982 into force.

The "political-solution" proposal was developed and lobbied by the Political Policy Committee of the Joint Council. It called for a process of bilateral negotiations between the Indian Nations and the federal government. This process, and the development of a "Memorandum Concerning the Rights of the First Nations of Canada and the Canadian Constitution" was felt to be a necessary step in ensuring that Indian rights are fully protected in the Constitution.

On May 4 1982, Dr. David Ahenakew the newly-elected National Chief of the Assembly of First Nations, told both the federal and provincial governments that "we shall speak to provincial governments when we and the federal government have settled certain unfinished issues. "We are ready to begin a dialogue with the federal government to secure a harmonious relationship between us and others who share this land."

Later in May the Prime Minister wrote to Dr. Ahenakew expressing his readiness to discuss this Memorandum and on June 22 1982 a meeting took place.

The National Chief told the Prime Minister that the memorandum provided for ongoing discussions and negotiations between the federal government and the First Nations at least, initially, outside of the Constitution Conference required by S.37 of the Constitution Act 1982. Dr. Ahenakew pointed out the distinction between matters that can be dealt with in a legislative and/or administrative framework with the Department of Indian Affairs and constitutional matters that can be dealt with in the bilateral process.

The Prime Minister agreed to authorize Dr. Michael Kirby to begin negotiations on agenda items to be discussed in this process. He thought that the proposed areas for discussion were constructive.

Indians and the Law

Recent Decisions

Her Majesty the Queen v. Ranville

On Tuesday, September 28th, 1982, judgement was handed down by the Supreme Court of Canada in the Ranville appeal, effectively ending a matter that had begun more than four years earlier. In 1978, the Registrar of Indian Affairs had taken the two Ranville children off the Fort Alexander Band List. Although they had been born before their mother had married their father and while she herself was registered as an Indian on the Fort Alexander List, the Registrar held that when Mr. and Mrs. Ranville married this act served to legitimize the children. Since Mr. Ranville was not a registered Indian, and since Mrs. Ranville thereby lost her status upon marriage by virtue of Section 12(1)(b) of the Indian Act, the Registrar ruled that the children were now the legitimate children of non-Indian parents and could not remain registered on the band list.

A reference was taken, under Section 9(3) of the Indian Act, to a County Court Judge in Ontario appealing the Registrar's decision to remove the children from the band list. The Registrar argued that the provincial legitimacy legislation said quite clearly that children become legitimate from birth when their parents marry subsequent to the children's birth, but the Court disagreed. Judge Hudson of the Council Court of York, basing his decision in large part upon the Supreme Court decision in Natural Parents v. Superintendent of Child Welfare, said that there was no clear authority in the Indian Act for the Registrar to remove the children once they had been put on the band list even though they subsequently became, under provincial law, the legitimate children of non-Indian parents. The Registrar was ordered to put the names of the children back on the list.

The Crown, of course, wanted to appeal the Judge's decision, but there was a question of how this could best be accomplished. The Indian Act said clearly that the decision of a Judge under Section 9(3) was final and conclusive, which meant that the normal route of appeal from the decision of a County

Court Judge to the Divisional Court would probably not have much chance of success.

However, if it could be shown that the County Court Judge was acting not as a judge per se, but rather as a persona designata of the federal government for purposes not related to his day-to-day duties as a judge, then the Federal Court of Appeal would have jurisdiction to review his decision as being one made by a "federal board, commission or other tribunal". This was the route the Crown decided to take.

In March 1980, the Crown filed a notice of appeal in the Federal Court of Appeal, and the motion was heard on June 5th, 1980, in Toronto. The Court dismissed the notice on the grounds that Judge Hudson had not been acting as a persona designata of the federal government and that, therefore, the Federal Court of Appeal had no jurisdiction to hear an appeal from his decision.

The Crown then requested leave to appeal this decision to the Supreme Court of Canada, and this leave was granted on the ground that the question was one of general public interest. The appeal itself was heard on March 24th, 1982, at which time the Crown argued that Judge Hudson had been acting as a persona designata and as to why Judge Hudson was or was not so acting when he made his review of the registrar's decision.

The Court reserved judgement on the matter, and on September 28th, 1982, unanimously agreed that Judge Hudson had not been acting as a persona designata and that, therefore, the Federal Court of Appeal had been correct in refusing to hear an appeal from his decision.

In terms of membership under the Indian Act the decision is not momentous, but it does clear up one point. It now seems to be settled that a judge reviewing a decision of the Registrar under Section 9(3) of the Indian Act is acting in his capacity as a judge and not as a persona designata of the federal government.

-4-

PORTFOLIO STRUCTURE
OF THE
CONFEDERACY OF NATIONS

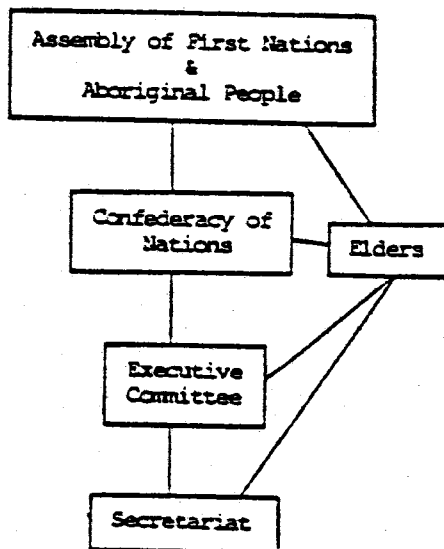
As the organizational structure of the AFN evolves and develops, its political machinery is now further strengthened by the adoption of the portfolio and standing council structure under the leadership of the Confederacy of Nations.

Each portfolio has a chairperson who is responsible for a major policy area and reports directly to the Confederacy and Assembly on activities. The chairperson is a member of the Confederacy of Nations and can be assisted by a number of the Confederacy of Nations members or their designates. The technical assistance is provided by the AFN and PTO analysts and technicians.

The functions under the Portfolio Structure are:

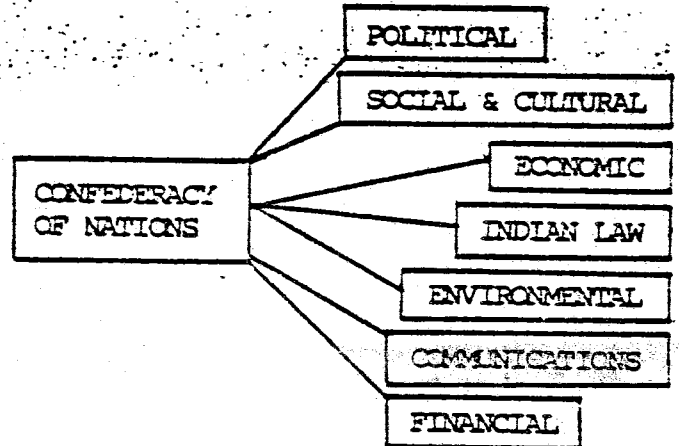
- to meet prior to Confederacy of Nations meetings as required;
- to carry out work assigned by Confederacy of Nations; and
- to identify and define national and essential areas, i.e. issues and programs, e.g.-
 - a) financial needs and assessment
 - b) program development
 - c) political development
 - d) research, recommend, address, implement and monitor fiscal and program development and delivery.

AFN ORGANIZATIONAL STRUCTURE



The following list of portfolios identify seven major policy areas and the sub-committee items under each. These seven areas and sub items are not exhaustive and may be further developed.

CONFEDERACY OF NATIONS PORTFOLIO
STRUCTURE



The Chairpersons for each Portfolio are listed as they were appointed at the September 16, 1982 Confederacy of Nations meeting:

Political Policy: Tom Sampson
(Vice Chief for BC)

- a) Constitutional Issues (Protection of Aboriginal and Treaty Rights)
- b) Intergovernmental Relations (Federal-Provincial-Indian)
- c) International Relations

Social & Cultural Policy: Ernie Daniels
(Vice Chief for Prairies)

- a) Education
- b) Health
- c) Child Welfare
- d) Culture Development
- e) Women
- f) Youth

Economic Policy: Hector Pictou
(Vice Chief for N.B. and PEI)

- a) Economic Development
- b) Resources
- c) Employment
- d) Housing

Indian Law Policy: Peter Kelly
(Vice Chief for Ontario)

- a) Hunting
- b) Fishing
- c) Trapping

Munro stated that he would have the Department of Justice make a legal reassessment of the issue in two weeks.

To date the Minister has not responded to repeated reminders from the Secretariat of the Assembly of First Nations.

At the September 16 meeting in Edmonton of the Confederacy of Nations, a resolution was passed which reads, in part,

WHEREAS the Federal Government has abrogated and denied our treaty and aboriginal rights, in part, by the decision to terminate educational and financial assistance to off-reserve elementary and secondary school Indian students, and;

WHEREAS the issues of the protection of aboriginal title and aboriginal treaty rights in the Constitution of Canada have yet to be resolved between the First Nations and the Federal Government;

BE IT RESOLVED that the Federal Government cease and desist from deciding by unilateral action, the content and meaning of Indian Treaty and aboriginal rights of the Canadian

The resolution further authorized a meeting of educational and legal technicians in Ottawa on September 23 and 24, to consolidate all aspects of this issue into a national position and resolution with DIAND.

In response to the resolution, technicians met at the AFN Secretariat on those dates under the Chairmanship of Vice-Chief, Ernie Daniels.

There was an exhaustive discussion of the problem posed by the Federal Government's action.

Dennis Chatain, Director General of Education and Social Development and Paul Bisson, Director of Education at the Department of Indian Affairs were invited to the meeting (on September 24) to discuss the cessation of financial assistance to the off-reserve students. There was an intensive two-hour discussion in which Mr. Chatain reiterated the Depart-

ment's position that they had no authority under the Indian Act to fund the off-reserve students affected. He explained that in light of S.4(3) of the Indian Act, neither Treasury Board nor Cabinet could authorize the funding. Funding could continue only if there was statutory authority to do so i.e. by amending the Indian Act. He also stated that the National Chief's legal submission (August 31, 1982) is still under examination by Treasury Board lawyers. No response had yet been received by the Department. He acknowledged that the timing of the decision to cease the funding was unfortunate since aboriginal and treaty rights were yet to be defined but the Department's position was not based upon aboriginal and treaty rights. It was purely upon the lack of authority under the Indian Act. The Department had no discretion except where the Indian Act was silent. However, S.4(3) of the Act was explicit that the funding does not apply to off-reserve students. He admitted that, since 1971, the Department had been acting illegally in funding the off-reserve students. When the decision to fund was originally taken, the Department had not obtained legal opinion. It was pointed out to Mr. Chatain that one possibility now was that off-reserve students and families would return to the reserve with the attendant consequences of additional pressure on schools, housing, transportation and other ancillary services. He responded that the Government would have to pay for students on-reserve because explicit obligation and authority exists under the Indian Act to do so.

Vice-Chief Ernie Daniels requested an answer by October 8, 1982 to the Indian demand that the funding be reinstated. Mr. Chatain in turn requested a formal letter (in which the Confederacy of Nations resolution of September 16th was to be included).



- d) Gathering
- e) Land Claims
- f) Aboriginal and Treaty Rights
- g) Policing
- h) Indian Judicial System
- i) Citizenship (Membership)

Environmental Policy: Ernie Benedict
(Elder)

- a) Lands
- b) Conservation
- c) Management
- d) Development
- e) Wildlife

Communications Policy: Dave Ahenakew
(National Chief)

- a) Internal:
 - Inter-Indian Nations
- b) External:
 1. Public
 2. Native Communications
 3. regulations & licensing

Financial Policy: Stanley Johnson
(Vice Chief for N.S. and NFLD)

- a) AFN
- b) Internal (Inter-Indian)
- c) External (Indian/government
fiscal relations)

Background To The Federal/Indian
Bilateral Process (continued from page 3)

The bilateral process is now underway. To date, three meetings have been held between federal and AFN officials. AFN officials presented a proposal for an agenda and format which were accepted by the federal officials. What is envisaged is that there will be an initial process of identifying aboriginal and treaty rights. Once that is completed, definitive content could be given to those rights and then the Canadian Constitution would be reviewed to examine the extent to which they were recognised and protected. Constitutional and other legal avenues for more effective recognition and protection of those rights would be explored.

In the meantime, the federal and provincial governments are pushing ahead with their plans for the Conference required by S.37 of the Constitution Act 1982, to which the AFN would be invited.

The AFN position remains that the bilateral (federal-Indian) process must be established prior to any Indian decision being made on attendance at the S.37 Conference.

SUMMARY OF CONFEDERACY OF NATIONS
THINK TANK AND INTERNATIONAL STRATEGY
WORKSHOP, SEPTEMBER 13-16, 1982,
EDMONTON, ALBERTA

At the May 11-12, 1982 Joint Council meeting, a resolution was passed calling for a Think Tank for the Confederacy of Nations to be held in Morley, Alberta in mid-June, 1982. (Motion #5) As well, a resolution was passed at the June 16-17, 1982 Joint Council meeting calling for an International Strategy Workshop of Chiefs to be held. (Motion #6)

As the resolutions calling for the Think Tank and International Strategy Workshop were developed for the Confederacy of Nations members and given the present financial restraints of the AFN Secretariat, Bands and Indian organizations across the country, it was recommended that both the Think Tank and Strategy Workshop be held consecutively. The Confederacy of Nations Representatives identified the dates of September 13-17, 1982 in Edmonton, Alberta.

The Think Tank was developed to apprise the Confederacy members of current issues, identify priorities and directions, re-affirm solidarity and spiritual values, remain as unstructured as possible to allow a free flow of discussion, and to utilize resource people to provide inspiration and assist direction.

The Think Tank was attended by Confederacy of Nations members, Indian organizations, technical resource people and interested citizens of various Indian governments.

Those who spoke earlier on in the proceedings all welcomed the idea of the Think Tank. Much emphasis was placed on the need to maintain unity, continuity and support for the national policy while allowing for flexibility in the various regional and local positions and approaches. (Continued page 7)

Issues Update

DIAND TERMINATION OF EDUCATIONAL ASSISTANCE TO OFF-RESERVE STUDENTS

Parents and guardians of Indian children who are off-reserve elementary and secondary school students in Alberta received written notice this spring from the Department of Indian and Northern Affairs of the termination of financial assistance.

The Department states that it lacks authority in the Indian Act to provide this educational assistance.

This program was initiated about 1971 as part of an overall Educational Assistance Policy of the Department of Indian and Northern Affairs. It began as "pocket money" to those off-reserve elementary and secondary school students in residential schools that were still in existence and then was broadened to include students in boarding homes and off-reserve students in general.

This particular component of Educational Assistance, the Department states, was never authorized by Treasury Board.

In 1981, this Educational Assistance Program allowed \$10.00 per month for students aged 14 to 17, inclusive, in grade 9 or over; and \$20.00 per month for those 18 years of age and over, in grade 9 and over.

In 1981, the national expenditure totalled \$1,237,000.00 involving 6,189 students. This included 849 persons in Alberta at a cost of \$169,800.00 (DIAND figures).

In the fall of 1981, officials of the Department of Indian and Northern Affairs purportedly reacted to inflationary pressures; and the obligation to provide adequate educational programming to on-reserve Indians, made it necessary to "review" services to off-reserve urban students.

Mr. Don Goodwin, the Assistant Deputy Minister of the Department of Indian and Northern Affairs, authorized the Alberta and Saskatchewan Regional offices to discontinue this service to "Indian children resident off-reserves".

He stated in his directive that the Department lacks a mandate under the Indian Act to authorize educational assistance to status Indian children resident off-reserves. Section 114 to 123, inclusive, obligates the Department, he states, to provide elementary/secondary education to Indian children. However Section 4, Sub-section 3, restricts this provision to only those ordinarily resident on reserves or Crown lands.

The following is a break down by region, of the termination of off-reserve educational assistance:

- Maritimes	Prior to 1980-81
- Quebec & Ontario	Prior to 1980-81
- Manitoba	September 1, 1982
- Saskatchewan	January 1, 1982
- Alberta	June 30, 1982
- British Columbia	Planning to discontinue services 1982

The Indian Association of Alberta vigorously reacted to this notice of termination with several resolutions passed by the Chiefs of Alberta. Numerous protests have been presented to Minister Munro.

Charles Wood, President of the Indian Association of Alberta protested the cessation of funding as an abrogation of the treaties made between the Indians of Alberta and the Crown in respect of Canada.

On Friday, September 3, 1982, the Indian Association of Alberta co-ordinated a demonstration of approximately 3,000 Indian people who protested in front of the Alberta Indian Affairs Regional office in Edmonton.

Two months earlier; during the World Assembly of First Nations in Regina, the National Chief, Dave Ahenakew, with Peter Kelly, Regional Vice-Chief, and other representatives, held a meeting with Minister Munro which dealt primarily with educational issues. On the topic of termination of educational assistance to off-reserve Indians, Munro stated that the Department's action was based on legal advice received from the Department of Justice which had advised on this issue after analysis of the entire Indian Act and not just that of S.4(3).

-6-

INDIAN AFFAIRS SUB-COMMITTEES ON THE
"INDIAN ACT AND INDIAN WOMEN"
AND "INDIAN SELF-GOVERNMENT"

The right of Indian people to determine the membership of their Nations has been strongly supported by the Sub-Committee on the Indian Act and Indian Women in its report to the House of Commons on September 22.

This Sub-Committee was established by an order of reference from the House of Commons on August 4, 1982, the last day before Parliament recessed for the summer. It was asked to recommend changes to the Indian Act with the view to removing sex discrimination towards women in the area of membership, and to report these to the House of Commons no later than the first day the House of Commons resumes sitting (scheduled for October 27, 1982).

The NIB national office and, later, the AFN Secretariat had pursued the establishment of a Parliamentary Task Force review of the total Indian-Federal Government financial relationship since May 1981, when the Assembly of First Nations in Quebec City requested it. The Federal Cabinet finally gave its approval in early August 1982, but imposed the condition that the issue of Indian women losing their Indian status upon marriage to non-Indians be considered first.

Recognizing that the membership discussions could not be held in isolation of other aspects of Indian Government, the Standing Committee on Indian Affairs asked its first Sub-committee to report quickly on discrimination toward women so that the bigger task of reviewing Indian government and the financial relationship could proceed.

The National Chief, David Ahenakew, made a presentation to the Indian Act and Indian Women Sub-Committee on September 8, on behalf of the AFN. That presentation, as well as other input by the AFN ensured that the Sub-Committee's report would be favourable to the First Nations long-standing position on this issue that Indian governments must determine their own citizenship.

It encouraged bands to continue develop-

ing regulation codes, etc. regarding membership and recommended that the issue be considered further in the Sub-Committee on "Indian Self-Government".

Among many things, the Sub-Committee on the Indian Act and Indian Women also recommended that Section 12(1)(b) of the Act be amended so that the status of Indian women would not be affected by marriage to non-Indians after the date of the amendment. It also recommended that women who lost their status under 12(1)(b) and their first generation children regain Indian status on application and be registered on the general list. Bands would be required to readmit those people to band membership after 12 months.

(The AFN is sending the details and an analysis of the report to every Chief and Council in Canada.)

A second Sub-committee was then established on September 20, 1982 which was asked to review "Indian Self-Government", in particular;

- (a) the legal status of band governments;
- (b) the accountability of band councils to band members;
- (c) the powers of the Minister of Indian Affairs and Northern Development in relation to reserve land, band monies and the exercise of band powers;
- (d) the financial transfer, control and accounting mechanisms in place between bands and the Government of Canada;
- (e) the legislative powers of bands and their relationship to the powers of other jurisdictions; and
- (f) the accountability to Parliament of the Minister of Indian Affairs and Northern Development for the monies expended by or on behalf of Indian bands.

This Sub-committee will be holding hearings across the country. It is likely that it will not be too active until January or February. does not have a report deadline but it is likely to finish its hearings in April, 1983.

It is important that the First Nations,

speaking as a unified voice, use every opportunity of appearing before the sub-committee on "Indian Self-Government" to re-affirm the Declaration of First Nations and the Treaty and Aboriginal Rights Principles.

The question of Indian or First Nation government is relevant to creating consciousness both within the first Nations and with the Canadian public, with members of Parliament and federal officials that Indians will continue to assert their rights to self-determination and that they will not negotiate their rights, but rather protection of those rights within Canada.

The AFN Bulletin is published monthly by the AFN Secretariat. The AFN Bulletin is developed to provide factual, up-to-date information on issues of concern to the Indian Governments in this country.

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Indians and Parliament

Prime Minister Trudeau's two recent Cabinet shuffles saw Senator Jack Austin move to the Social Development Super Ministry and Mark MacGuigan to Justice. MacGuigan also becomes responsible for "native rights". Trudeau has said there will be more Cabinet changes likely in January, 1983.

Parliament is scheduled to resume sitting on October 27, 1982. It is expected that a new session of Parliament will be called shortly after that.

An Indian Affairs Sub-Committee on "Indian Self-Government" has been established and will be conducting public hearings and seeking submissions particularly from the First Nations. Its itinerary has yet to be determined but is likely to be active in January and February, 1983.

Summary of Think Tank (continued page 5).

The constitutional issue dominated the Think Tank deliberations. One speaker captured widespread attention with his presentation which called for constitutional recognition and protection of tribal governments. Another interesting presentation dealt with the recognition of Indian rights and self-government within Canada, including Indian consent to constitutional changes affecting Indians and a renewed trust relationship between the federal government and Indians. Participants all agreed that the provincial governments have no right to identify or define aboriginal and treaty rights; that remains a matter between the federal and Indian governments.

There was a general discussion on self-determination and aboriginal rights. It was pointed out that Indian nations have their right to self-determination: it was their exercise of that right that was being denied. On the question of internal sovereignty, it was pointed out that, so long as S.91(24) of the Constitution Act 1867 exists, Indian internal sovereignty was not legally possible.

Much concern was expressed at the lack of consultation between the federal government and Indian nations in a number of areas, such as the Department of Indian Affairs five-year plan, education, etc.

A lengthy discussion of Indian customary law, judicial system and policing, international covenants and the working of the UN, and other international political structures occurred.

In the final hours of the Think Tank, many speakers stressed the need for cooperation and for support to the National Chief. Strong pleas were made for the setting aside of petty differences as Indian nations faced great obstacles to their major aspirations.

The Think Tank provided an opportunity for Indian leaders and citizens to share their views on matters of concern. The topics were wide-ranging. One major fact emerged, and that was that Indians were very serious about gaining their rightful place in Canada. The die has been cast and there is no turning back.