

The Aboriginal Voice in the Canadian Unity Debate

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One of those old unforgotten animosities between colonial rivals has been brought back to life in the province of Quebec. Some people want to settle old scores and rearrange history so that it will come out better for them the second time around. I am not speaking about the Indians, the Aboriginal peoples. It is not our fight. We would have good reason to try to remake history. After all, this entire continent was once ours. We lost it through a process of dispossession achieved through legal artifice, starvation, disease, transmigration, relocation and genocidal extermination.

Certainly, if anyone should want to "correct" history, it should be the Native peoples. Everyone admits that we were grievously wronged. We are the survivors of a massive and intentional genocide. My one preoccupation is this: We will never let it happen again. You may have heard other survivors express the same idea. Now, I am extremely vigilant about my human rights. This is the reaction of my culture to its history. Knowing this, you will be in a better position to understand how we Crees come to be involved in the so called Canadian unity debate.

We live in a territory we have always called Eeyou Istchee on the eastern side of James Bay and Hudson Bay. This was part of the territory that was given by Great Britain to the Hudson's Bay Company in the 17th century for fur exploitation. It was historically never a part of Quebec or of any French colonial possessions in North America. It was sold by the Hudson's Bay Company to become part of the Dominion of Canada in 1867 as part of Rupert's Land. Quebec also became part of Canada in the same period, giving up any pretensions of colonial ties to France or to a separate sovereign capacity. All of this, however, took place without the knowledge of the Crees. We continued to live in Eeyou Istchee. Meanwhile, in Europe papers were being signed and sealed, peace treaties were being negotiated, our lands were being bartered and exchanged. But we did not know, and our consent was never sought,

offered, or received. Then in 1898 and 1912 Parliament approved legislation whereby Rupert's Land was partitioned and divided among the provinces of Alberta, Saskatchewan, Manitoba, Ontario and Quebec. And so, without our knowledge or consent, Eeyou Istchee became part of the province of Quebec, and we Crees were passed along with the land.

We want you to know some of our history, because I understand that representatives of the separatist government in Quebec have come here to speak, to give you their view of history. They no doubt told you that Quebec has a right to independence based upon the principles of fairness, democracy, the right to self-determination, cultural identity and the right to nationhood. They no doubt made this out to be a struggle between what both the federal government and the provincial government call the "two founding peoples" of Canada – the French and the English. It is strange how persistent this idea of "two founding peoples" is. This is part of the legal myth upon which both the United States and Canada are based—the principle of *terra nullius*, literally, empty land. When the colonists arrived in our land they claimed it in the name of their sovereign. Of course we were here, but they did not ask if it was ours. From a European legal point of view America was virgin unpopulated territory. We had no papers to prove title. We had no recognized monarch to assert sovereignty. We did not count.

In Canada our rights are enshrined right in the Canadian Constitution, and yet the prime minister of Canada and most of the provincial premiers refer over and over again to the "two founding Peoples" of Canada, the French and the English. They speak of "English Canada" and "French Canada." They never refer to "Aboriginal Canada." In many ways we still do not count. But look at a map of Canada. Over most of the Canadian territory, square mile by square mile, Aboriginal people make up the majority of the inhabitants. The non-Aboriginal population lives in a narrow strip just north of the United States border. They live in urban centres. We Aboriginal people are the ones who occupy, care for and still use the vast territory itself.

The Crees never wanted to become part of the Canadian unity debate. Notwithstanding all that has been done to us, all we have lost, everything which has been taken away – our lands, our forests, our animals – it is not the Crees who want to separate and break up Canada. No, it is certain politicians who claim to represent one of the "two founding peoples" who now want to "correct" their history. One would think under the

circumstances that these would be the very people who could best understand the situation of the Aboriginal peoples. Who better than citizens who claim to be oppressed to understand others who have suffered oppression?

Among ordinary people in Quebec who are asked: If the Quebecois have a right to self-determination don't the Crees and the other Aboriginal peoples in Quebec also have this right? Most people in Quebec answer that the Aboriginal peoples do have at least the same right. This is so logical and self-evident as to be undeniable to fair-minded people everywhere. On the other hand, fairness and logic do not lead to the preferred solution for those who want a separate and sovereign Quebec. To them, the Crees and other Aboriginal peoples in Quebec are a major obstacle, because any arguments that can be made to support the case for the self-determination of Quebec can be made, even more strongly, for the self-determination of the Aboriginal peoples in Quebec.

Now place the Aboriginal peoples in the current context where the political leadership is claiming the right for Quebec to unilaterally separate from Canada, and to take the Aboriginal peoples with them out of Canada with or without our consent. In international law this threat by the present Government of Quebec to forcibly separate us from Canada if need be strengthens our right to exercise self-determination. It threatens to subject us directly to the reintroduction of a colonial relationship – to deny self-determination in its most basic form. So there is a real divide here between most people in Quebec who are willing to trust the Aboriginal peoples to make our own choice about our future, and the high profile separatist leaders such as Premier Lucien Bouchard who by political necessity must promote a double standard – self-determination for Quebec but not for the Crees, independence for Quebec but local self-government for the Crees, official language status for the French language but not for the Cree language, ownership of resources for Quebec, but not for the Crees, control over the environment for Quebec, but not for the Crees.

While most Quebecois might understand the blatant inequality in these separatist double-standards, they may be unwilling to forsake their aspirations for independence to satisfy their moral objections. It becomes particularly difficult when we Crees ask the Quebec separatist leaders to justify in law and equity the positions they have taken. How can you insist on one standard of rights for yourselves, we ask, and yet be willing

to subject the Aboriginal peoples to lower human rights standards? This question has been put to these separatist leaders time and time again, in speeches, in books, in interviews, and we have never had a real answer. Is it because of our race, we ask, that you derogate from our human rights? Is it because we are Indians that our rights are subservient to yours?

We have heard all kinds of slippery nonsense. Separatist leaders have said that "only governments have the right of self-determination." They have said that international law does not recognize the right of self-determination for Indigenous peoples, that international law does not recognize Aboriginal peoples as "peoples" within the meaning of the international human rights instruments. When the Crees suggested that Quebec was practising a "racist double-standard" we were accused of making inflammatory remarks, "insulting the Quebec people," and "attacking Quebec." At one point a member of the Quebec provincial cabinet actually wrote to the federal government asking that sedition laws be applied against Cree Grand Chief Matthew Coon Come for a speech he made in the United States accusing the Quebec government of a "double-standard based upon race." Quebec somehow manages to portray itself as an aggrieved party suffering under the arbitrary and unfair rule of the federal government in "English Canada."

Imagine what this is like for us. Over all but a few years of my lifetime, many prime ministers of Canada have come from Quebec. Quebec has three judges on the Supreme Court. Several federal cabinet ministers are from Quebec. Quebec controls education, environment, land, resources, immigration and most other jurisdictions. Quebec has its own civil law, court and prison system, its own police force, its own cultural entities and its own territory over which it has jurisdiction. Would it not be nice if the Aboriginal peoples could have such power, influence and wealth – we, the original peoples living in their own country where we have always lived? Could it be, I have to ask, that our rights are so easy to ignore because all of the jurisdiction and wealth has been already split between those two founding peoples—the French and the English? Where do the Indians, the Aboriginal peoples, and the Cree in particular fit into this equation?

Here I have to return to the Canadian Constitution again. As I mentioned, the rights of the Aboriginal peoples of Canada are enshrined in the Constitution. Our Aboriginal and treaty rights have special

constitutional recognition and protection. We also have rights embodied in international human rights law and specific rights that derive from Aboriginal treaties. In Canada, the Aboriginal peoples are the only peoples for which Parliament has direct responsibility. In a way, this is how we Crees got into the unity debate. We know that in law the federal government has the fiduciary duty and obligation to protect our rights. We assumed, therefore, that the federal government would intervene at some point to tell the separatist authorities that administer the province of Quebec that they can not forcibly remove the Crees and the Cree territory from Canada into an independent Quebec state.

The federal government said nothing of the kind. Instead, under pressure from the separatists the federal government has been afraid to make the least mention of any obligations it has to defend the rights of the Aboriginal peoples in Quebec. To make matters worse the federal government for many years pursued a policy at the United Nations and in the international community to deny the recognition of the rights of Indigenous peoples in international law. While the very real threat of Quebec separatism was gaining strength in Canada with the election of the Bloc Québécois as the official opposition in the House of Commons and the election of the Parti Québécois as the government in Quebec, Canada was arguing at the United Nations and at the Organization of American States that there was a danger of Indigenous insurrection if Indigenous peoples were to be recognized as having the rights of "peoples" under the international human rights Covenants. Canada, with a representative of the separatist government in Quebec sitting at the same desk in the United Nations, encouraged other states to reject the use of the term "peoples" as applied to the world's Indigenous peoples.

I am the Crees' ambassador at the United Nations, and I objected to Canada's position. I raised the Quebec secession issue, and asked that Canada not weaken the Crees' claim to have the right to remain in Canada if Quebec were to secede from Canada. I pointed out that Indigenous peoples need to be able to invoke the right of self-determination in such circumstances; that Canada's position at the United Nations actually went against Canada's national interests. Immediately after I made this statement (in 1991), I was approached by a Canadian diplomat who told me that the Canadian ambassador in Geneva wanted to see me. I went to see Ambassador Gerald Shannon who redressed me for raising the Quebec secession issue at the United Nations. He told me that I was

making Quebec secession an international issue!

It became apparent at this time that it was the Crees, and only the Crees, who were raising fundamental rights issues in regard to possible Quebec secession. Amazingly, none of this was being discussed in the rest of Canada. We asked the federal government of Canada to make a positive assertion concerning the rights of the Aboriginal peoples in Quebec, who, after all, in the event of separation, would lose all of their constitutional guarantees and their treaty rights. We thought: Here we are the only peoples under the direct protection of Parliament; there is a strong movement to take us out of Canada, surely Canada should say something! It was the Crees who went to the United Nations and to Washington, D.C., to speak. We were severely criticized in the Quebec media for everything we said. It was the Crees who raised the possibility of a unilateral declaration of independence (UDI). Editorialists in Quebec called us fanatics – the little boy who cried wolf. We pointed out the inherent racism in the separatist policy. It was the Crees who explained that Quebec was planning a *coup d'état* against the constitution.

It stayed this way right up to the 1995 Quebec referendum. But we were ready. We held our own Cree referendum voting 97% in favour of remaining in Canada if Quebec attempted to take the Crees and Cree territory out of Canada without Cree consent. We approached federal ministers and even the prime minister to obtain some assurance that our concerns would be met. We received only the most superficial and patronizing responses. The government was looking after everything, we were told. The “no” side would prevail in the Quebec referendum. We were told not to worry.

We made two successive submissions to the Royal Commission on Aboriginal Peoples asking that it give priority to considering the federal government's fiduciary obligations to Aboriginal peoples in the context of secession. The Royal Commission refused. The co-chairman, a Quebec judge, said the question was too hypothetical. Our sources in the Commission told us that the judge considered the Quebec issue a “bombshell” and would not dare touch it. It was only when all of the Quebec Aboriginal chiefs directly prevailed upon the royal commission and demanded their involvement that a study was initiated. Nothing, however, appeared in the commission's final report. The Aboriginal issues involved with Quebec secession were too dangerous; it was censored.

Meanwhile, the federal government and the Quebec government took no official notice of the Cree referendum or any of the other strong and well-publicized Aboriginal referendums that showed that the Aboriginal peoples living in Quebec wanted to remain in Canada. On the same day that the Cree referendum results were announced the separatists leaked a federal government Privy Council Office policy paper on Aboriginal self-determination, Quebec secession and the Crees. The federal government quickly authenticated their own leaked document and made no effort to repudiate it. The federal document that the separatists wanted to headline demonstrated that the most senior levels of the government of Canada were preparing to abandon the Aboriginal peoples in Quebec if secession were to occur. Privy Council officials argued that Aboriginal peoples did not have the right of self-determination in international law. They took issue with the Crees' assertion that forcible inclusion of the Crees in a separate Quebec would be a fundamental violation of our rights. They disputed the binding nature of the federal government's fiduciary obligations to Aboriginal peoples. They doubted whether we would be able to have the Canadian federal courts enforce the federal government's treaty obligations to us. And if all of this were not enough, they pointed out that after Quebec independence we Crees would be the inhabitants of a foreign country. Canada, they claimed, would have no fiscal obligations to us any more, since we would not be within its jurisdiction. Canada would therefore avoid the cost of respecting its obligations to us.

I could clearly see why the separatists wanted the public to know what the federal government thought about the rights of the Aboriginal peoples in Quebec. There had just been a poll which showed that support for the independence of Quebec would drop significantly among people who were planning to vote "yes" in the Quebec referendum if either the federal government or the United Nations would endorse the arguments that the Crees had been making about their rights.

We had just published the book *Sovereign Injustice: Forcible Inclusion of the James Bay Crees and Cree Territory into a Sovereign Quebec* (Grand Council of the Crees of Quebec, 1995), a legal study about Aboriginal rights in the context of Quebec secession. The book was well received in the international legal community and was being widely cited. The separatist authorities in the Quebec government and in the federal Parliament had made no attempt to answer the legal and moral

arguments set out in that book. They needed something to counter the effect of our book, and to reduce the effect of the Cree referendum results. What could be better than the federal government's own secret policy document which showed that federal officials considered the Aboriginal peoples to be a greater threat to Canada's future than the separatists themselves. I was not surprised when I saw the secret Privy Council Office document. It endorsed views that were entirely consistent with Canada's policy on Aboriginal issues in the international community. According to this view, we Indians and not the separatists were the enemies of Canada. The real danger to Canada it was argued was the threat of Aboriginal self-determination. The very same arguments were now coming from the separatist government in Quebec and from the federal government in Ottawa.

It did not matter that we had been fighting for our right to stay in Canada while almost everyone in the federal government had been silent. Apparently, the overt threat against the unity of Canada from the separatists was more acceptable than the idea that somehow we Crees had secret plans to declare our independence if only we could persuade Canada to recognize our right to self-determination.

I neglected to mention one of the arguments in the secret Privy Council Office document. The Crees, it concluded, would have no right to separate from an independent Quebec. Canada readily endorsed this view. In 1993 a Canadian diplomat at the United Nations Human Rights Summit in Vienna explained to the press that Canada could not support the Indigenous peoples' right to self-determination in the Vienna Declaration, because the Crees might use this right to separate from an independent Quebec. From the Cree point of view we have always been very clear about our position. We have always recognized that it would not be wise to become parties to the old struggle between the former colonial masters of North America. Our interest is to protect and promote the rights of the Crees and the other Aboriginal peoples. We have stated many times that we do not oppose the secession of Quebec if it can be accomplished without affecting our rights.

The Crees have a relationship with Canada that we would like to preserve. We realize that Canada has not been a responsible fiduciary on our behalf, but we would nevertheless like to improve our relationship and reach true reconciliation with Canada. Unfortunately, from our perspective Canada seems to have regarded the Aboriginal peoples as

adversaries. Our relationship with Quebec seems no better. Quebec views the Crees as obstacles to its own development and the assertion of its sovereignty over the northern part of the province. Neither Quebec nor Canada have respected their treaty obligations to the Crees. Given the fact that the present constitutional order in Canada provides more checks and balances than would exist in a sovereign unitary Quebec, our preference for the status quo and thus Canadian unity has been persuasive as it has been for most of the Aboriginal peoples in Quebec.

Quebec's overtures to us have always been contradicted by the unilateral and draconian manner in which Quebec conducts its daily business with the Aboriginal peoples. The ethnic nationalism that guides Quebec separatist aspirations carries strong racist overtones that are particularly abhorrent to the Aboriginal peoples. If Quebec politics and politicians can ever overcome this, our relationship could change. Of course the separatist argument that Quebec can unilaterally and forcibly include the Aboriginal peoples does not help. The Cree approach in this and many other issues has been to turn to the law. It was on this basis that we made arguments before the United Nations Commission on Human Rights in 1992, and I have referred already to our legal study, *Sovereign Injustice*. Our arguments are reiterated in our most recent publication, *Never without Consent: James Bay Crees' Stand Against Forcible Inclusion into an Independent Quebec* (Toronto: Grand Council of the Crees, ECW Press, 1998).

It is only somewhat ironic that it is the Aboriginal peoples of Canada who are insisting on law and order and the Constitution. In the run-up to the 1995 Quebec referendum the federal government was unwilling to discuss legal and constitutional issues, and certainly not the legal and constitutional rights of the Aboriginal peoples in Quebec. Quebec makes all kinds of legal claims in support of its unilateral right to independence, but absolutely refuses to engage in a serious moderated discussion of legal claims. The separatists claim that they will not be bound by legalities and the Canadian Constitution. They insist on their "democratic" right to determine their own future. This should not, they say, be subject to any decisions made in the rest of Canada, should not be subject to the Canadian Constitution. It most certainly should not be determined by the courts. Recourse to the courts, they argue, would be "undemocratic." On the other hand, when we the Crees and other Aboriginal peoples in Quebec argue that we also have the right to choose for ourselves, and that

we also have the democratic right to our own referendum, that old double-standard is invoked once again: The choices made by the Crees and other Aboriginal peoples must be drowned within the vote of the entire Quebec population. When the then-premier of Quebec, Jacques Parizeau, made his famous speech conceding defeat in the 1995 referendum, he said, "It is true we have been defeated, but basically by what? By money and the ethnic vote."

After this racist remark, the federal government's reluctance to submit the legal and constitutional arguments to a test underwent a dramatic reversal. This very close, highly contested and statistically suspect referendum genuinely frightened the federalists. In a panic, the federal government immediately rushed two resolutions through Parliament. One recognized Quebec as a "distinct society," the other gave Quebec a veto over future constitutional amendments. The federal government promised that these resolutions would become constitutional amendments at the first possible opportunity.

The Crees opposed these resolutions because they potentially derogate from the constitutional rights of the Aboriginal peoples. When we raised these objections at parliamentary hearings we were told by federal officials not to worry, although they conceded that our legal arguments were sound. We want to keep our promises to Quebec, they explained; we will deal with your rights later. However, at the same time that the federal government enacted these conciliatory resolutions they embarked upon a strategy to begin a public discussion of the contentious issues which had been considered taboo before the referendum. The big question, of course, is whether the provincial government in Quebec has the legal authority under the Canadian Constitution or in international law to make a unilateral declaration of independence. In Canada a question such as this can be put directly by the federal government to the Supreme Court of Canada in the form of a reference case (see *Reference re: Secession of Quebec*, [1998] 2 S.C.R., 217). The Crees had been hoping that the federal government would make a reference to the Supreme Court, and we had been making preparations for such an eventuality.

Separatist leaders in Quebec took positions on both sides of the legal issue. They argued that the Quebec National Assembly had the right under international law to unilaterally declare independence. They argued that the Aboriginal peoples could not separate from a separate Quebec. They argued that the Canadian Constitution protected the borders of

Quebec until independence. After independence, they claimed, international law would protect the "territorial integrity" of a sovereign Quebec. When the federal government suggested a possible reference on these issues to the Supreme Court, the separatists were indignant with outrage. How could the judges of the Supreme Court overrule the democratic will of the Quebec People? These objections to the Supreme Court were made notwithstanding the fact that Quebec itself had brought to the Supreme Court of Canada a case against the harvesting rights of Aboriginal peoples (*R vs. Côté*, [1996] 3 S.C.R., 672), where it claimed that Aboriginal rights did not exist in Quebec at all.

In September 1996 the federal government passed an order-in-council sending three reference questions on Quebec secession to the Supreme Court of Canada. The Quebec government objected and refused to participate. Its objection was supported by the Quebec Liberal Party. Huge rallies were held in Quebec against the Supreme Court. Pressured by this popular reaction, several federal members of cabinet and even the prime minister himself conceded that the federal government would agree to the separation of Quebec if a clear majority of the Quebec population were to vote to separate on a clearly phrased question.

These concessions clearly troubled the Aboriginal peoples in Quebec. On what authority, we wondered, could the federal government make such a concession? What about our rights? What about the federal government's fiduciary obligations to Aboriginal peoples? What about the Constitution? And if these concessions were being made publicly, why ask the Supreme Court for answers? The federal government chose its questions very carefully. It completely avoided the question of its obligations to the Aboriginal peoples under the Constitution. The federal government asked to court whether Quebec could unilaterally separate from Canada; if Quebec had a right of self-determination under international law, and whether international law or domestic law would have paramountcy.

The federal government asked its former United Nations Ambassador, Yves Fortier, to argue its case for the Attorney General. Canada also invited Quebec to submit arguments. Quebec refused with great public indignity, so the Supreme Court appointed a well respected separatist lawyer to act as an *amicus curiae*, or friend of the court, to argue Quebec's case. The Crees and three other Aboriginal organizations

intervened along with several other groups and individuals. Canada argued that the Court need look, and should only look at a very narrow question. Does a provincial legislature have the power under the Constitution to unilaterally separate from Canada? The Crees' intervention examined the reference questions in a broader context. We argued that Quebec could not unilaterally separate, because the unilateral nature of the secession would violate the principle of Cree and Aboriginal consent.

We sought to demonstrate that the rights of the Aboriginal peoples would be seriously violated by unilateral secession. We also sought to show that our human rights, our treaty rights, and our Aboriginal rights were highly relevant to the reference questions, and that the federal government had fiduciary obligations to the Aboriginal peoples in Quebec it had to respect in the context of secession.

The federal government had hoped to keep a tight lid on the scope of the reference case, but it was clear as soon as the intervener's factums had been filed that this would not be possible. The federal government's second reply factum instructed the court to avoid the Aboriginal issues completely. Canada assured the Court that it did indeed take the interests of the Aboriginal peoples seriously, but it suggested that the Court not consider the issues raised by the Aboriginal interveners. It advised the court that these issues were far beyond the scope of the reference questions.

Everything that I have described so far was done through written submissions leading up to a dramatic and historic week of oral submissions which recently took place before the full Court in Ottawa. The Crees' oral submission was straight forward. We maintained that Quebec could not secede unilaterally without violating our right of self-determination. Such a violation, we told the Court, would be an act of colonialism against the Crees. Colonialism is one of the explicit rights violations in international law that provides justification for a people to exercise their own right of secession. By forcibly including the Crees in a separate Quebec, Quebec would be forced to relinquish the Cree territory, Eeyou Istchee. Cree consent is required.

For most of the week the Court listened to the various submissions. The federal lawyer reiterated his position that the federal government would accept Quebec secession if a significant majority were to approve a clear question on secession.

The *amicus* made the novel argument that Quebec need only gain

effective control over the Quebec Territory in order to achieve independence. He called this the principle of "effectivity" – control the territory, displace the federal authorities, and insist on the territorial integrity of the territory that Quebec would claim. The justices listened. They showed no expression, no reaction to anything that was said. They asked no questions. Then, at the end of the third day they told the lawyers that they would ask questions the following day and want answers.

If these questions are any indication of what the justices of the Supreme Court are thinking, I think we can look forward to a very interesting judgment indeed. I can tell you this – everyone agreed that the federal lawyer and the *amicus* were caught off guard and rattled by the questions. "On what ground," the Chief justice asked the federal lawyer, "is Ottawa constitutionally permitted to concede, as it has done here, that the people of Quebec have the ultimate right to decide their own political future? Does such a concession by Ottawa in a judicial context like this one have any binding legal effect?" This was the very same question an Aboriginal chief had asked a few months before in a public letter to a member of the federal cabinet – a letter that was never answered. We had also wondered, how could the federal government concede our rights unilaterally? Where did it get the authority to do this? The government's answer was that the concession to Quebec was a matter of "policy," and that it did not create a right to secede outside of the constitutional process. The essential question was never answered.

After several more questions the Chief Justice dropped his "bombshell," the very same one that the Royal Commission on Aboriginal Peoples had gone to such lengths to avoid. Canada was asked: "What is your position with regard to the fiduciary duty owed to the First Nations peoples if there should be a UDI (unilateral declaration of independence)? Do you consider your obligations to extend to consideration of territorial claims of First Nations Peoples?" Mr. Fortier, the federal lawyer, told the Court that Canada had already answered these questions in its factum to the Court. Canada's position he said was that the Aboriginal rights issue should not form part of the case. Canada would respect its fiduciary obligations to the Aboriginals, and that was the end of it.

This did not satisfy the justices who could see that a very important question was being evaded by the Canadian government. Mr. Justice Peter Cory, who had not said a word for the entire week until then, asked how the Aboriginal issue could be left out. "It seems to me, Mr. Fortier,"

he observed, "that's an essential and integral part of the response to the question. This is perhaps the group that is most vulnerable and most affected." Fortier squirmed and waffled, instructing the Court once again to avoid the Aboriginal rights question. Under pressure he conceded that it was "essential" to keep in mind the constitutional guarantees and special Aboriginal and treaty rights. Nevertheless, he stressed again the Court need not address such issues in their ruling.

The Court was being given a first-hand example of Canada's questionable respect for its constitutional obligations to the Aboriginal peoples. The Chief Justice wryly observed, "You're saying, Mr. Fortier, we should have it in our mind but not talk about it." The courtroom burst into laughter.

Ladies and gentlemen, thank you very much.

Note

This paper was originally an address to the Canada Seminar, Native American Program, Weatherhead Center for International Affairs, Harvard University, 20 April 20, 1998.