

The Lubicon Settlement Commission of Review

Final Report

Edmonton, Alberta

March 1993

We thank the Association Canadienne Francaise de l'Alberta;
Dr. Roger Motut; Aboriginal Rights Coalition (Project North);
Edmonton Interfaith Committee for Aboriginal Rights;
St. Joseph's Basilica; Peace River Traveller's Motor Hotel;
Mennonite Central Committee Canada, Winnipeg;
Missionary Oblates.

Contents

Introduction.	i
List of Commission Members.	ii
Activities of the Commission.	iii
List of Written Submissions Received.	iv
Brief History of Events to June, 1992.	1
Findings.	3
Recommendations.	5
A Comparison of Approaches.	7
The People Speak.	11
The Commissioners.	21
Mandate and Establishment of Commission.	29

Appendix 1: Letter to Prime Minister Trudeau from the World Council of Churches, 1983

Appendix 2: Fulton Discussion Paper, 1986 (Not attached in this version at this time)

Appendix 3: Transcripts of Commission Hearings

Appendices and additional copies of this Report are available at cost from:

The Aboriginal Rights Coalition
(Project North)
151 Laurier Avenue East
Ottawa, Ontario K1N 6N8
Phone: 613-235-9956
Fax: 613-235-1302

Introduction

"We are an independent and non-partisan group who are self-sustaining. That is, we pay our own expenses. Nobody's supporting us. We want to be involved in this way because we would like to see the negotiations that have been stalled for some time between the Lubicon and the two levels of government to move again. Our mandate or terms of reference are to investigate, compare, assess and report on the presentation of the Lubicons and of the two levels of government, and to report to the three parties, but also to the public."

- Fr. Jacques Johnson

From the Transcript of the Lubicon
Settlement Commission of Review Public
hearing June 1, 1992

Commission Members:

Father Jacques Johnson Co-chair
Provincial Superior, Missionary Oblates, Edmonton, AB

Ms Jennifer Klimek Co-chair
Lawyer, Edmonton, AB

Mr. Don Aitken
President, Alberta Federation of Labour, Edmonton, AB

Dr. Michael Asch
Professor, Department of Anthropology, University of Alberta, Edmonton, AB

Mr. Wilf Barranoik
Entrepreneur, Sherwood Park, AB and former chair, Alberta Chamber of Commerce

Mr. Norm Boucher
Forestry contractor, Peace River, AB

Ms Regena Crowchild
President, Indian Association of Alberta

Ms Sandy Day
Entrepreneur/environmentalist, High River, AB

Mr. John Macmillan
Entrepreneur, Peace River, AB

Ms Theresa Mcbean
Engineer, Calgary, AB
(resigned due to child birth)

Ms Colleen Mccrory
Environmentalist, New Denver, BC

Reverend Menno Wiebe
Director of Native Concerns, Mennonite Central Committee Canada, Winnipeg, MB

Activities Of The Commission

1. Public Hearing June 1, 1992 in Edmonton, Alberta

Presenters: Chief Bernard Ominayak; Elder Edward Laboucan; Advisors Fred Lennarson and Bob Sachs.

2. Public Hearing June 2, 1992 in Edmonton, Alberta

Presenters: Chief Bernard Ominayak; Elder Edward Laboucan; Adrian Houle from Saddle Lake Band; Advisors Fred Lennarson and Bob Sachs.

3. Public Hearing June 29, 1992 in Edmonton, Alberta

Presenters: Rev. Bill Phipps, Executive Secretary of Alberta and Northwest Conference, United Church of Canada; John Stellingwerff, Chairperson of the Edmonton Interfaith Committee for Aboriginal Rights.

4. Public Hearing August 6, 1992 in Little Buffalo, Alberta

Presenters: Chief Bernard Ominayak; Elder Edward Laboucan; Violet Rose Ominayak; Dawn Hill Mohawk Six Nations; Advisor Fred Lennarson; Grade 9 student Crystal Gladue.

5. Public Hearing August 7, 1992 in Peace River, Alberta

Presenters: Dr. Heinz Lippuner, Organization of Incomindios, Switzerland; Mayor Michael Proctor of Peace River; Ian Gardiner, President of the Peace River Board of Trade; Ed Bianchi, Friends of the Lubicon, Toronto.

6. Public Hearing November 2, 1992 in Edmonton, Alberta

Presenters: The Hon. E. Davie Fulton; Chief Bernard Ominayak.

7. Public Hearing November 3, 1992 in Edmonton, Alberta

Presenters: Montreal journalist and author of *The Last Stand of the Lubicon Cree* John Goddard; Advisor Fred Lennarson; Bruce Koliger, of Koliger Schmidt Architects and Engineers,; John Krebes of Butler, Krebes and Associates.

8. Public Hearing January 29, 1993 in Edmonton, Alberta

Presenter: Sharon Venne *

Invited, but declining to make presentations or written submissions: Tom Siddon, Federal Minister of Indian and Northern Affairs, Dick Fowler, Alberta Minister of Native Affairs.

Representatives from the federal and provincial governments were invited to appear, but declined.

* S. Venne was unable to attend previous hearings and asked to address the Commission in January.

Written Submissions Received

Rev Ray Hodgson, Chairperson, Taskforce on Churches and Corporate Responsibility, Toronto, ON
Bill Janzen, Executive Director, Mennonite Central Committee, AB
Mennonite Centre for Newcomers, Edmonton, AB
Dionys Zink, Board Member, Big Mountain Action Group GERMANY
The Lubicon Lake Nation Women, Little Buffalo, AB
Western Canada Wilderness Committee, Edmonton, AB
Delia Ayers, Oxford, ENGLAND
A.J. Pollorte, Oxford, ENGLAND
Friends of the Lubicon, Toronto, ON
Frank H. Stuckert, Bright, Vic., AUSTRALIA
Turtle Island Support Group, Toronto, ON
Rosemarie Herrell, Don Mills, ON
Helen E. Coleman, Thornhill, ON
Vah Hori, Toronto, ON
Bruce Tombs for Friends of Aboriginal People, United Church of Canada, Salford, ON
Elizabeth May for Cultural Survival, Ottawa, ON
John Hamer, Red Deer, AB
Alva I. Cox Jr. A summer resident and payer of Canadian taxes, Connecticut, USA
Pedro Ceinos, Madrid, SPAIN
The Mimir Corporation, Edmonton AB
Louise A. Stanley, Bath, ME
Mennonite Central Committee, Winnipeg, MB
Chief Ernest Sundown for Joseph Bighead Reserve No. 124, Pierceland, SK
Eighth European Meeting of Native American Support Groups, Genova, ITALY
Timothy Gladue and Crystal Gladue, Lubicon Nation Youth, Little Buffalo, AB
Samson Cree Nation, Hobemma, AB
Dawn J. Hill, MOHAWK NATION
Mona Duckett for Social Justice Commission, Archdiocese of Edmonton, AB
Martina Roels (KWIA), BELGIUM
J. Williams, Oxford, ENGLAND.

Brief History Of Events To June, 1992

It is well established that the Lubicon Cree were in legitimate occupation of their territory prior to first contact with Europeans.

When Treaty 8 was signed in 1899, the Lubicon were missed. At various times during the 1920s and 1930s Lubicon who wanted to become part of Treaty 8 contacted the government. In 1933, they formally petitioned Ottawa to recognize their rights. In 1939 the federal government recognized the Lubicon as a separate band, but no treaty was made.

By 1942 a government official had removed the names of many people belonging to the interior bands in order to "cut down expenses."

In the 1970s sizable oil and gas reserves were discovered on Lubicon land. In 1973 a federal Order-in-Council was passed which legally recognized the Lubicon Lake Indians as a band. In 1975 the Lubicon, with six other isolated communities, submitted a caveat to serve notice of their unextinguished Aboriginal Rights. The provincial government responded by retroactively passing Bill 29, which changed the law and thus made the Lubicon case (with the other applicants on the caveat) without basis.

Resource development began in earnest in 1979. The ability of the Lubicon to continue their self-sufficient lifestyle was arrested by this development.

By 1983, the number of moose killed annually had decreased from 200 to 19. That year, the World Council of Churches investigated the situation at Little Buffalo and in a personal letter to the prime minister, warned of impending "genocidal consequences". From 1979 to 1989, the number of Lubicon on welfare changed from 10 per cent to 90 per cent. It was estimated that the 400 oil wells pumped \$1 million worth of oil daily; none of this revenue benefited the Lubicon.

In 1985 D. Crombie, Minister for Indian Affairs, appointed E. Davie Fulton to study the situation. The Lubicon and the federal government agreed to use the Fulton Discussion Paper as a starting point for negotiations. Fulton examined the major issues including land, band membership, wildlife management, self-government and cash compensation. He suggested ways of accommodating the interests of the Lubicon and both governments. The Paper was never made public and the government took a position in negotiations inconsistent with the (1986) Fulton Paper.

In February 1988, the province announced the establishment of the Daishowa pulp mill near Peace River, along with a timber lease of 11000 square miles, including 4000 square miles of traditional Lubicon land.

In October the band set up road blockades to their traditional territory. The RCMP took down the barricades and arrested 27 Lubicon and supporters. Later that month Premier

Getty and Chief Ominayak signed "The Grimshaw Accord" granting the band 79 square miles of land including full subsurface rights and a further 16 square miles with only surface rights.

In January 1989 the federal government tabled a settlement offer. It was rejected on the grounds that it did not ensure social or economic self- sufficiency.

The United Nations Committee on Human Rights released their report concerning the Lubicon in March, 1990. Their conclusion was without precedent in the western world. They acted on the belief that the Lubicon had exhausted all other options for internal remedies to their situation.

The Committee issued an order against Canada to stop any action that would further hinder the status of the Lubicon. They condemned Canada in the strongest possible language. The Committee concluded that, "Recent developments threaten the way of life and culture of the Lubicon Lake band and constitute a violation of Article 27 (of the Human Rights Convention) so long as they continue." In addition they stated, "The Lubicon could not achieve effective legal redress within Canada."

Lubicon negotiators presented a draft settlement agreement to provincial negotiators June 1, 1990. Negotiations with the provincial government broke down at the end of the month. In the fall, despite verbal understanding to the contrary, Daishowa confirmed that four companies would log in the disputed territory. In November some logging equipment was torched on Lubicon traditional territory. Seventeen Lubicon were arrested. Trial was set for January 1993.

The United Nations Human Rights Committee took a second unprecedented action in May 1991 by appointing a rapporteur to monitor the Lubicon situation and report to the Committee. In July the newly formed "Woodland Cree Band," some of whom had been listed as members of the Lubicon Band, accepted a settlement package offered by the federal government. In December the Indian Affairs Minister announced the creation of a second new band, the Loon River Band.

In 1992 negotiations started again between the Lubicon and federal government. The federal package offered appeared to the Lubicon to be a repeat of the 1989 offer. Despite a few meetings, nothing substantial was accomplished.

In June The Lubicon Settlement Commission of Review began hearings.

Findings

Our principle finding is that governments have not acted in good faith. They have:

- a. **passed retroactive legislation to undermine legal claims,**
- b. **appropriated royalties that, had a reserve been established at an appropriate time, would have been in Lubicon hands, and**
- c. **been in conflict of interest because they act as interested party, beneficiary of royalties, and presumed judge of the validity of Lubicon claims.**

Similar findings have been made by the United Nations, E. Davie Fulton, the World Council of Churches, individuals from Canada and overseas, and witnesses to this Commission.

We also noted the inequality among the negotiating parties. The Lubicons have had extremely limited resources. The governments' unlimited resources in terms of finances and personnel also led to abuse of power.

We heard no indication that the federal government was acting in the interest of the Lubicon Cree, despite the mandate of the Department of Indian Affairs and Northern Development. Instead, they took an adversarial stance. The government has the responsibility to act not as an adversary, but as a partner with the Lubicon people.

We feel that there is an in-built conflict of interest within the mandate of the Minister of Indian and Northern Affairs. On the one hand he is to protect the interests of the Indian people; on the other hand he is put in a situation where he is to make decisions regarding development on contested lands, decisions with negative consequences for Indian peoples. A case in point: Minister Bill McKnight, responsible for Western Diversification Funding, allowed funds for development by Daishowa on disputed Lubicon lands.

We found that the Lubicon have acted in good faith in negotiations. Having heard Chief Ominayak's report regarding deliberate avoidance of oil wells in the selection of their land, Commission members acknowledge the Lubicons' sincere efforts to facilitate resolution. The Lubicon want open and public negotiations, and have responded to invitations from the governments to negotiate. They have presented a well thought-out plan for a settlement, to which they still await an adequate government response. They have also agreed to a process of mediation.

We found that the Lubicon proposal, based on the need for community viability, represents a fairer basis for settlement than the proposals of the federal government based on fear of setting a precedent that varies from existing policy. We agree with E. Davie Fulton who said:

" ...I cannot see this being a precedent because this is an entirely unique set of circumstances. Never before in our history -- and let's hope never again -- has a situation existed where a Band was promised over 50 years ago, a settlement and a reserve that

would have given them a livelihood, set them up in that way so that they wouldn't have suffered so dreadfully from the loss of their other forms of livelihood and they would have had other benefits follow from it -- promises which have not been fulfilled, which have been stymied, which have been met with obfuscation and difficulties by the very people responsible for implementing the promise.... ***So a generous settlement recognizing the equity of the situation could not possibly serve as a precedent for other settlements, because there's no other such situation.***"

A further crucial finding is that the situation is urgent. The alternative to a just settlement is to see the Lubicon continue the downward spiral of despair and self-destruction already begun by a few years on welfare subsistence. Hundreds of thousands of tax dollars are being spent for welfare alone, not to mention health and human costs. A major concern is the on-going personal tragedies and sense of helplessness. The devastation of the community resulting from intrusive development causes severe hardship to the internal organization of the Lubicon people, to its economic basis, and to its moral fibre.

Canada has many ways of resolving issues, through various governments, through the courts, and through negotiation. Since 1939, all of these avenues have been tried by the Lubicon.

We have based our findings and recommendations on testimony presented to us. We are disappointed that representatives from the federal and provincial governments refused to appear before the Commission. We were, therefore, not afforded the opportunity to hear the rationale for their offer or reasons for shelving the Fulton Discussion Paper, for example.

We hope that the parties will adopt the following recommendations and that this will result in a mutually satisfactory resolution.

Our recommendations are made in order to create conditions under which the federal government is compelled to act fairly. **Ultimately, if these fail, we recommend turning the process of negotiations to a third party, perhaps in the international community.**

Recommendations

We Recommend:

1. **That** given the urgency and time constraints of the situation, and also the on-going frustrations of Lubicon leaders having to negotiate with government officials who have no decision-making power, **the federal government delegation be led by the Minister of Indian and Northern Affairs or the Prime Minister, and that the provincial delegation be led by the Premier or the Minister for Native Affairs.**

2. **That the Fulton Discussion Paper be used as a basis for renewed negotiation by the three parties.** Mr. Fulton spent more than a year studying the Lubicon claims. He clearly identified nine areas of dispute, including land, membership, environmental management, self-government, compensation. He analyzed the nature of each. He stated the position of the Lubicon, of the federal and provincial governments. Finally he identified areas of agreement, suggested areas of compromise or possible settlement where there was no agreement. Unfortunately the Paper was shelved soon after it was presented. (We note that this is recommended as A workable basis, not necessarily **the** basis.)

3. In issues where no resolution can be found among the parties, **that the federal government and Lubicon each appoint an independent mediator, and with a third person agreed upon by both parties, create a tribunal.** Where the provincial government is involved, it should also be a party to this, but in no case should the decision be made wherein each government has one vote, and the Lubicon have one vote.

4. **That negotiations be made in public.** It is clear from the Royal Proclamation of 1763 that the Crown must be committed to public negotiations. We urge that the government of Canada follow this policy so that the public can understand how negotiations are proceeding. We understand from their testimony that the Lubicon have already agreed to this.

5. **That beginning immediately, all royalties be held in trust.** This is to develop an incentive to conclude negotiations quickly. Further, that there be no additional permits or leases granted on traditional Lubicon lands without Lubicon approval.

6. **That the land allocation of 95 square miles as identified and agreed upon in the Grimshaw Accord, be finalized and implemented immediately,** without prejudice to the rest of the negotiations.

7. **That implementation of the Lubicon proposal to develop agriculture, wild rice harvesting, wildlife management, commercial development, sustainable timber industry, reforestation, road construction and ranching, among other things, be honoured in the negotiations.** According to the independent cost assessors, the costs for these appear to be reasonable.

8. That extinguishment of Aboriginal Rights, including land rights, not be a condition for settlement.

9. That the settlement reflect cultural considerations which include:

- a. That hunting and gathering not be regarded only as a past and currently irrelevant part of the economy, but as a contemporary and continuing part of the economy for the present and future;
- b. That language translations within the negotiations, and in the final agreement, be encouraged for the benefit of the Cree speakers;
- c. That cultural sustainability be held firm as an alternative to the usual assimilative philosophy.

10. That membership eligibility is a prerogative of the Lubicon nation. In the past when treaty commissioners negotiated on behalf of the federal government, they accepted the number of members given them by the chief or leader. They have not accepted the number of members given them by Lubicon representatives.

11. That the compensation requested by the Lubicon be paid (\$50 million from each government). The Lubicon have asked \$100 million in compensation.. In light of the Fulton Discussion Paper, compensation is a responsibility of the federal government. However, because the province has benefited from the royalties, made possible by regrettable and unfair retroactive legislation, it would be just for them to reimburse the federal government for \$50 million. This is based on uncollected revenues and uncollected benefits beginning with the promise of a reserve in 1939 and the formation of a band.

Most benefits received by recognized Indian bands were not received by the Lubicon for decades, due to government neglect. Benefits from oil and gas exploitation are nonexistent. Fifty million dollars is less than 5% of the provincial government's share of royalties, gained as a result of retroactive legislation (Bill 29).

12. That if no settlement is satisfactorily completed within six (6) months, the dispute be referred to a third party for resolution. We suggest that, given the on-going interest shown by the United Nations Human Rights Committee, it would be an appropriate forum to deal with this dispute.

The international monitoring of this Canadian issue is a reality. The Human Rights agenda is international in character. In addition, natural resources in the Lubicon area are of substantial interest to international development corporations.

The Lubicons' appeal to the international community strongly suggests the failure of the regulatory process within Canadian governmental and other networks.

Canada's apparent image as a defender of Human Rights on the international scene is seriously undermined by the federal government's failure to deal honourably with the longstanding grievance at Little Buffalo, Alberta.

A Comparison Of Approaches

The offers made by the federal government and the Lubicon, although modified at various times, always show two very contrasting underlying approaches. The federal proposal(s) generally favours an approach that compares the Lubicon situation to the settlement of other "claims" by First Nations. They seem to be looking at whether or not the Lubicon settlement is "fair" with respect to their own policy and with the circumstances of others presumed to be in similar circumstances. The Lubicon, generally, are in favour of a resolution that is related specifically to their circumstances -- that is, based on their needs.

The Needs Approach:

Do the proposals meet the "needs" test? This discussion is limited to one area -- economic self-sufficiency. This question is posed in the Terms of Reference: Does the settlement provide the Lubicon with the resources to "once again become economically self-sufficient"?

We begin by looking at the federal offer from the perspective of "needs." As there were no government witnesses, it is impossible to know whether or not government believed that their offers provided the means for economic self-sufficiency. Clearly, the Lubicon said the proposals do not. The testimony heard indicates that the Lubicon are correct.

As it emerged from testimony, the Lubicon believe that their future economic self-sufficiency must be based on changing from a reliance on hunting and trapping to agriculture. The rationale for this approach appears to be that, as the wildlife had been disturbed and to a large extent destroyed, it is reasonable to develop an agricultural base. Their proposal to the federal government was based on this assumption. Although there may be other alternatives, finding them falls outside the mandate of this Commission.

A key section of the Lubicon position is the costing of their needs to develop agriculture. At the same time, they also costed needs for community construction, trapper support and commercial development. These funds, along with some dollars for compensation related to the extraction of non-renewable resources from their lands, represented the basis for the global dollar amount they presented in their offer. This amount in the Lubicon offer, according to Koliger and Schmidt (architects and engineers) was around \$27 million (in 1988 dollars and without contingency provisions).

The federal offer(s) also include dollars for community development, for an economic development fund (schedule D 1989), some support for agricultural development and the *opportunity to apply for additional funds*. It really does not provide for the degree of agricultural or commercial infrastructure found in the Lubicon proposal. As well, in all cases, the dollars provided in the federal government proposals are lower than those indicated in the Lubicon proposal. Given that the federal government offer does not speak either directly or indirectly to the question of economic self-sufficiency, and does not ensure funding for infrastructure to enable self-sufficiency to take place, it is evident that

the federal plan does not meet the needs of the Lubicon to shift their economy to agriculture.

At the same time, it is fair to ask whether the Lubicon figures represent a reasonable estimate of the costs. Evidence was provided by Koliger and Schmidt that the global dollar amount provided by the Lubicon was significantly lower (in 1992 dollars) than what would be required to construct the infrastructure identified in their proposal. This was about \$42 million (without contingency). Thus, the Lubicon proposal is perhaps unrealistic to achieve their objectives, because their figures are too low.

The Fairness Approach

Are the government proposals "fair?" It appears that governments utilized this approach in preparing their offers. Some witnesses suggested that "fairness" ought to be a crucial criterion upon which to evaluate the proposals. Fairness may be measured in various ways. It is our view, based on information extraneous to these hearings, that government sees "fairness" as an aspect of consistency with respect to existing policies, and "even-handedness" with respect to treatment. It appeared that for some witnesses, fairness related to even-handedness with respect to treatment of others, both Aboriginal and non-Aboriginal.

It is far beyond the scope of this document to present a discussion of current government policy or implementation of it respecting treaty rights, "land claims" (both specific and general) and services. Generally speaking, however, the proposals advanced by the federal government fit within one or another policy. One question, which we will not address in detail, is whether the way they are combined in any given proposal represents the "fairest" way to proceed. In at least one case, it does not.

In one proposal, the government *merely provides the opportunity to seek funds from existing programs*. The Lubicon could do this without it being in the proposal. It is inappropriate to have such a provision contained within it or to count it as a part of the settlement package. Clearly, such an approach is only consistent with policies that stand outside of the normal "land claims" approach.

Even more crucial, is whether the government's idea of "fairness" as it relates to consistency and even-handedness, is in fact fair to the Lubicon. It seems not. When policies are to be "consistent" and "even-handed" with respect to certain abstract generalizations about the parties with whom one is negotiating, it seems that the whole point of the exercise is lost. One must ask specifically about the circumstances of each individual case and provide appropriate redress according to that context. How then, should the concept of "fairness" be applied to the Lubicon and the other isolated communities? We offer examples regarding relations with the federal and provincial governments as illustrations of what a contextualized use of "fairness" might imply. We begin with the federal.

It is reasonably well known that the Lubicon were "missed" when Treaty 8 was signed in 1899. It is also accepted fact that the Lubicon petitioned Indian Affairs for a reserve beginning in 1933 and that, in 1939, Indian Affairs agreed they were a separate Band and that a reserve should be established for them. This reserve was to be approximately 25.4 square miles in area. It is known that no survey was done then and that the Alberta government removed any reserve on this land in 1954 when the federal government did not comply with requests for survey data to remove the land from the provincial inventory. It therefore seems appropriate to conclude that it was through no fault of their own, that the Lubicon and other isolated communities did not have a reserve by the time oil and gas were discovered on their traditional lands.

It is estimated (through an extrapolation of government supplied data) that \$1 million per day was extracted in energy from traditional Lubicon lands in the year 1988 alone. Had the federal government acted in a timely and appropriate manner in the 1940s and 1950s, there would have been a reserve in place by the time of this discovery. It is agreed that some, if not all, of the non- renewable energy supplies extracted would have been from that reserve and perhaps from lands set aside for other isolated communities.

Given these circumstances, it seems logical that a "fair" approach would necessitate that the settlement reflect the situation that *ought* to have existed when oil and gas were discovered and extracted from Lubicon lands. It is clear that, given existing federal policy respecting royalties to resource- rich Bands, monetary settlement based on this view of "fairness" would far exceed the Lubicon proposal which is based on need.

We turn now to the question of "fairness" with respect to actions of the government of Alberta. In 1975, the people of the isolated communities (including the Lubicon) filed a caveat that served notice that, notwithstanding the existing language of Treaty 8, they still have certain unextinguished Aboriginal Rights in their traditional territories. The filing of such a caveat was important in that it would provide certain protection against their rights being alienated through third party interest.

The Alberta case was based on a similar case in the Northwest Territories which was filed by the Dene in the late 1960s. The trial in the Northwest Territories produced a judgment that asserted that the Dene may well have unextinguished rights, notwithstanding the language of the same treaty. It allowed for the filing of a caveat. At the time the Lubicon case reached the courts in Alberta, the NWT case was in the Appeals Court of Alberta (which acted at that time as the Appeals Court for the NWT). During the Lubicon trial, the Appeals Court stated that, given the way the law was written in the NWT, it was not possible to file such a caveat, but that given the land legislation in Alberta, were the case to be filed here, they would have to uphold it. As a consequence, the lawyers for Alberta asked for a stay in that trial. The government of Alberta *introduced legislation that changed the land titles act* in Alberta in such a way that no caveat could be upheld here.

What is crucial is that the government made this legislation **retroactive**, and as a result, the trial was rendered null and void. Thus, an important legal tool, the caveat, was taken from the Lubicon and other isolated communities.

The passage of retroactive legislation is generally repugnant to English legal thought. It is especially repugnant when a consequence of this action is to deny access to legal remedy. This was done in the Lubicon case. It would thus follow that a policy based on fairness would operate within a context that assumed the existing case of the Lubicon is exempt from the impact of the legislation. Such a conclusion would have an extremely important impact on the balance of power between the parties even now and its application retroactively (which would be fair) would create a sufficient legal tangle so that governments probably would be quite willing to resolve the monetary questions on the Lubicons' premise, based on need.

In sum, when the context of the Lubicon is included within the scope of "fairness", that concept would likely lead to a higher [monetary] settlement than the one based on "need." We are therefore drawn to conclude that, whether based on "fairness" or on "need," the Lubicon position represents the more appropriate settlement proposal than do any we have seen advanced by the federal government

The People Speak

Following are excerpts from a variety of oral presentations heard by Commissioners:

We live our lives in constant danger. Since the blockade we have been afraid to go certain places in town [Peace River]. Our sons have been beaten by white men when they say they are Lubicon.

The roads are dusty and dangerous to travel. The logging and oil trucks run us off sometimes. We have lost many young ones because of the horrible roads.

The Lubicon women demand an end to the physical, emotional, economic, cultural and spiritual destruction. Hear our voice and our message - we don't know if we'll be here tomorrow.

- Violet Ominayak
witness Little Buffalo August 06/92

Most people who are knowledgeable in the area of Human Rights in the UN know about the Lubicon case.... if you look at all the other atrocities in the world, the Lubicon case stands out as a big beacon. It's not a very pleasant thing that has happened... And they know it's an on-going situation. That's the most significant thing. It's on-going. It's not something that has stopped.

I think that what has happened is that it's brought the attention of the world to the fact that what's going on in Canada is not very pretty, their relationship to indigenous people. And the Lubicon have done that.

... [At the UN] you have to be super-polite, super diplomatic ... what happened was the Committee [for Human Rights] came out with a ... decision condemning Canada in the strongest possible language that they could, within the parameters that they work in. The other thing that the Committee did, which is another unprecedented thing in relation to the Lubicons in this particular instance, is that they wanted to maintain an on-going hands-on in the Lubicon case. Usually what happens is they make a decision, issue it and then it's finished. There's no usual follow-up because there are so many cases. But in this case they appointed a special rapporteur who's to report to the Committee in an on-going basis as to the situation of the Lubicons.

To me, it signals within the United Nations and other people I've talked to, that the Committee knows that Canada was not playing fair with them and they wanted to say something about the Lubicon case ... "OK, Canada, you say that you're making fair and equitable efforts to settle this issue ... We'll give you the benefit of the doubt publicly, but

we're also appointing a rapporteur." And that's the killer because the rapporteur is totally independent of Canada. He's from Hungary. There's no way that the Canadian government can influence the guy ... so in fact, what the UN has done is kick the whole Lubicon thing up one more step ... it's unprecedented for the UN to do that.

- Sharon Venne
witness Edmonton January 29/93

So people say to me, "What's it like?" I say, "What would Edmonton look like 10 years after everybody had been forced onto welfare and had to stand in line with their hand out in order to survive? What would that do to relationships between men and women and parents and children and the old people?"

During one 18 month period there were something like 21 pregnancies; 18 children were still-born...

There is not one single Lubicon here who has not experienced unnatural death in his own family through alcohol-related incidents -- a man freezing to death on his trapline, a man killing himself with his hunting rifle [the first known suicide in Lubicon history], still-born children, kids running head-on into an oil company truck. .. They didn't even know which bones went with which child.... This has been rightly described by the World Council of Churches as (a word has been deleted here in order not to possibly contravene a court order against FoL).

... that's the consequence on this society of what's been done to them while the Alberta government and the oil companies and dominant Canadian society -- all of the rest of us -- have benefited to the tune of an estimated \$8 billion in oil revenues. Now they're proposing to go in and chop down something like 11 000 trees a day, dehydrate them and send them to Japan as part of supposed diversification of the Alberta economy.

- Fred Lennarson
witness Edmonton June 01/92

I don't think there's any amount of dollars that would be able to put back in place what we lost by way of our traditional way of life. Rather, we've concentrated on trying to put something together that would enable us to build some kind of a future for our people, especially for our younger generation.

Early on ... a lot of our trappers were out there ...The guys who were in the oil fields would have their cat and go out of their way to destroy traps. A few of the people had tried to get compensation for some of the damage that was done to the traplines... but the whole issue is not the \$5.00 trap or anything. We were losing a way of lifewe were trying to

hang on and hang on and hang on ... That wasn't possible because they kept coming. There was no response even to the complaints... On one hand while the trappers were out there and we were trying to keep them from shooting the guy running the cat, these were all things we were dealing with very early on, and at the same time to try and keep our people from going to jail, because we kept telling them if you kill this guy they'll just put more in. It's not these guys... We've fought a battle and I don't think we were expected to be here today, or even this year. But we hope that we're going to be able to withstand what may come in the future as long as we don't have a settlement.

With the billions of dollars that have been extracted by way of natural resources off our traditional territory, there has not been a red cent that has been coming back to the community other than welfare from the federal government.

There have been a lot of claims by the governments that they can't be handing out tax dollars to Native people like the Lubicons all the time. I don't think we're talking about any tax payers' dollars when we're talking about a settlement ... considering the amount of money that's been extracted through various oil development and also the logging companies up to this point.

During the blockade when we blocked those roads and stopped the oil development from coming in [October, 1988] they were all crying that their kids were going hungry and that we were taking bread and butter off their tables. They never once considered the fact that they were taking everything away from us.

Along the road you don't see any of the clearcut logging, but the minute you get behind the scenes there's a hell of a mess back in there. That holds true in a lot of these things. I think that's the same problem we faced with the oil development. It seems like the bigger the oil company, the less regulations there are, if there were ever any in the first place. Supposedly there are, but they're not followed. There are a lot of things -- for example, around those pump jacks, around those battery stations where there's a lot of oil spilled and it gets into the water stream. The ducks get it in their feathers and then they can't fly. All the drilling mud and stuff, the toxins that are being used in the drilling, the bears, the coyotes get into that and their fur starts falling off and it gets into their system and eats out their insides. So all these things have to be looked at any time any kind of development is going to take place in order to try and preserve.

There must be a reason why the Creator put us in the area that we're in. So I guess from that perspective the onus is on us to try and protect the Earth, the environment and the wildlife as much as possible.

- Chief Bernard Ominayak
witness Edmonton June 01 & 02/92

Long time ago, when people first arrived at Lubicon, everything was in harmony. There were lots of forests, lots of animals, lots of resources for them. It went on that way for a long time. But eventually they started to see a lot of their traplines and forests disappear, mostly because of development coming into the region. These developers had absolutely no regard for their existence.

[We] should be compensated for all that [we've] lost in general damages, because the resources of the land that had been passed on have been stripped and [we] have nothing to pass on to [our] children and grandchildren for future livelihood.

- Elder Edward Laboucan
(translated from Cree)
witness Edmonton June 02/92

I started to imagine what it would be like for myself. I think of myself as a totally urban person; Edmonton's the smallest place I've lived. And if I was taken from my job and ...everything that I know .. taken out of all my socialization, all my contacts, everything that gives meaning to my life, the whole bit, and just dropped in the middle of Little Buffalo..and I had to survive ...I don't think I'd last. It's that kind of total change of environment and context that we are witnessing. By some people's definition it would be (a word has been deleted here in order not to possibly contravene a court order against FoL). And it's a very slow process. We're not lining them up by the trees and executing them. We're just slowly doing it ...drip by drip by drop....

Personally, I think the churches feel that the delay in settling this has been a total disgrace, not just on behalf of the governments, but on behalf of all of us, for somehow not having the political will to settle.

The [Lubicon proposal] seems to make sense to me. I guess what I don't understand is why we have not seen a valid government response to it.the public has a right to know these specifics. What is specifically wrong with the Lubicon proposals? What specifically happened with Fulton's Report and why was it not accepted? What were the problems with it?

I know one of the things the government says is they're concerned about a precedent and paying the Lubicon people more than the "going rate." Well, first of all, I don't think in my limited understanding of how the land claims process is going throughout Canada, I don't think there is such a thing as a "going rate."

Now, I can understand where the government is saying they do have relationships to each [land claim].... but that shouldn't be that hard to do... It doesn't take 7 years or whatever it is to sit down and look at the agreements publicly, and say -- all right, these folks got these under these circumstances with these proposals and why. I mean, you put a wall

chart there and you start looking at it and you start making your comparisons and you try to be just and fair. It doesn't take a genius to do it. Why hasn't it been done?

As I calculate it, \$170 million is 2.3 per cent of \$6 billion. Now, in investment terms, [the Lubicon] are therefore asking very little. Who accepts 2.3 per cent return on their money? Nobody. And that's strictly financially - - forget about human lives and all the things that are far more important than money. [The money] is peanuts compared to what the resource companies have achieved and what we as taxpayers have achieved.

I would like to know why [government representatives] have not appeared before this Commission. The public is entitled to know, in detail, why they are not here. It seems to me that their appearance would confirm their good faith.

- Rev Bill Phipps
United Church of Canada
witness Edmonton June 29/92

I'm living in Switzerland. I represent one of the biggest support groups for Native people in the Americas. I have a resolution on the Lubicon Lake Indian Nation. Representatives from 13 European countries including Austria, Belgium, Denmark, France, Germany, Italy, Luxembourg, the Netherlands, Norway, Poland, Sweden, Switzerland and the United Kingdom do hereby resolve:

1. to continue pressing in every imaginable way the governments of Canada and Alberta to negotiate with the Lubicon people a fair and just settlement of Lubicon land rights;
2. to continue pressing European governments and national and international political organizations to keep raising the issue of outstanding Lubicon land rights with Canadian politicians and representatives of the Canadian government, such European political organizations to include the United Nations, the European Parliament, the Conference on Security and Cooperation in Europe (CSCE), European political parties, Aboriginal Rights organizations, Human Rights organizations and environmental organizations;
3. to accelerate the international STOP DAISHOWA campaign until there is a settlement of Lubicon land rights and an agreement negotiated between the Lubicons and Daishowa respecting Lubicon wildlife and environmental concerns;
4. to establish a Lubicon Monitoring Committee of concerned European organizations to enable a speedy and effective response to any changes in the evolving Lubicon situation, including the possibility of another effort by Daishowa this fall to clearcut Lubicon trees.

Dated the 25th of July, 1992, in Genoa, the town that Christopher Columbus originated from.

I would like to add two sentences to the Lubicon people. You are not alone. There are European people who are with you in your struggle for a fair and just settlement of your concerns.

- Dr. Heinz Lippuner
witness Little Buffalo August 06/92

Overall, we hope that the land claim will be settled before we graduate from high school (my brother Timothy is in grade 10 and I'm in grade 9), so that our future will seem brighter soon. So that there will be something to keep us here. Even if we decide to go to university, we want there to be something to come back to, some place with jobs and a sense of community. There are things we don't have, or are losing now.

In the last few years, since we were young, we have seen more troubles here. More alcohol and with it, fights and accidents. People don't get along any more as well as they used to. People from outside come and sell booze and it breaks up families and causes violence.

This is our land, and none of this should have been going on in the first place. we would like to settle down and stay in this community, but what will remain?

- Crystal Gladue, 14
witness Little Buffalo August 06/92

I held the necessary meetings and prepared a discussion paper which I think you have.... which was supposed to serve as the basis for that final meeting with the representatives of the parties. To my amazement and disappointment, although the discussions had proceeded amicably and constructively, the Alberta minister, Mr. Pahl, took the position that he wasn't going to go any further with these inquiries, that it was a waste of time, that I had no authority in the matter, and that Alberta was not going to take any further part. After discussion with the band and with Mr. Crombie, it was agreed that if Alberta would not take any part -- Alberta being so vitally affected and a concerned party -- there was really not any point in continuing my inquiry. That was where the matter was ended then.

The band asked if I would be prepared to serve in some capacity in the mediation process and I said yes, I would. Then, I gather, it was put before the federal government, about the possibility of my being chairman of a mediation panel. Mr. McKnight's position was, "Never, Mr. Fulton is prejudiced." He used the word publicly. He made that statement publicly, that I was prejudiced in favour of the band. He said, "We couldn't possibly have him as a mediator." To which my answer was, and I put it in a letter to Mr. McKnight, "You apparently don't understand the proper sense and meaning of the word "prejudice", because prejudice is a position you take based upon a lack of the knowledge of the facts or deliberate disregard for the facts and you come to a conclusion notwithstanding what the facts may be; whereas sympathy on the other hand, is a conclusion you arrive at

based upon knowledge of the facts. And I'd be guilty of sympathy because I know the facts now. But I am not prejudiced." I never had an answer to that letter. But apparently the position then of the federal government became, "What Fulton said in the discussion paper was not very useful."

- E. Davie Fulton
witness Edmonton November 02/92

I went to Lubicon country a few weeks ago and came back completely appalled and overwhelmed at the conditions that the Lubicon people are living in. ...in my work as pastor I've been...talking with missionaries and hearing about conditions in Third World countries and never realized that the poverty and despair and conditions would be so poor as they are in this country -- one of the richest nations in the world. I came back with a better understanding and more compassion and a sense of urgency that this situation needs to be resolved.

I personally am becoming more and more ... agitated and upset that we have a government that allows this kind of thing to happen.

I think that if the Lubicons lose, and if this continues, we'll all lose as Canadians.

What is frustrating for me is to see our tax dollars going to high salaries and perks for politicians, to American companies [and] being misused ... in many ways. But if it goes to promoting justice for the oppressed people, for poor people... in my opinion, taxpayers are willing to dig deep and pay for that.

- John Stellingwerff
Edmonton Interfaith Committee for
Aboriginal Rights
witness Edmonton June 29/92

It has been an incredibly enriching experience for me to have been able to spend time in Little Buffalo, being taken around, spending time on the trapline, getting to know the people there. But of course it's also been a very painful experience as well, watching the community change under the really severe oppression that they've been subjected to since about 1982.

There were lots of times where I couldn't believe the material myself. That was one of the big struggles. I think for about two years I struggled to believe this material myself. It just did not conform to my view of the country. It kind of ripped me apart at some levels. And lots of things I was afraid to say because I thought, surely I'm wrong. And somebody is going to prove it wrong and [then] I'll have to dig up other evidence. But nothing. There's no response. [I wrote] Globe and Mail articles on the plebiscite. I outlined the Woodland Cree case in Saturday Night Magazine and Tom Siddon wrote a very weak reply that had

no substance at all. That was a further shock, that there's just no defence on the part of the federal authorities for what they've done here. I don't see much sign that they're willing to rectify it.

I found it helpful in my whole understanding of this case to go to the Penan jungle and watch those people being forced from the land. Some of the images come to mind as I'm speaking. People lolling about these longhouses, destitute, no future. It's just pathetic. It helped me to see that this sort of thing does go on in the world and it helped me to ask the question -- is there any reason why it should not have happened in Canada? Are we any better people? This is a question that Canadians find really hard to face. We like to think of ourselves as good, upstanding and fair people, sympathetic to Native issues and Native Rights and so forth.

On one level every Canadian knows that Indian people of this country are getting screwed. Everybody knows that. And that they're marginalized, they live in terrible conditions, and that all the programs that this new federal offer is trying to impose on the Lubicon people have failed everybody ... And yet on another level, we have to maintain this belief in ourselves that we are good, that we are better than other North Americans ...

- John Goddard, author of
Last Stand of the Lubicon Cree
witness Edmonton November 03/92

Our people are prepared to support [the Lubicon] in any way possible, in any way that they ask. So far they have asked for moral and spiritual support which we have tried very hard to provide ... right now these people are hanging on with their heart and soul. That's about all they have to work with. There is nothing. There are no services. All there are is good-hearted people to come out here and hold their hand and get through one more day of what's put on them. I've sat with people who have lost a great deal and listened to their stories and they are so tragic that I probably wouldn't be able to tell you even one of them. I can tell you that every person here has been touched by tragedy again and again. They don't even have time to recover from the last one when another happens.

It's all because of greed. There're billions of dollars; this land has more than enough to provide for what they're asking. It's absurd that they're forced to live through what they are. As a Native person, a Native woman, I for one will stand by them in any decision that they make, and I will try to help them because I believe it's a Human Rights struggle. From my perspective it has to be one of the worst cases of Human Rights abuse that I've ever witnessed or I've ever documented. What I want to highlight is the human cost.

They have a lot more things to do here than to run around the country and tell the story of their tragedy. That's not the easiest thing to do... They should be able to have some kind of resources to start building their future rather than social services to put a band-aid on a very big wound. I think it really is up to people like you to make that difference because I think as Aboriginal people we have done just about everything within our means to get

these people some help, to get them recognition world-wide, and it's gotten nowhere. It's up to Canadians and it's up to the Canadian government and it's up to your Commission to see how quickly they can get a fair settlement, not a settlement that will leave them on welfare and leave them absolutely no economy, but a settlement that is fair.

- Dawn Hill
Mohawk Nation
witness Little Buffalo August 06/92

The settlement that should be signed with the Lubicon band must be fair, but it must be fair to all people. It must be fair to the many other Native bands who have signed agreements. It must be fair to those who are paying the settlement in land and money. It must be fair to the Lubicon band. The town of Peace River council urges the parties in negotiation to resume talks immediately and to come to a fair and just settlement.

In the meantime, it is manifestly unfair to involve Daishowa or any other group that is not a party to the negotiations in lobbying for a settlement. In discussions we hear about Native land claim settlements, the word "fair" is very often used. We must remember that "fair" has to apply to both sides.

- Mayor Michael Proctor
witness Peace River August 07/92

The Commissioners Speak

Following are excerpts from statements made by Commissioners:

I don't have the formal education of some of the other Commissioners, but I was born and have lived my whole life in the Peace River country. I know the people here, including the Lubicons. I know how the Lubicons lived off the land in the past and how they live today. I know the country and what's possible to do here. I know the cost of doing things here and I know the value of the resources which have been extracted from the disputed Lubicon territory, especially over the last ten to twelve years. I also know what's right.

It's been suggested by some that the Commission is just a bunch of New Democrats trying to embarrass the government. I want to make the point that I'm not a New Democrat. I'm not trying to embarrass the government and I've not participated in any discussions with my fellow Commissioners about party politics or ways to embarrass the government. My reason for participating in the Commission is simply to try and help get the Lubicon situation settled fairly and honourably.

Nobody is talking about giving the Lubicons anything. We're talking about settling a long-standing dispute over thousands of square miles of land which the Lubicons have never given up but which others have moved into and exploited to the tune of an estimated \$7 billion. Lawyers and politicians can argue forever about the legalities of all of this, but several things are certain.

It's certain that this multi-billion dollar development activity has destroyed the traditional Lubicon hunting and trapping economy and all but destroyed the Lubicon society. It's certain that the value of the settlement which the Lubicons are asking for is only a tiny fraction of the value of the resources which have been extracted and continue to be extracted from these disputed lands -- perhaps 2 per cent of the value to date. It's certain that we're not talking about spending taxpayers' money to settle with the Lubicons, but rather investing a small portion of the value of the resources taken from this disputed land so that the Lubicons can try to rebuild their society instead of being forced to live on welfare -- to the everlasting shame of the rest of us. And it's certain that all interests in the area -- not only the interests of the Lubicons -- will be continually at risk until this dispute is fairly and honourably settled.

John MacMillan

I am a professor of anthropology at the University of Alberta. I teach in that department and also have taught in the School of Native Studies and in the faculty of law.

One of my primary areas of specialization is Aboriginal Rights. I have written a number of articles and a book on this topic, especially as it relates to political rights, and have been involved in the process of constitutional development. I also served as an expert witness in one court case that pertained to this topic. I have taught courses in Anthropology, Law and Native Studies and topics arising from this area of research interest. Another area is what is known as Land Claims. In addition to researching, writing and teaching on that topic, I have been involved in "land claims" directly when I became involved with the negotiations undertaken by the Dene Nation that began in the early 1980s. I remained involved, at least peripherally, until the collapse of those negotiations about two years ago. A third area is what is often referred to as "The Native Economy." I have also written, researched and taught in this area. Additionally, I served as an expert witness during the Mackenzie Valley Pipeline Hearings. My primary geographical area has been the North and in particular the Mackenzie Valley. I work primarily with [the] Dene.

I have had a long acquaintance with the situation of the Lubicon. As I recall, early in the 1970s I was approached by one of the Chiefs of the "isolated communities" - one of which is Lubicon Lake - regarding work needed to be undertaken to support their assertion that there were outstanding issues to be addressed regarding their treaty rights. I was also heavily involved in supporting the position of the isolated communities when, in the mid-1970s, their court case was undermined by the passage of retroactive legislation in the Legislative Assembly of Alberta.

I met Chief Bernard Ominayak about ten years ago and have been in communication with him and other individuals involved in the Lubicon case for at least that long. I have been frustrated greatly by the lack of progress in settling this Lubicon treaty issue.

I am struck by the fact that the governments of Canada and Alberta refused to appear [before the Commission]. We are citizens of the country and as such, ought to have the opportunity to hear our elected government officials state their policies and answer reasonable questions. Their refusal only adds to the doubt I must carry with me about the honour of the Crown and its intentions.

Michael Asch

Last year, I was asked to sit on the Lubicon Settlement Commission established by the leader of the New Democratic Party. I am not a member of the New Democratic Party. On the contrary, as the President of the Indian Association of Alberta, I urge our citizenship to maintain our rights as citizens of our First Nations and to not participate in governments which are not our governments.

Until I was asked to sit on the Commission, I had never really looked closely at the details of the various offers made by the federal and provincial governments concerning the Lubicon People. When the Lubicon Peoples rejected various offers based upon their analysis, we supported them. This is each nation's right. The chief and his people make decisions for themselves. No other nation or peoples have a right to interfere with their decisions.

The details and the information which were presented to the [Commission] during the review has led me to analyze and review the whole process of having our rights recognized as Indigenous Peoples in Canada. How are the rights of the Indigenous Peoples going to be protected? It is a challenge to the non- Indigenous Peoples. In the rush for material wealth, are governments and multi-national corporations prepared to sacrifice peoples? The sad answer which returns from all over the world where Indigenous Peoples come in conflict with so-called civilization is the loss of the Indigenous Peoples. Is this going to happen in the Lubicon's case? Or are people going to stand up and say, enough is enough? Indigenous Peoples have been saying that for five hundred years, but who is listening?

One of the things that must be included in this report is the Indigenous Peoples' philosophy of life. We are not here on this Earth to make ourselves wealthy, to make ourselves known or famous in our own time. The future of [our] children's children must always be in front of our minds. What are we going to leave future generations? This is not a rhetorical question. This is the basis of our philosophy.

When the federal government makes these ridiculous offers of cash compensation to the Lubicon Cree without recognizing the fundamental rights to the land and resources, they insult all Indigenous Peoples. What is for the future generations?

What is going to be on the land for the children of the future? What are they going to feed their children and their children's children? We must think in terms of seven generations. This is the teaching which has been told to us by the Elders, never to think about ourselves, but to think into the future. This is the way that the Lubicon Cree have approached this whole negotiation with the federal government.

The Lubicon approach and process must be respected and honoured by all Peoples. It is a very valuable lesson which is being shown to us by the Lubicon Peoples. All Peoples who believe in justice must support them.

Regena Crowchild

I'm originally from Quebec and I've lived in the Peace River country for the last 41 years. I'm married and we have 4 children. As a youth I quit school after I reached grade six: that's as far as the local school went. Then I started helping my father in the logging industry at Keg River, some 120 miles north of Peace River.

I'm presently owner and president of Boucher Brothers Lumber with headquarters in Nampa some 20 miles south of Peace River. The lumber industry has been my life. Over the years we've had Native people working for us and still do. I'm presently advisor to the Aboriginal Logging in Peace River and sit on the Board of Directors for Alberta Forest Product Association which oversees forestry concerns such as wild life, the environment, transportation, logging, marketing, etc. I'm also president of Manning Diversified Forest Products, a new company that includes business people in northern Alberta among whom are two Metis groups, Paddle Prairie Metis and Zone Six.

I accepted to serve on the Commission because I feel that the Lubicon should be treated no less fairly than any other Native community in this country. They should have their own land, and good economic opportunities. I hope this Commission can further their goals.

Normand Boucher

I guess the next step is an acknowledgement by both the federal and provincial governments officially that there has been an injustice done and that there will be a resolve to it. It seems that ... they often want to deny there's a problem. I think that perhaps there have to be ... stages... recognize who you're talking to, [and] recognize what you're talking about. And ... recognize the injustices done, the loss of the economics and way of life, and in particular the exploitation of their land, the fact there was so much profit made off it at the expense of these people. Not to mention the erosion of their livelihood due to the geographical and structural changes.

Are there reasons for the government not achieving a result? It seems that this has been going on back to 1899. Do they have a hidden agenda? If they do, then perhaps that needs to be talked about. Because it just seems that negotiations don't normally go on forever, and yet that seems to be the case here.

Don Aitken

I'm a priest, a member of the Oblate Missionaries who have worked in Lubicon country since the 1850s. I'm presently provincial superior of some 145 Oblates belonging to Grandin Province serving in Alberta and the NWT. I'm also president of the Oblate Conference of Canada.

Originally from the Peace River country in northern Alberta, I first came into contact with the Lubicon while pastoring in Grouard from 1978 to 1986. Bernard Ominayak became chief back then and I got to know him and his people gradually over the years.

In my various contacts with the Lubicon I saw vividly the social breakdown resulting from government neglect: destruction of a traditional economy, poverty, lack of decent housing and facilities, unemployment, dependency on government handouts, alcoholism, violence, tragic deaths, family breakdown, divisions in the community, despair, high level of still births, tuberculosis, etc. I feel that such disastrous results on a people is a severe indictment on the Indian Affairs Department whose responsibility is the protection and welfare of Indian people in this country.

When asked to serve on this Commission, I had little hesitation in accepting, hoping to help a downtrodden people obtain justice at last if I could.

I wish ... to use the voice of one who has some moral authority in our world, Pope John Paul II. In his 1987 Fort Simpson visit to the Aboriginal Peoples of this land [he] declared: "Once again I affirm your right to a just and equitable measure of self governing, along with a land base and adequate resources necessary for developing a viable economy for present and future generations ... I pray that the Holy Spirit will help you all to find the just way so that Canada may be a model for the world in upholding the dignity of the Aboriginal Peoples."

The Lubicons after 54 years of waiting are still hoping to have a just and equitable measure of self governing. There are good prospects for an adequate land base. Their struggle to develop a viable economy has been the stumbling block in most of their negotiations with the government. Canada, far from being recognized as a model for the world in upholding the dignity of the Aboriginal Peoples, has been condemned by people around the globe for the way it has dealt with the Lubicons. We pray for the sake of the Lubicon people and Canada that the work of this commission may be instrumental in bringing this important issue to a fruitful and just conclusion.

Jacques Johnson

I live with my husband and two teenage daughters on a small farm near High River. I have been actively involved in promoting a healthy environment both as a volunteer and as a businesswoman.

Since 1988 I have been encouraging others to Reduce Reuse and Recycle in my community. This led to the formation of the Foothills Recycling Society and working with my MLA to successfully establish two permanent recycling depots.

I am the owner of earthcycle paper corp., one of the first companies to bring recycled paper into Alberta for resale. A good part of my energy has gone into public education.

I believe that each of us can make a difference.

When asked to be a member of the Lubicon Settlement Commission of Review, I came with no preconceived ideas and with only a small amount of information of the situation which I had gleaned from the media. At first I thought that the asking amount for settlement seemed high. However, after learning more about the Lubicon situation, I have changed my thinking. It is not too much, in fact, it is a fair and reasonable amount considering the hardships the Lubicon people have faced. It also seems to be a fair and reasonable amount considering that estimates put oil revenues taken from the Lubicon area about \$7 billion and that settlement would be a small percentage of this amount.

Some of the findings were unbelievable. Particularly troubling was how our government officials have negotiated with the Lubicon people.

Government officials are elected to represent the people. Yet I found their actions (or inactions) were not done in good faith on behalf of the Canadian people. It is unfortunate that the government did not appear before the Commission to clarify some of these matters. I would have welcomed the opportunity to hear the government prove these findings incorrect. They did not appear. Therefore, I am left to draw my own conclusion from what was reported to me.

[Mr. Fulton] stated that "prejudice is the position you take based upon a lack of knowledge of the facts, or deliberate disregard of the facts... whereas sympathy ... is a conclusion you arrive at based upon knowledge of the facts."

I couldn't help but feel sympathy for the Lubicon people when I found out what their history has been.

Sandy Day

I believe the money asked for by Lubicon does not necessarily have to be what they receive, but the government's offer is extremely low.

The Lubicon should not have to be held to spend the money the way the governments have demanded in their offer to the Lubicon.

I believe that any settlement will be a political one, and not one that is generated and influenced by government bureaucrats.

With federal and Alberta provincial elections looming in the horizon of 1993, it is very important that this report help to form parts of election platforms. If this does not happen, it will again be shelved and the bureaucrats will play games with it.

Wilfred Barranoik

I would like to comment that I find both [government] proposals to be very paternalistic, especially with respect to the compensation. I can accept that the Lubicon may have to justify the amount of funding they require for infrastructure or economic development as this amount is based on need. This amount should be settled now and not be the subject of future applications for funding. However, the Lubicon should not have to justify what they are going to do with the money they receive as compensation for past losses. It is theirs to do with as they like. No one tells me how to spend my money.

I, for one, came with a fresh mind as I had not, prior to sitting on the Commission, looked into this issue in any detail. As such, the hearings were an eye opener for me.

The Lubicon were missed in the original treaty settlements in 1899 and 1939. In 1939 they were promised a reserve and to date this promise has not been fulfilled. It is therefore clear that they should be dealt with at this time, in a manner that compensates them for this delay as well as providing them with the resources to establish a self-sufficient society.

Jennifer Klimek

I am an ordained minister, directing the Native Concerns portfolio of the Mennonite Central Committee Canada (MCC). This includes extensive involvement with Native peoples across Canada on a community level, with Native organizations, and with a large number of individuals. Through the direction of MCC work, I help provide volunteer personnel in needed areas of education, health, social work, research and advocacy.

Advocacy for land rights in the face of extensive development has become a major inter-Mennonite focus. MCC responds to Native communities in a combination of advocating honourable settlement of land issues, fair inclusion in the constitutional process, and with locally based, culturally viable economic development programs.

I am a representative of the Aboriginal Rights Coalition (ARC), an interchurch venture which has addressed Aboriginal Rights across Canada. MCC's connection with the Lubicon community is taking place through the support of local gardening ventures, the conducting of a health program during the TB outbreak, and through MCC's participation in ARC.

Resolution of the Lubicon case is not only in the interest of the Lubicon Cree. It is also in the interest of other Canadians. Native and nonNative peoples want to live within a country that deals fairly with all peoples.

The year 1992 has focused specifically on the 500 year history of conquest. Having inherited that history of conquest does not validate its continuation. The industrial conquest of the Lubicon community and its territory represents an ongoing conquest mindset that has gone largely unchecked and has happened at the terrible expense of the Cree peoples.

The dramatic contrast between the wealth of the corporations who harvest the resources in the Lubicon region and that of the local Lubicon community is astounding.

Menno Wiebe

Mandate And Establishment Of The Commission

On May 21st, 1992 the Leader of the Official Opposition in the Alberta Legislature, Ray Martin, established the Lubicon Settlement Commission of Review with the following Terms of Reference:

Whereas negotiations between the federal government and the Lubicon Lake Indians have been stalled without progress since January 1989;

And whereas talks between the Lubicon Lake Indians and the provincial government of Alberta collapsed in June 1990;

And whereas the public interest requires an independent, objective review of both the federal government proposal and the Lubicon Lake Indian proposal for settlement of Lubicon Lake land rights;

And whereas the federal government's most recent offer of March 1992 has not advanced negotiations;

And whereas because of the lack of progress Lubicon society continues to deteriorate at an alarming rate;

Now therefore, this Commission of Review that has been convened will have responsibility to investigate, compare, assess and report publicly on:

1. The federal government's offer of January 1989 as modified by the public exchange between federal representatives and Lubicon representatives in September 1989 and further modified by federal proposals presented in March 1992;
2. The proposed Lubicon comprehensive draft settlement agreement;
3. The relative merits of each proposal, including the likelihood that each proposal would allow the Lubicons to once again become economically self sufficient;
4. Any other matters pertaining to the proposed settlements which the commissioners may deem necessary or relevant in assessing the proposals.

The report of the Commission shall be completed and released before July 31, 1992.