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TRANSCRIPT OF PROCEEDINGS
ROUNDTABLE DISCUSSIONS
VOLUME XXXII
THE PLACE OF NATIVE PEOPLES
IN THE WESTERN WORLD
MARCH 16, 1985
ANCHORAGE, ALASKA

ALASKA NATIVE REVIEW COMMISSION
HON. THOMAS R. BERGER
COMMISSIONER

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Transcripts of the Alaska Native Review Commission are produced in two series. Those in Roman numerals are for the Roundtable Discussions. Those in Arabic numbers are for the Village Meetings.

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PARTICIPANTS*

Roundtable On

THE PLACE OF NATIVE PEOPLES IN THE WESTERN WORLD

Anchorage, March 13 - 16, 1985

Hon. Thomas R. Berger, Commissioner
David S. Case, Commission Counsel
Rosita Worl, Special Consultant
Dalee Sambo, Inuit Circumpolar Conference Representative

BRODY, HUGH: Anthropologist, author, film-maker, London, England
CHARTIER, CLEM: President, World Council of Indigenous Peoples, Ottawa, Canada
DAVIS, SHELTON: Director, Anthropology Resource Center, Washington, D.C.
DEMMERT, DENNIS: Director, Alaska Native Studies Program, U of A, Fairbanks
DE ROO, REMI: Catholic Bishop, Victoria, Canada
GOLDWIN, ROBERT: Director of Constitutional Studies, American Enterprise
Institute for Public Policy Research, Washington, D.C.
GREEN, RAYNA: Acting Director, Native American Program, Museum of American History,
Smithsonian Institution, Washington, D.C.
HANKE, LEWIS: Professor of History Emeritus, Univ. of Massachusetts, Amherst, Mass.
KAWAGLEY, OSCAR: Member ICC Executive Council-Alaska, Bethel, Alaska
KEALE, MOSES: Trustee, Office of Hawaiian Affairs, Honolulu, Hawaii
KIRKNESS, VIRNA: Director, Native Indian Education, University of British Columbia,
Vancouver, British Columbia, Canada
NIETSCHMANN, BERNARD: Professor of Cultural Geography, University of California,
Berkeley, California
SANDERS, DOUGLAS: Professor of Law, Univ. of British Columbia; Legal Counsel,
World Council of Indigenous Peoples, Ottawa, Ontario, Canada
SHUE, HENRY: Senior Research Associate, Center for Philosophy and Public Policy,
University of Maryland, College Park, Maryland
YOUNG, ORAN: Director, The Center for Northern Studies, Walcott, Vermont

*This list includes invited participants at the Roundtable. It may not include others who contributed in the course of discussions; such persons are identified in the verbatim transcripts.

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March 16, 1985

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1 MARCH 16, 1985

2 TAPE 11, SIDE B

3 JUDGE BERGER: Well, let's take
4 our seats. This is the last day of our Roundtable, and I bellow
5 like this early in the morning just to see if I can get everybody's
6 attention, so let me welcome you all back to the last day of our
7 last Roundtable and the last public session of the Alaska Native
8 Review Commission. This may turn out to be an historic day, so you
9 all should feel that it may well be a day to be remembered. So,
10 let me suggest what our course of action ought to be today. Some
11 of our participants have had to leave.

12 I've taken the liberty of asking Mary Miller, who is
13 seated next to Rosita Worl, to sit in this morning. Mary Miller is
14 from Nome and she is with Kawerak, the nonprofit regional associa-
15 tion in the Bering Straits, and she was a participant in our
16 December Roundtable and prepared a paper for that Roundtable. It
17 constituted the work she had done for her Masters thesis in public
18 policy in Oregon.

19 Steve Kakfwi arrived yesterday and he is seated next to
20 Henry Shue. Steve is from Yellowknife; he is the president of the
21 Dene Nation and he was here for the March Roundtable in 1984 and it
22 is, I think, fortunate that he is here now to make the circle com-
23 plete, in a way, and later on this morning, after we've completed
24 our discussion of international developments, I will take the
25 liberty of asking Steve to bring us up to date on what has been
happening in the Canadian Arctic and sub-Arctic.

What I thought we would do this morning is to ask Sandy
Davis and Henry Shue to carry on with the discussion that Bernie
Nietschmann and Doug Sanders began yesterday, and to which Clem
Chartier and Professor Hanke contributed. Then, I thought we'd ask
Steve to follow on, Steve Kakfwi, and then I thought we would see
if the educators present wish to further the question that was
raised yesterday by Robert Goldwin: are there certain criteria for

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1 self-determination in education that might be appropriate to
2 discuss, because, of course, the place of Native People in the
3 Western World is defined not only by law and constitutional
4 arrangements, but by what goes on in peoples' heads, in Native
5 heads and non-Native heads, and a good deal of what goes on in
6 peoples' heads is what is placed in those heads when they are in
7 school. So, it seems to me that that is entirely appropriate,
8 if you wish, to follow on after we've heard from Steve Kakfwi, with
9 observations from Oscar Kawagley and Virna Kirkness and Gard Kiloha
10 and Rayna Green and others, of course. I mention them because they
11 contributed so importantly to the discussion that began yesterday,
12 and, of course, Robert Goldwin, who participated also in that.

13 So, having said that, perhaps we could begin now. I will
14 ask Sandy, I think, it might be right to proceed with you next.

15 MR. DAVIS: Well, I am going to
16 talk about one institution that has been involved in the inter-
17 national arena in terms of trying to support certain standards of
18 human rights, especially in relation to indigenous people. I've
19 been, since September, working with the Organization of American
20 States in Washington with the Interamerican Commission on Human
21 Rights, which is on the level of the western hemisphere, the
22 Americas, is the intergovernmental regional agency, which is equi-
23 valent to the United Nations, and equivalent, in some sense, to the
24 Human Rights Commission of the United Nations, although the
25 Interamerican Commission is structured somewhat differently. I'd
point out that it's kind of interesting that the American
Declaration on the Rights and Duties of Man, which was instituted
in March, 1948, at the Eighth Interamerican Conference in Bogota,
Colombia, actually pre-dates the Universal Declaration of Human
Rights by about six months, or eight months. The drafting of the
American Declaration is really, in some sense, the model for the
U.N. Declaration as well as discussions that took place in the
1930s and in 1945 by the Interamerican Commission of Jurists. Per-

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1 haps, in some sense, these serve as the models for the U.N.
 2 Declaration. This may have, for anyone who is interested in his-
 3 tory, have some implications for what Professor Hanke was saying
 4 yesterday about the Spanish origins of some of these rights.
 5 That's not to say, though, that the American Declaration of Human
 6 Rights doesn't have the same contradictions and problems, at least
 7 from the point of view of indigenous peoples, that the U.N.
 8 Declaration of Human Rights. I look at individual rights rather
 9 than group rights. The same rights are listed in the American
 10 Declaration, the right to life, the right to due process, the right
 11 to equality before the law, the law to property, et cetera, the
 12 right to assembly and association, but those rights are always
 13 expressed as being possessed by the individual or the person rather
 14 than the group.

15 The other aspect of the American Declaration of Human
 16 Rights, which makes it somewhat different than the evolution in the
 17 U.N. Declaration, and in the U.N. Human Rights Covenants, is that
 18 in 1948 the American Commission of Jurists, which designed the
 19 first draft and the second draft of the American Declaration on the
 20 Rights and Duties of Man, included a whole section on social,
 21 economic and cultural rights as well as political and civil
 22 rights. The United States strongly reacted and lobbied against the
 23 inclusion of economic, social and cultural rights. It successfully
 24 lobbied against it, such that, as part of the American Declaration,
 25 there's only one article that has to do directly with social and
 cultural rights, and they included an appendix, again, under U.S.
 pressure, that had to do with the duties of the individual, vis-a-
 vis society and obligations of the individual as well as the rights
 of the individual. I think that makes it a little different in the
 U.N., some of the evolution in the U.N., and it also expresses the
 role of the United States in the OAS, which has been a very domi-
 nant role in the OAS, although, as I'll point out a little later,
 the Interamerican Commission on Human Rights has had a history

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1 which most people recognize is a very independent history from the
2 U.S. role in the larger organization.

3 Well, with that said, the American Declaration on the
4 Rights and Duties of Man is the real basis of the whole structure
5 of human rights discussion in the interamerican system, although
6 there is a convention that was drafted in 1969, an American con-
7 vention on human rights, which actually after, I believe, they had
8 to have twelve, or fifteen, or seventeen signers of it by 1979,
9 went into effect, so currently there are several nations in the
10 Americas, the U.S. has not signed the American Convention on Human
11 Rights, the first article of which has to do with the right to
12 life, and an item within the first article has to do with capital
13 punishment, which, according to the signers, is a violation of the
14 right to life, and therefore, has not been signed by -- and, in
15 fact, the whole history of some U.S. law in the last decade or two
16 is against that. But that doesn't mean that the United States
17 isn't part of the American Declaration of Human Rights of 1948,
18 although not the 1969 Convention.

19 For the first decade after the American Declaration was
20 signed, there was no implementing institution to monitor whether
21 state parties to the American Declaration were actually fulfilling
22 the standards set in that document. I believe the U.N. Commission
23 on Human Rights was established soon after the Declaration, and
24 Eleanor Roosevelt was the first head of it; is that right? I think
25 that's right.

UNIDENTIFIED VOICE: That's right.

MR. DAVIS: The OAS was more
involved in things like what to do about the intervention in
Guatemala in 1954. There was not a Commission on Human Rights
until 1959. In 1959, the Interamerican Commission was established
to insure that the principles in the American Declaration and the
standards set there were actually being promoted by and followed by
the various states in the Western Hemisphere. Actually, 1984 was

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1 the anniversary of the establishment of the Interamerican
2 Commission on Human Rights, the 25th anniversary of the establish-
3 ment of the American Commission. 1973 was the 25th anniversary of
4 the American Declaration.

4 When they established the Commission on Human Rights, the
5 Interamerican Commission, they did something very interesting. The
6 Commission as well as the Declaration were designed by jurists
7 rather than diplomats, although some jurists and lawyers are diplo-
8 mats, many of them, I don't even know if it's the majority of
9 them. The people who actually designed the American Declaration
10 and the regulations for the Interamerican Commission were all prac-
11 ticing jurists, many of whom were connected with the Interamerican
12 Association of Jurists, and they designed the Interamerican
13 Commission to make sure that the seven members of the Interamerican
14 Commission would be nominated by the various states that formed
15 part of the OAS, the Organization of American States, but would not
16 be representatives of those states. Each state, when there would
17 be an opening on the Commission would submit the names of different
18 people and then all of the states in the general assembly, in
19 secret ballot, would take the full list of names and decide who
20 would fill the vacancy on the Commission.

17 Since the beginning of the Commission, every member of the
18 Commission has been a jurist or a lawyer. They never had an
19 Eleanor Roosevelt to found the Commission or anything like that.
20 There's never been anyone on the Commission except, presently, he's
21 a journalist, actually, the present American member of the
22 Commission who works for Freedom House in New York and was
23 recently... There's always been, of the seven members, a North
24 American, a U.S. member of the Commission. There's always been a
25 U.S. member of the Commission, and until recently... One thing
about making jurists who weren't representatives of states is it
means that politics aren't involved in what the Interamerican
Commission does. There's no doubt that politics are involved, but

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1 there's some degree of freedom for the Interamerican Commission
2 that it has from the general policy of the OAS. In a moment, I'll
3 show what the importance of that has been.

4 I believe that the Human Rights Commission are made up of
5 representatives nominated by the states themselves, and they repre-
6 sent their governments on the Commission; is that right? I'm not
7 sure of that. I guess that's true, yes. I forget the level at
8 which they become supposedly neutral experts. In the Interamerican
9 Commission they take that very seriously, you know, that they are
10 not representing their government in designing that.

11 The other thing, in 1959 when they set down the regula-
12 tions for the Commission, and these are in much greater detail in
13 the 1969 American Convention, they really outlined very specific
14 regulations and articles of the regulations, what the functions of
15 the Commission would be.

16 In some senses, as Doug outlined yesterday, it's not an a
17 policing body. It has no policing power. It can't send a task
18 force around the world to insure that their decisions are actually
19 carried out by states, but what it can do is receive complaints.
20 The most fundamental thing that was set up was, in order to promote
21 the standards set out in the American Declaration of the Rights and
22 Duties of Man, it was set up as a monitoring institution to insure
23 that states were actually conducting themselves in such a way not
24 to violate those rights. So, it was set up as a watchdog for
25 states, and in order to carry out its functions, it was given the
right itself to accept complaints from both individuals and from
non-governmental organizations, so it could receive complaints from
individuals about violations of the various articles or from non-
governmental organizations. Its function is to take those comp-
laints and then to assess whether those complaints are actually
true or not. It has the right to petition information from the
member governments of the OAS about what their response to those
complaints about their governmental behavior are.

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1 It also has the right, which is extremely important, to do
2 on-site visits. Of all the human rights agencies, the U.N. Human
3 Rights Agency and the European Commission on Human Rights, the
4 Interamerican Commission on Human Rights, from the various on-site
5 visits that it has done, has a reputation of being very, very
6 excellent in its way of conducting on-site investigations. They
7 will often go, all seven members of the Commission, or special
8 Commissions of three members, will go to countries like Chile,
9 after the coup, or to El Salvador or Argentina. It will go into
10 the prisons and interview people. It will interview the members of
11 the judiciary; it will interview labor unions; it will interview
12 church people, et cetera. As we will see, it will interview, some-

13 times, indigenous leaders, too. So, this on-site investigation is
14 very important in the Interamerican Commission, but it has to be
15 invited by the government to actually go and do an on-site visit.
16 All during the 1960's it tried to be invited by Cuba and
17 was never invited. Cuba never answered the letters of the
18 Commission and argued that the Commission was an arm of the U.S.
19 Government. Cuba still has a position in the OAS and at times
20 there has been some quiet diplomacy about getting Cuba back into
21 the OAS. It still has a chair there and I don't know what the
22 history of that is.

23 Paraguay has never let the Interamerican Commission do an
24 on-site visit, although for the last ten years, it's been trying to
25 get into Paraguay. Brazil, in 1973, refused to let the
Interamerican Commission come for an on-site visit. On the other
hand, the Interamerican Commission has been to Haiti, it's been to
El Salvador, it's been to Guatemala, it's been to Nicaragua, both
before and after the Nicaraguan revolution. It's been to Panama,
Bolivia and Colombia, so it has made some very important on-site
visits.

 Finally, it could take complaints, it could question
governments, it could make on-site visits, it could call people

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1 before it, individuals or non-governmental organizations who make
2 complaints, to provide evidence and oral testimony, and finally,
3 after assessing all this bundle of evidence, it comes out with
4 either reports or resolutions. That's all it could really do. It
5 comes out with -- I have one of the reports with me on the Miskito,
6 and that's all we could do is come out with reports and resolu-
7 tions. The resolutions are read on the floor of the General
8 Assembly of the Order of American States and published in the
9 annual report of the OAS. The reports on specific countries
10 usually are printed and are part of the public domain. Now, one
11 could say that's not very powerful, but what has actually turned
12 out is that the Interamerican Commission Reports have proven to be
13 significant documents in influencing public opinion, and by
14 influencing public opinion, having effect on the behavior of states
15 in relation to what they do in terms of human rights violations.

16 There is very little doubt that the OAS on-site visit to
17 Argentina in the 1970s had an enormous impact on the overthrow of
18 the military government and the transition to civilian rule. That,
19 and an incident called the Malvinas/Falklands, you know, a politi-
20 cal thing, the Malvinas, the Falklands, and on the other hand,
21 especially the investigation of disappearances. It was the longest
22 on-site investigation they ever did. It was fifteen days, which is
23 relatively long. Most on-site visits are three or four days by
24 international human rights bodies, and they did fifteen days in
25 Argentina and they interviewed thousands of people, really, with
their staff and with the seven members of the Commission there.
Their report on Argentina brought enormous public opinion.

26 In Somasa's period, especially in 1977 or '78, when Somosa
27 was bombing his own civilian populations, the Interamerican
28 Commission came out with a report which led to the political con-
29 sultative committee of the OAS passing a resolution. Usually in
30 their report they make recommendations of what the government could
31 do. In the report on Nicaragua, they made absolutely no recom-

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1 mendations because they would assume that it shouldn't be a
2 legitimate government anymore, and that was a very important aspect
3 of the overthrow, and the lack of legitimacy.

4 In Guatemala, they brought a case in 1982 for an advisory
5 opinion before the Interamerican Court on Human Rights, which was
6 established by the Interamerican Convention on Human Rights, about
7 whether the Guatemalan government had the right to create special
8 tribunals, which they created under the Rios Monte regime, which
9 were military tribunals to try people and then publicly assassinate
10 them. The Guatemalan government publicly assassinated four people
11 two days before Pope John Paul arrived. The opinion had a techni-
12 cal matter because Guatemala had signed the American Convention but
13 refused to sign parts of the Article because it had to do with
14 capital punishment, again, and they said that in their own consti-
15 tution they've had a discussion of capital punishment and there are
16 certain things they would like to leave in, and there's this whole
17 interpretation about the interpretation of the American Convention
18 that jurists like to get their teeth into. So, that's what that is
19 about.

20 The day that the advisory opinion was going to be judged
21 by the Interamerican Court on Human Rights, the Guatemalan govern-
22 ment decided to get rid of the tribunal itself, the secret
23 tribunals. In fact, there was a military coup the month before
24 where Mejilla Victores became -- and the month after the coup was
25 the Interamerican Court discussion of this, so they won without
even -- the advisory opinion was then made, but it really didn't
mean anything because the state had already changed. So, it's very
important; this public opinion is very, very important in changing
the behavior of states.

Let me, then, turn very quickly to Indian rights within
the Interamerican Commission. There were approximately 6,000 com-
plaints brought to the Interamerican Convention of Human Rights
between 1970 and the early 1980's. Only six of 6,000 had to do

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1 with Indian rights; six of 6,000. So, it's relatively small, the
2 human rights complaints that have been brought on behalf of the
3 human rights of indigenous people before the Interamerican
4 Commission, although the cases that have been brought before the
5 Interamerican Commission on Human Rights that have to do with human
6 rights violations against indigenous people were amongst some of
7 the most critical in South and Central America. There has never
8 been a case that has to do with North American Indians brought
9 before the Interamerican Commission, although there is absolutely
10 no reason why a North American Indian case couldn't be brought.

11 There are cases that have to do with Haitian refugees in
12 the United States. The whole Supreme Court discussion of abortion
13 and the right to life has been brought before the Interamerican
14 Commission. The Interamerican Commission is currently considering
15 a case of El Salvadoran refugees in the United States. The inva-
16 sion of Grenada and the bombing of the mental hospital on Grenada
17 is now before the Interamerican Commission, in which the violation
18 is looked at as the United States Department of Defense, or who-
19 ever, the United States government, in bombing a mental hospital;
20 did it violate the rights of the people there? So, there is no
21 reason why the United States government couldn't be a party to a
22 complaint before the Interamerican Commission on Human Rights, but
23 there has never been a case with U.S. Indians.

24 Well, what have been the cases? The first case was in
25 Colombia, the Guahivo (ph) Indians in Colombia, a group in Colombia
in the late 1960s and early 1970s. There was enormous public
attention focused on the fact that a number of Indians on the
border between Venezuela and Colombia were being hunted down by
ranchers. They were actually being hunted down by ranchers.
Indian hunting is a custom in parts of South America. It's part of
the customary behavior of people in the backlands of South
America. In a court, a first-order court, a court of first inci-
dence, a group of Colombian ranchers testified that because Indians

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1 were animals, they weren't really conducting crimes against them
2 because they thought of Indians as animals or savages. In the
3 first instance court, they were set free with that argument. It
4 caused a scandal in Colombia, on the national level and inter-
5 nationally. It was on the front pages of many newspapers; some
6 people remember this.

JUDGE BERGER: This was 1970?

6 MR. DAVIS: It was 1968, 1969. It
7 had to do with the Quiva (ph) Indians. There was a Canadian,
8 Bernard R. Cowan (ph), who was an anthropologist at Montreal, I
9 believe, who knew and lived with the Quiva (ph) and had documentary
10 evidence that had gone on. In fact, he was on a hunting expedition
11 with the Quiva (ph) when they were hunting animals for subsistence,
12 and where ranchers were actually shooting across the river at the
13 Quiva (ph) to try to take over their land. At the same time, there
14 were rebellions where Indians fought back against this, using bows
15 and arrows against rifles and where the Colombian military was sent
16 in to suppress the Indian revolts and there were accusations that
17 the Colombian military was actually bombing Indian areas and
18 torturing Indians that they had captured, that were resisting
19 this.

20 The case was brought before the Interamerican Commission
21 on Human Rights by a group of priests in Colombia, who joined with
22 a hundred theologians in Europe and the United States, where the
23 first wave of liberation, theology, really, and on Thanksgiving
24 Day, November 24th -- is that when it is -- they submitted in
25 Washington, a denunciation. It was called the Committee of One
Hundred and they were related to these Colombian priests, and they
submitted a denunciation against the Colombian government which for
three years was before the Interamerican Commission on Human
Rights. The Interamerican Commission on Human Rights sent back and
forth notes to the Colombian government. The Colombian government
argued that it actually was investigating this through its own

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1 judicial system; that it had put the Attorney General of Colombia
2 to carry out an investigation, and that, also, within the army
3 itself, a military tribunal was carrying out an investigation and
4 that actually there were domestic remedies for resolving these
5 violations.

6 After three years of discussion, the Interamerican
7 Commission decided that there were domestic remedies in Colombia
8 and decided to archive the case, which shows you one of the ways
9 they think. If there are domestic remedies, they feel that they
10 don't want to continue to consider that, and that's really funda-
11 mental to a lot of their thinking.

12 The second case had to do with the Uchey (ph) Indians of
13 Paraguay, where the International League on Human Rights -- Richard
14 Arens (ph) was the lawyer for them. The Uchey (ph) Indians of
15 Paraguay were also being hunted down by the Paraguayan govern-
16 ment. They lived in the forests of Eastern Paraguay that were
17 being opened up enormously rapidly and deforested. Mark Weinzell
18 (ph), who was a German anthropologist, lived on an Indian Reserve
19 that was created called the Guayakee (ph) National Indian Colony.
20 It was created in the 1960s by the Paraguayan government, which was
21 a dumping ground, really, for Uchey (ph) that were pulled out of
22 the forests and then dumped on this small Indian Reserve where
23 there was hardly enough land to carry out any type of hunting, and
24 they were a hunting economy, and on which they were provided with
25 almost no medical assistance and were dying from disease, and in
which the colonel, who headed the Indian Reserve, was also one of
the largest land owners near the reserve, and would hunt down Uchey
(ph) in the jungle, bring them into the reserve, and then put them
on the local ranches where they would serve as ranch hands. Also,
there was evidence that children of the Uchey (ph) were being given
to families as servants. There's a custom, again, there where
children are raised in families, Indian children, and then even-
tually become servants in families.

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1 The case was on grounds of genocide. It was the American
2 Declaration of the Rights and Duties of Man, Article I, the right
3 to life, and the International Convention on Genocide, and Paraguay
4 was a signer of the International Convention on Genocide. They
5 submitted all the documentation to the Paraguayan government. The
6 Paraguayan government was outraged. It responded: "We're the only
7 country in Latin America that speaks an Indian language that's a
8 national language, Guarani. We were the first country in the
9 Americas to grant citizenship to all the Guarani in 1840. Further,
10 we have no policy of genocide; we have a policy of assimilation and
11 integration which is totally in accord with the International
12 Convention, 107 of the International Labor Organization." They
13 even went further. They said: "We heard about the abuses on the
14 frontier; we've gotten rid of the colonel that is running the fron-
15 tier, the national reservation that they had, and we've put a North
16 American missionary group called the New Tribes Mission to run the
17 reservation, which has vast experience of Indian protection in all
18 the countries of South America and is supported by an immense
19 amount of funds from the United States which the Paraguayan
20 Government really put into this reserve. So, the situation, it's a
21 denunciation that has to do with an international conspiracy
22 against the Paraguayan government and has no truth to it."

18 The Interamerican Commission did two things. It asked for
19 an on-site visit, not only to look at the Uchey (ph) situation, but
20 also to look at about two or three hundred other cases that had to
21 do with a whole range of things, and it also posed a series of
22 other questions to the Paraguayan government. The Paraguayan
23 government, after its first statement on this, refused to answer
24 any of the questions and refused to give the right to an on-site
25 visit. There's a regulation in the Interamerican Commission on
Human Rights. If a government doesn't answer in 180 days, the
Interamerican Commission would then hold a meeting and could decide
that by not answering, the accusations must be true. That's what



1 they did. They said: "These accusations must be true because
2 there was no answer to this." They put a resolution in the report
3 of the General Assembly to that regard, but they really didn't do
4 much investigation of it. It was just a procedure. That was the
5 second phase. By about 1975 or 1976, that case was ended.

6 Then, the third case, which had to do with Indians was the
7 Unamumy (ph) Indians of Brazil. The Unamumy (ph) were the largest
8 relatively isolated group of Indian people in the lowlands of South
9 America. Highways were built through the Unamumy (ph) region in
10 the mid-1970's. Uranium was discovered in 1975; large deposits of
11 gold and tin with placer mining was taking place. The Indians had
12 no protection of their land rights. Disease was spreading
13 enormously rapidly. Hundreds of Unamumy (ph) were dying of
14 measles, of small pox and from other introduced diseases.

15 A commission was formed in Brazil and was putting pressure
16 on the Brazilian government to create a large Indian park or
17 reserve for the Unamumy (ph). The Brazilian government promised to
18 create the reserve, but always made promises and never did anything
19 about it, and finally, in 1980, the Commission in Brazil asked
20 Survival International, the Anthropology Resource Center, the
21 Indian Law Resource Center, and the American Anthropology
22 Association to submit a complaint to the Interamerican Commission
23 on Human Rights. We submitted the complaint to the Interamerican
24 Commission calling for an on-site visit to the Unamumy (ph). That
25 was the big thing, to get the commissioners to actually go there.
The commissioners knew that in the early 1970s Brazil refused to
have an on-site visit. To accept an on-site visit is to accept
that something is wrong, almost, to look at it. Other governments
want to use on-site visits. There was also a Brazilian on the
Commission who had been the oldest member of the Commission and
there were some problems about that. Even though he didn't repre-
sent his government, he did represent his own nationality there,
and that was a problem on it as well.

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1 They didn't hold an on-site visit, but they did invite the
2 people who complained to present oral testimony, which was the
3 first time in the history of the Commission that oral testimony was
4 presented to the Commission on behalf of an Indian complaint. The
5 major discussion at the oral testimony had to do with three
6 issues. Domestic remedies; could the Indians go to court about
7 this? We tried to point out that the only way they could go to
8 court was by the Indian Bureau bringing the case in their behalf
9 because they're not considered to have any rights. They're con-
10 sidered to be like children in Brazil; they're permanently
11 incapacitated, I think is the way -- absolutely incapacitated in
12 the Brazilian civil code, and how could they bring a complaint, the
13 Indian Bureau, against itself in the Brazilian court system.

14 The other thing had to do with: did the Commission have
15 any jurisdiction over land because property issues are such
16 domestic concerns that, although there have been such things as the
17 Law of the Sea and all these issues, is that traditionally ques-
18 tions of property and land are the concern of domestic law rather
19 than international law, I take it. I don't know, but there is some
20 concern about questions of mining on Indian lands, about whether
21 the Commission could really say anything about mining.

22 The third thing had to do with evidence. If they couldn't
23 see it with their own eyes, how would they know that there would be
24 -- the difficulties of getting evidence in isolated rural areas;
25 that was plaguing the Commission during the 1970s. When you went
to Santiago, Chili, and you could go into the prisons, or it was in
the stadium, the football stadium, where all the people were being
held, they could go in there and interview people, but what happens
when there were human rights violations way out in the isolated
areas that were very difficult to assess the evidence? The evi-
dence was coming mainly from anthropologists and some mission-
aries. The Unamumy (ph) couldn't come to testify to the
Commission. They may someday, but in this case they are living in

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1 a different space, so the testimony was presented not by the
2 victims themselves but by other people who weren't the victims.

3 The one thing, though, that happened, was that as they
4 were considering the case, the Brazilian government, for the first
5 time in March, 1982, did pass a decree expressing its intention to
6 demarcate an area for the Unamamy (ph) Indian Park, which many of
7 us think is a result of the fact that it was before the
8 Interamerican Commission and it was before the U.N. as well and
9 there was international discussion. It was sort of like that
10 Guatemalan case. There was enough publicity at that time, although
11 there wasn't a great discussion of Indian rights in the Commission,
12 that the Brazilian government passed a decree expressing its inten-
13 tion. Since 1982, it hasn't actually implemented the decree, but
14 it has expressed an intention, and there is the hope now with the
15 new government and, hopefully, the civilian government that was
16 introduced this week in Brazil, inaugurated, that that will be the
17 first order of agenda in Indian rights, and almost everyone in
18 Brazil feels that this is a certainty, that the new civilian
19 government will take a stand on Indian Right. I would take a close
20 look at that; Betencourt (ph) in Colombia, Alfonsin (ph) in
21 Argentina, and now Pancredo Neves (ph) in Brazil. Betencourt (ph)
22 and Alfonsin (ph) immediately after being presidents, came out with
23 strong indigenous rights positions. Not that they weren't a dime a
24 dozen, but at least they had the words there, and that was more
25 than the military governments would have done previously and one
feels that the same thing will happen in Brazil.

So, those are three cases. Two other cases, and I'll
mention these very quickly, have to do with on-site visits and have
to do with massive human rights violations in Central America,
which the Interamerican Commission has taken up. They have to do
with Guatemala and Nicaragua. The Interamerican Commission was
concerned with Guatemala since the late 1960s, but always concerned
with denunciations that had to do with disappearances, political

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1 and civil rights abuse. It wasn't until their on-site visit of
2 1982 -- they tried to get an on-site visit to Guatemala, and in
3 1982 were finally invited by Efraim Rios Monte (ph) to see the
4 Beans and Bullets Program and what they were doing, this was the
5 cleanest pacification effort in Central America and they were going
6 to show the world by inviting the Interamerican Commission on Human
7 Rights how things were.

8 The seven members of the Commission went to Guatemala and
9 actually were taken into the Guatemalan highlands. They went to
10 the Guatemalan highlands, and they also sent two members of their
11 staff to Mexico to interview Guatemalan refugees. They came out
12 with a report on Guatemala in 1982, which showed enormous abuse of
13 the indigenous population, which backed up the contention of
14 massacres of the indigenous population. It recognized that there
15 was serious abuse by the guerrilla movements against the indigenous
16 population and didn't retreat from the allegation that the
17 indigenous population of the Indian highlands of Guatemala was also
18 being abused by the guerrilla movements. But the guerrilla move-
19 ment abuse was nowhere on the level of what they call massive
20 extrajudicial killing, or massacres of Indian villages that had
21 taken place. They also commented on the lack of right to religious
22 freedom in Guatemala because of the suppression of the Catholic
23 Church and the murdering of numerous Indian catechists, the lack of
24 rights to movement and residency created by thousands of refugees
25 and displaced persons, and their report was very important.

The State Department at that time was claiming that
Amnesty International had deceived international public opinion.
Ronald Reagan had gone to Honduras to meet Efraim Rios Monte (ph)
in 1982 and his exact words were that Guatemala had gotten a bum
rap. A bum rap. The Interamerican Commission said that the people
of Guatemala had gotten a bum rap. They backed up Amnesty
International and they were looked at, their criticism. The
Interamerican Commission is going back to Guatemala in May. In its

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1 last meeting, it's been invited again by the new government in
2 Guatemala after a report that has been done by the U.N. Ray
3 LaTorre (ph), a British member of the House of Lords, who has done
4 a report which is very congratulatory, or relatively congratulatory
5 of the Guatemalan government in terms of what it is doing with its
6 indigenous population. It has questioned the U.N. report, but
7 argues that in the midst of an internal conflict between insurgents
8 and the state, that the Guatemalan government, through its creation
9 of model villages, is trying to resolve the problem.

10 The Interamerican Commission will be going into the high-
11 lands to assess the model village program, the civilian patrol, and
12 all these things that there has been a lot of publicity on, and
13 it's anyone's guess what they will come up with, but they have been
14 invited and there's an enormous pressure on the Commission at this
15 point by the Guatemalan government to see a new view of
16 Guatemala. It's anyone's guess what they will come up with.

17 TAPE 12, SIDE A

18 The final case is the report on the Miskito. They've been
19 concerned with the Miskito case since 1982. In fact, the only
20 special report that they've ever done -- they've had special
21 reports on countries. This is the only special report they've ever
22 done on a single case. The whole case was on the report and it has
23 to do with Indian rights, which makes it very significant. It's a
24 report on the situation of the human rights of a segment of the
25 Nicaraguan population is of Miskito origin. That title tells you a
lot of what the report is about. A segment of the Nicaraguan popu-
lation of Miskito origin. A lot of this report has to do with are
the Miskito an ethnic group or an indigenous people with sovereign
rights.

They were called in on the same exact day, in February of
1982, both the Nicaraguan government invited the Interamerican
Commission on Human Rights to investigate its relocation of the
8,500 people from the Rio Coco at the same time that Brooklyn

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1 Rivera, Steadman Fagoth, representing MISORA, Brooklyn Rivera
2 representing MISORASATA, and the Indian Law Resource Center,
3 submitted a complaint the exact same day the government invited the
4 Interamerican Commission. A set of indigenous groups, one, a non-
5 governmental organization, the Indian Law Resource Center, and,
6 two, Indigenous Groups in Exile, submitted a complaint to the
7 Interamerican Commission, so they had both a government cooperating
8 with them and an indigenous -- incredibly significant, the first
9 time in history that an indigenous people themselves actually
10 brought the complaint. The Guatemalan complaint was a general
11 country study and wasn't brought by indigenous people. All the
12 lowland, South America, complaints were brought by non-governmental
13 organizations or religious groups, so it was the first time in
14 history. In fact, Brooklyn Rivera and Steadman Fagoth, and the
15 Council of Elders have testified before the Interamerican
16 Commission, so they have received, now, oral testimony from indi-
17 genous leaders on the Miskito case.

18 One of the things they decided to do, and the Nicaraguan
19 government suggested this, was, given that the Indians were
20 bringing the complaint and we're interested in cooperating with
21 you, there's one element in the American Convention on Human rights
22 that Nicaragua has signed that says that the Interamerican
23 Commission on Human Rights can serve as a mediator in a friendly
24 settlement. What the Nicaraguan government asked the Interamerican
25 Commission to do was to mediate between the Miskito and themselves
in order to create a friendly settlement. The Indian complainants
said -- some of them said, one factor, the Brooklyn Rivera faction,
said: we're interested in a friendly settlement, especially to
deal with the whole set of questions having to do with ancestral
property, self-determination of Indian groups and Indian cultural
rights. We're interested in a friendly settlement. On the other
hand, there's enormous human rights abuse: the forceful relocation
of 8,500 people, the disappearance, documented, of scores and into

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1 the hundreds of Miskito Indian leaders, many of whom were Moravian
2 pastors, the occupation by the military of Miskito churches, and a
3 number of massacres, at least two important massacres that were
4 alleged to have taken place in December of 1981 that the Nicaraguan
5 government said were the result of the Contras rather than the
6 result of the Nicaraguan government.

7 So, they had two issues here. They had three issues. One
8 issue was the human rights abuse to assess, the other issue was the
9 friendly settlement, and the third issue, which was related to the
10 friendly settlement and intertwined with human rights, was the
11 whole question of Indian rights. They went to Nicaragua in May of
12 '82. They wrote a report in June of '82, which they submitted to
13 the Nicaraguan government for commentary, which had a set of recom-
14 mendations in it, in which the Nicaraguan government asked them not
15 to make public until they could respond to some of the accusations
16 in the report and some of the recommendations. They went to
17 Honduras to the camps and they received testimony, and for two
18 years, 1982 and 1983, there was incredible exchange between the
19 Nicaraguan government, the Indian leadership in exile, and the
20 Interamerican Commission on Human Rights, which even went on to the
21 floor of the General Assembly.

22 The discussion became very, very angry because there was
23 an enormous amount of political violence taking place on the east
24 coast of Nicaragua at the same time you're creating a friendly
25 settlement, you know. The Nicaraguan government is militarizing
villages, the indigenous leaders in exile and inside the country
are taking up arms and it's sort of like negotiating at the same
time as the factory is occupied and people are throwing rocks at
each other. It was a very hard thing, and they had very little
experience with the friendly settlement procedure. Finally, the
whole friendly settlement procedure broke down and they decided at
a meeting in May, 1984, to release their report and terminate their
friendly settlement procedure, and they released this report.

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1 The report is very good on the human rights violations.
2 Most people look at it as an excellent report on general human
3 rights abuse. On Indian rights, it has a lot that could be
4 offered. The staff at the Interamerican Commission felt that once
5 they got into Indian Rights, they had had no training in it at all,
6 they felt that they had opened a can of worms that so totally con-
7 fused them, and these were all lawyers that had never even thought
8 about Indian rights, and they were suddenly faced with all these
9 questions at the same time that the Nicaraguan government was
10 arguing that this was a secessionist movement. All those ques-
11 tions, we discussed here yesterday. They tried to avoid it.

12 They avoided the question by calling -- they didn't avoid
13 it, they called them the Nicaraguan population of Miskito origin.
14 This was a dispute group, an ethnic minority, and a nation state,
15 but they weren't trying to set down any law in this. It was
16 written by one person with the Commission's name on it and I looked
17 at the report and there are some very -- on forced relocation, they
18 cite the Navajo in this report on forced relocation, and the evi-
19 dence of the effects of forced relocation which is a significant
20 thing that they are starting to look at forced relocation in a
21 general sense. So, that's the history.

22 One final comment, and I've gone on for a long time, is
23 that currently they are drafting a protocol on socio-economic and
24 cultural rights to be amended to the American Convention on Human
25 Rights. Costa Rica, three or four years ago, had brought up the
idea of socio-economic and cultural rights. In 1969, there was the
idea to put a protocol on socio-economic rights in the
Convention. The U.S. Government lobbied against it. The U.S.
Government has continued not to sign the Convention, so there's a
possibility that maybe they could put together a draft.

 In Mexico, in September, there was a meeting at the
Mexican National University of Lawyers about the draft protocol and
socio-economic rights, and there was a discussion of Indian rights

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1 as part of that protocol, just a discussion, and in the current
2 1983-84 annual report of the Interamerican Commission, there are
3 about four or five pages of discussion of socio-economic rights and
4 at least three references to Indian rights. Now, the Indian rights
5 question is looked at as related to the rights of children and the
6 rights of the handicapped, so someone is going to have to get in
7 there and discuss that issue.

8 They're looking at special group rights. They want to
9 look at the handicapped and they want to look at children's rights,
10 like the U.N. is doing, but they're not sure how to look at it, how
11 the Indian rights fit into it, so they're already confused in
12 putting that together. The problem is not a question of intention,
13 but a problem of knowledge of indigenous rights, but there's a
14 whole area there, if the World Council of Indigenous People or
15 others could get involved in that process of the American
16 Declaration, that could be valuable too, and they need some
17 guidance.

18 MR. BERGER: Thank you, Sandy.
19 Could you leave that report with us? It's in English, isn't it, or
20 is it in Spanish?

21 MR. DAVIS: It has all my marks in
22 it, but I'll send up another report on it. I'll send up a couple.

23 MR. BERGER: Before we turn to
24 Henry Shue, David has a question of Sandy?

25 MR. CASE: Yes. The United States
hasn't signed the Convention; does the Interamerican Convention
operate under the authority of the declaration?

MR. DAVIS: Any government that
isn't a signer of the Convention, they're under the authority of
the declaration because they're members of the OAS. Now, I don't
know what that has to mean about Canada. That may be a whole dif-
ferent thing because Canada isn't a member of the OAS, but the U.S.
is a member of the OAS, so it's under the Convention.

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1 MR. CASE: So, the Commission has
2 authority over all members?

3 MR. DAVIS: It's right in the
4 articles of the Convention and anyone who doesn't sign the
5 Convention, it's under the Declaration. The other part of it --
6 yes?

7 MR. CASE: The other thing is, do
8 you essentially have to exhaust domestic remedies before you can
9 really get to first base with the Commission?

10 MR. DAVIS: You have to prove that
11 in your denunciation, that you have exhausted domestic remedies.
12 If you look at the Unamumy (ph) case, the Indian Law Resource
13 Center will send you a copy of that, a large element of that
14 discussion was the exhaustion of domestic remedies because of the
15 absolute incapacity of Indians in Brazilian Indian law. In some
16 countries, like Paraguay, there was no problem of that at all, but
17 in the U.S. case, that would be certainly an important -- I don't
18 know how they would deal with that, but you have to show that in a --

19 MR. CASE: Thank you.

20 MR. BERGER: Thanks, Sandy, very
21 much. Henry Shue?

22 MR. SHUE: I'd like to thank
23 Sheldon Katchatag for this morning's snowfall. I thought this
24 business of this being a suburb of Dallas was getting out of
25 hand. I'm glad he fixed it.

These will be some thoughts by an ignorant outsider,
offered simply for what they're worth to you here. A couple of
people have commented on my relative silence. It's had a simple
explanation, which is sheer ignorance, but like a true professor
I've decided that in the end I shouldn't let ignorance keep me from
talking.

The more I understand about ANCSA, the less I understand
it. It seems to me wierder and wierder. It divides the indivi-

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1 sible, alienates the inalienable, and it seems to me clearer and
2 clearer that it may be nonsense in the strictest sense. That is,
3 it is very much like trying to square the circle.

4 I'm beginning to doubt that people who drafted ANCSA were
5 really people who really understood the nature of human rights. As
6 Mr. Goldwin pointed out the other day, if Congress has made a mess
7 in this case, and I'm not claiming his authority for that part of
8 it, it certainly wouldn't be the first time that Congress had a
9 mess. I'm going to try to talk, putting it in negative terms,
10 about why I think ANCSA is nonsense and putting it in positive
11 terms, try to contribute to this job of making sense of indigenous
12 rights and the concepts of the dominant culture in response to
13 requests by Rosita, among other people, and when I say try to make
14 sense of them in terms of the dominant culture, of course, I'm not
15 claiming that they don't already make sense. What we have is a
16 problem of translation, and then the question is: can we get them
17 out of their original statement, in which they make perfectly good
18 sense, into the concepts of the dominant culture, and most specifi-
19 cally, for this discussion right here, the concepts normally used
20 by the international human rights community.

21 Insofar as what you here are doing, is trying to translate
22 your conception of the integrity of tribes and the inseparability
23 of tribes and their land. You do face some difficulties, as in any
24 translation. It's just as if you were trying to translate some-
25 thing from Inupiat into English. It's conceptual rather than lin-
quistic, but if anything, that makes it more difficult. On the
other hand, I do think the difficulties of translating what really
needs to be said into the dominant culture can be overstated, and
I'm sorry Bernie isn't back this morning because it does seem to me
that some of what he was saying about group rights yesterday was
really making heavier weather of this than has to be made. I don't
think the problem should be underestimated, but I don't think it
should be overestimated, and I'm not convinced that there's any

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1 special problem here about any mysterious kind of group right, and
2 that's what I want to comment on, responding also to Doug Sanders.

3 I think worrying quite so much about group rights really
4 locates the problem in the wrong place, and I very tentatively want
5 to suggest a different place as being the real problem. What I
6 want to talk about first is the challenge of translating the notion
7 of being a people rather than a minority, and a people with a
8 special relationship with land, into what Doug Sanders quite cor-
9 rectly has characterized as a dominantly individualistic language
10 of international human rights. The problem is that you are
11 asserting the rights of a group, but I don't think you have to use
12 the terminology of group rights. That's really the name of a prob-
13 lem, not the name of a solution. I mean, there is no clear
14 category of group rights in the dominant culture and I don't see
15 any reason you need to plug into it as if it were something clear.

16 I think it would help very much if we made a distinction
17 between two concepts of groups, one of which is troublesome and
18 which I don't think you have and certainly don't need, and the
19 other is not, I think, particularly troublesome at all. I'll call
20 the first the organic group and I'll call the second the continuing
21 group with indivisible assets, and I'm making all this up, but I'm
22 trying to make a distinction that I think will help us. Well, I
23 say I'm making it up. These are problems that have arisen in the
24 history of thinking about these things, but I'm not trying to
25 reflect any particular thinker's views. I'm just trying to draw
some useful distinctions.

What I'm calling the organic group is what is mysterious
and also objectionable, and is what I think you don't need at
all. The continuing group with indivisible assets is not nearly
such an exotic idea, and seems to me to be essentially what people
are talking about.

One of the great things about Native culture in the Arctic
is that it hasn't contained any German philosophers talking about

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1 romantic nationalism. I think that the objectionable notion of a
2 group that I'm calling the organic group is one that's very much
3 already in the dominant culture, and one of the worst versions of
4 it has been certain versions of romantic German nationalism. Other
5 versions of it have been found all over the place, in Fascism,
6 Stalinism, I believe, Peronism, although I don't know Peronism very
7 well, in the romantic nationalism of the unlamented late dictators
8 of Brazil and Argentina, for example, and the current dictatorship
9 in Chile. There are all kinds of differences among all these
10 groups, but the thing I'm focusing on is that they have thought of
11 their group as what might be called an organic collectivity. The
12 strongest version of this, of course, is a totalitarian view but
13 there are weaker views which I think are still objectionable.

14 The giveaway, usually, of the fact that people are
15 thinking of what I'm calling an organic group is the use of the
16 imagery of the body. Society is a body, and individual humans are
17 the parts. This is dangerous and I think much of the opposition to
18 group rights, wrongly understood, is simply an accurate perception
19 of this danger. This is dangerous because if a part is diseased,
20 then you remove it so that it doesn't contaminate the whole and
21 pollute the whole. If the hair is getting gray, several hairs are
22 getting gray, you pull them out so that everything doesn't get to
23 be gray. If a finger is smashed and you may be getting gangrene,
24 you don't risk the whole body for the finger; you cut the finger
25 off.

Now this, of course, is the way to witch hunts, to disap-
peared persons, and ultimately to concentration camps.
Purification through amputation because you don't sacrifice the
whole for the part and in some countries, lately in Latin America,
this has been a theory. But it hasn't been the theory of the
Indians; it's been the theory of the government. It's been one
version of raving anti-communism, which has come to be the mirror
image of its own enemy.

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1 I haven't heard anybody up here talking at all about
2 anything remotely like this organic group, and as far as I can see,
3 it's not a notion that you have, need or want. What people seem to
4 me to be talking about is this other notion, what I'm calling the
5 continuing group with indivisible assets. I think we need to
6 divide this into its three components: the continuing group, the
7 indivisible assets, and the relationship between the group and its
8 assets. What I want to suggest, very tentatively, given how little
9 I know about what I'm talking about, is that what's really diffi-
10 cult to translate into the concepts of the dominant culture is
11 neither the notion of the continuing group nor of the indivisible
12 assets, but the relationship between the two, the inseparability of
13 the particular asset of the land from the identity of the group.

14 Now continuing groups are not mysterious in the dominant
15 culture. The Roman Catholic Church, the nation of Switzerland;
16 these are continuing groups. They are entities that endure through
17 time. Why don't the Swiss just divide the acreage of Switzerland
18 by the population of Switzerland and give each Swiss a share of the
19 land of Switzerland? It's not because Switzerland is some
20 mysterious organic whole of which the Swiss are inconsequential
21 parts. You don't have to have the mumbo-jumbo that goes with
22 organic groups. It's simply that Switzerland is a continuing
23 institution; a continuing entity. The land didn't belong just to
24 the Swiss who were there in 1971, to pick a date out of the hat.
25 It belongs to all Swiss, including future generations and I think
there's nothing mysterious about that. We, in the dominant culture
have lots of things which are continuing and have shifting member-
ship.

The second element of indivisible assets, I think, is also
not mysterious; that is, not mysterious as a concept. For example,
and this is not a complete parallel but a limited parallel.
Economists talked about public goods which are assets which are not
divisible into parts. The National Defense, for example, is con-

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1 strued by economists as a public good, meaning, among other things,
2 that you can't divide it up. I mean, the national defense of the
3 United States belongs to me, among others. Well, I'd like to have
4 my part; I'd like to have a tank, for example. I often, when I'm
5 in traffic and people cut me off, I've always wished I had a tank;
6 I'd just go right over them. But that's the point about national
7 defense. It doesn't belong to me in the sense that I've got a part
8 and Sandy Davis has a part and so on. The whole thing belongs to
9 us all, but you can't divide it up.

10 So, we understand indivisible assets. The problem, I
11 think, begins specifically with land because we have the concept of
12 indivisible assets but for us land is not an example. Land is
13 quite divisible. We do it all the time. As the minifundia show,
14 it can be divided almost infinitely. So, the problem from our
15 perspective, the dominant perspective, is why is land, which can be
16 perfectly divisible, indivisible for indigenous people. How do we
17 translate that? It's here, I think, that there are real diffi-
18 culties and I certainly don't have any illusion that I can take
19 them very far, but it seems to me that there is an analogous
20 concept in the dominant culture that has nothing to do with land
21 but that what needs to be said about the land can be said in the
22 same way.

23 The analogous notion is the inalienability of liberty; the
24 notion that is quite familiar to us that a person cannot alienate
25 his liberty because his liberty is essential to his identity.
People are thought of, one way, anyhow, that they're thought of, is
as self-defining individuals. Your being self-defining, that is,
your having the liberty to decide who you are, to control who you
are, to fulfill your own conception of yourself, is absolutely
essential to your being who and what you are. It's not something
that you can alienate; that you can give away, and various tradi-
tional political theorists have, in one way or another, have said
that the idea of alienating your liberty is incomprehensible,

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1 literally nonsense, something that's impossible to do. It would be
2 a sort of self-destruction that would be utterly irrational.

3 Now, as I understand it, for indigenous people identity
4 comes not as a self-defining individual but as a member of a group
5 and what can't be alienated is what it essential to the identity of
6 the group and that includes the land. All I'm trying to do now is
7 sort of invite you to see if you can use the analogy of the
8 inalienability of individual liberty in order to translate the
9 notion of the inalienability from the group of the land. It seems
10 to me that is no particular reason to think that is more mysterious
11 than the notion of the inalienability of liberty.

12 Let me use another example, which is simpler because it
13 has nothing to do with groups and it's also not part of the liberal
14 western culture, but it seems to me to be analogous. Shortly after
15 the assasination of Mrs. Gandhi, some of the most chilling stories
16 that came out of India were about young Hindu thugs who would meet
17 trains as they pulled into stations, grab the Sikhs who were on the
18 trains, pull them off and beat them to death. This was very easy
19 because, as you know, male Sikhs don't cut their hair, and what's
20 under that turban is a lot of hair. There was a particular story
21 about this one train car in which there were two Sikhs, and the
22 passengers said to them, we're about to pull into town. You've got
23 to cut your hair because if you don't they'll know that you're
24 Sikhs and they'll beat you death. Neither wanted to do it, but
25 finally one agreed to take a razor from some of the other pas-
sengers and went into the toilet and cut his hair off. The other
guy couldn't do it, and when they got into the station he was
pulled off and beaten to death.

Now, I don't know much about Sikhism, either, but it seems
to me that that's a case of a material thing, in this case it's
hair, being so essential to somebody's identity that he really
couldn't give it up without, in effect, destroy himself. I mean,
destroying what he was, and that seems to me to be very like what

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1 indigenous peoples are trying to say about their land; that compli-
2 cation, what the material thing, the land, belongs to is a group
3 rather than an individual, but since the group is not particularly
4 mysterious, I don't know why this can't be said fairly straight
5 forwardly, and in fact, it seems to me that Sheldon and others have
6 been saying it quite straight forwardly without getting particu-
7 larly tangled up in exotic ideas about groups. I simply offer you
8 that as a possibly useful analogy.

9 One other analogy, I think, and this is something I have
10 tried to think about before, I think that it's recognized, at least
11 among the most fundamental rights, the most basic rights, that
12 rights come in packages. That is, there are clusters of inter-
13 dependent rights such that if you don't have all the package, then
14 you don't have any of the package. Let me take two that I think
15 are relatively uncontroversial. One is liberty. The other is what
16 is sometimes called integrity of the person, or physical
17 security. Suppose a government said to its people: "We're going
18 to guarantee to you the right to liberty. For example, if you want
19 to walk in the forest, you can walk in the forest, but we're not
20 going to guarantee to you integrity of the person. We're not going
21 to protect your physical security." So, you say, "Okay, I have the
22 right to walk in the forest; I'll walk in the forest." But when
23 you get in the forest, there's some troopers waiting for you and
24 they beat you up. You say, "What's going on, I have a right to
25 walk in the forest." And they say, "Sure, you have a right to walk
in the forest; you just don't have the right not to be beaten
up." Now, that's nonsense; right? You cannot have a meaningful
right to liberty if you don't have a right to physical integrity.
This is what I mean by interdependence, or rights coming in
packages.

Now it would seem to me that the same kind of inter-
dependence holds between the right to self-determination and the
right to title to land for indigenous people, although I won't keep

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1 saying this, I'm obviously speaking as an outsider, but it sounds
2 to me as if it really wouldn't make sense to say to an indigenous
3 people: We are guaranteeing you your self-determination, we just
4 can't let you keep the title to your land. I don't think that can
5 make sense.

6 I'd like to wind up with some other matters. That's my
7 sort of main pitch, but I just want to connect up with the other
8 things that have been said by the rest of the sextet pretty
9 quickly. First is this question of the status of international
10 human rights for the U.S. Government, given that the U.S.
11 Government has not ratified the conventions. First is a techni-
12 cality which probably doesn't make any difference, but just to get
13 the record straight, Doug said yesterday that the U.S. hadn't
14 signed the international covenants, and I think Sandy said this
15 morning that we hadn't signed the American covenant. Strictly
16 speaking, we have signed them, but for the U.S. accession is not a
17 matter of signature, it's a matter of ratification. What we
18 haven't done is ratify them, and that could only matter to lawyers,
19 but --

20 MR. BERGER: Well, the president
21 signed them.

22 MR. SHUE That's right, and
23 that's an important -- the President signed them, and what's more,
24 the President has submitted them to the Senate for ratification.
25 President Carter, on February 23, 1978, submitted the American
Convention, the two international covenants, civil and political
and economic, social and cultural, and the International Convention
on the Elimination of All Forms of Racial Discrimination to the
Senate. Subsequently, the Convention on Genocide has been sub-
mitted by President Reagan. So, they're all before the Senate.

MR. BERGER: President Reagan
signed the Convention on Genocide.

MR. SHUE Somebody signed it;

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1 right. The problem is that signing it --

2 MR. CASE: What about the
3 Interamerican Convention that Sandy mentioned; is that also signed?

4 MR. SHUE Yes, the American
5 Convention on Human Rights, which was signed on June 1, 1977. This
6 really is a technicality, but what hasn't been done is the main
7 thing, is to ratify them. I just want to say two things about
8 it. On the one hand, that is an embarrassment. I think that the
9 American people believe in human rights and I think are rightly
10 embarrassed by the fact that our Senate has not represented our
11 views by ratifying these covenants, and I'm one of many people who
12 strongly support the ratification and I think that it is very
13 important that they be ratified.

14 We are, for example, quite free to criticize human rights
15 violations in other countries, for example, the Soviet Union. The
16 Soviet Union has an atrocious record on human rights and needs all
17 the criticism it can get, and I'm glad that we criticize it. On
18 the other hand, it is simply inconsistent for us not to acknowledge
19 that our record on human rights is also subject to comment by the
20 international community in exactly the same way. So, there's no
21 reason we shouldn't ratify the covenants, particularly since they
22 really reflect values that we hold.

23 On the other hand, the fact that we haven't ratified them
24 doesn't mean that we're not subject to them, and this came out
25 yesterday, but I just wanted to hit that hard. There are a number
of reasons why. One is what Doug and I were talking about yester-
day, that the international covenants and the principles that are
embodied in them are so deeply and widely accepted in the inter-
national community that it can be argued that at least much of them
has become customary law. So, although we haven't ratified them as
conventions, they apply as customary law and in that sense it
doesn't make any difference that the Senate hasn't ratified them.

Further, the Senate, and Doug mentioned this too, has

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1 ratified the Helsinki Agreement, and the Helsinki agreement, to
2 some extent, and this is partly a technical, legal question, but to
3 some extent incorporates them by reference. I mean, the Helsinki
4 Agreement does mention and endorse these covenants and it was then
5 ratified and indeed, when we criticize violations by the Soviet
6 Union, it's quite often with regard to the rights in these
7 covenants.

8 MR. GOLDWIN: Henry, may I inter-
9 rupt?

10 MR. SHUE: Yes.

11 MR. GOLDWIN: Is it so that the
12 Senate ratified the Helsinki Final Act? I think it's not a treaty
13 and didn't require ratification, and has its effect simply by sig-
14 nature of the president. I'm not certain of that, but I think
15 that's the case.

16 MR. SHUE I think it's not a
17 treaty, but that it was passed by the Senate.

18 MR. GOLDWIN: It's called the
19 Helsinki Final Act.

20 MR. SHUE That's right.

21 MR. GOLDWIN: And it's not a
22 treaty.

23 MR. SHUE You're right that it's
24 not a treaty, but it was passed by the Senate, so that's --

25 MR. BERGER: By two-thirds?

MR. SHUE: By a majority, because
since it's not a treaty, it doesn't take two-thirds. You're quite
right; it's not a treaty, and that does weaken this particular
point some.

MR. GOLDWIN: I believe it's in
the category of executive agreement and did not require Senate
ratification and was designed that way so it wouldn't have to go
through the Senate ratification. But it's in effect in any case,

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1 so --

2 MR. SHUE You may be right. It
3 certainly is not a treaty. I thought it was passed in the
4 Senate. In any case, it's somewhat weak. It's certainly weaker
5 than direct ratification. On the other hand, --

6 MR. SANDERS: There's some
7 scholarly literature to figure out what it is in terms of whether
8 it has binding effect or not. It's like the title of the Miskito
9 report. It was skillfully designed to use words that didn't mean
10 anything, that didn't have any connotations.

11 MR. SHUE: Well, if it matters,
12 somebody could straighten me out.

13 MR. BERGER: Well, it might mean a
14 great deal.

15 MR. SANDERS: Well, it was neutral
16 wording so that the wording does not tell you whether it was
17 binding or not binding. It does not use terminology that means
18 either. It's like using --

19 MR. GOLDWIN: Whether it's binding
20 or not has nothing to do with the wording. I mean, it's a power
21 relationship between the United States and the Soviet Union and it
22 wouldn't matter what the language said. There was nothing that the
23 United States could do that would be binding on the Soviet Union in
24 the conduct of their slave labor camps unless the Soviet Union
25 wanted, for its own purposes, to do something about it. The
language has nothing to do with that.

MR. SANDERS: I'm sorry, but
international law does draw some distinctions on this and the
parties to the Helsinki negotiations wanted to use language that
was neutral on the question of whether this was an agreement that
could be described as forming part of international law between the
two states.

MR. BERGER: Well, maybe we could

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1 leave it at this. By the way, for the typist, that was Robert
2 Goldwin and Douglas Sanders who intervened. The Helsinki Final
3 Accord appears to represent an accretion to the body of inter-
4 national law and what precisely it will yield remains to be seen,
5 but it seems to be a significant act and perhaps made no less
6 significant by its own very special nature. At any rate, Henry,
7 why don't you carry on and --

8 MR. SHUE I want to emphasize
9 that this doesn't all hang on Helsinki. The prior thing was con-
10 ventional law coming into customary law. Helsinki is one, and the
11 final thing about the status of these things is this Filardia (ph)
12 case that Doug Sanders mentioned. There are two aspects of it that
13 are relevant, perhaps, up here.

14 First is that what that case decided was that the federal
15 courts of the United States have jurisdiction over what are
16 accepted to be violations of what an 18th Century U.S. law called
17 the Law of Nations, and that might have some relevance to any cases
18 that were brought, namely that the relevant jurisdiction would
19 clearly be federal. The second thing is that the U.S. State
20 Department was on the side of the people that wanted jurisdic-
21 tion. The State Department filed a brief on behalf of the torture
22 victim arguing that the federal courts did, indeed, have jurisdic-
23 tion over a crime of torture committed in South America.

24 MR. BERGER: But tried here in the
25 USA?

MR. SHUE But tried in the U.S.;
right. Okay, enough of that. Moving now to quite a separate
point, --

MR. BERGER: Before you do that,
Henry, this is Saturday and I notice that Bernie Nietschmann has
arrived as well. I thought we might take a brief coffee break.
Perhaps we deserve it this morning, and then, Henry, you could
complete your presentation, which I must say I find quite

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1 challenging. Those two analogies you drew had not occurred to me
2 in a couple of decades of thinking of these things. If they still
3 seem as provocative tomorrow as they do now, perhaps they'll stand
4 up.

4 We'll take a break and then you can continue, and Oran
5 wanted to say something before we move on, and then we'll ask Steve
6 Kakfwi to speak after that.

6 (HEARING RECESSES)

7 TAPE 12, SIDE B

8 (HEARING RESUMES)

8 MR. BERGER: Let's take our seats,
9 folks. Maybe we could resume. Henry Shue has some remarks to add
10 and then Oran Young has just a few words to add to that. Then, I
11 thought we'd ask Steve Kakfwi to speak, and then I thought we would
12 simply have a general discussion for the remainder of the morning
13 and the afternoon. That is, I thought we would ask Rayna Green to
14 open the discussion and then ask Virna and Oscar and Gard, and
15 indeed, all others to participate, not simply confining ourselves
16 to education, but talking about the whole question of what stan-
17 dards or criteria might have to be met in order to establish what
18 might be called a true or viable self-determination. In that
19 general discussion, we might be able to wind up our thoughts and it
20 could be informal and it might well be understood that no one would
21 take more than just a few minutes so that there could be a little
22 more give and take than there has been. I take full responsibility
23 for the way in which we've proceeded thus far, but it has given
24 rise to a certain groundswell of opinion that we should alter the
25 mode of procedure later on in the day, and we will.

22 So, Henry, carry on, please.

23 MR. SHUE: I'll try to help estab-
24 lish the new precedent of brief interventions. First, just a
25 footnote to emphasize something that I said already. I'm not
suggesting that in any way land is somehow inherently inalien-

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1 able. Obviously, you can divide it up and sell it and trade it,
2 but the argument clearly has to be by way of lands being
3 inseparable from a people's identity. It's because only when the
4 land is inseparable from identity that you can make the inalien-

5 I really just want to mention some topics now rather than
6 to discuss them, just to get them into the record. One is national
7 security. All that I've been saying so far has been about how to
8 formulate the rights and how to defend the rights. Usually, people
9 who, in practice, are going to ignore human rights don't deny
10 them. They claim that something else overrides them in this case,
11 and in U.S. foreign policy, at least, and perhaps in domestic
12 policy up here, national security is the most usual thing. We have
13 continued to cooperate with various outrageous violators of human
14 rights. What we say is not that the rights that they are violating
15 don't exist or aren't relevant or something, but that our interest
16 in national security is overriding in that particular case.

17 I simply want to emphasize what I think is quite clear
18 anyway; that's not true just because it's said. I mean, that case,
19 the case that national security is more important in this instance
20 than the rights are in this instance has to be shown. There is, of
21 course, a right to security, so there can be genuine conflicts
22 between national security and other kinds of rights, but what has
23 to be shown is that there is that kind of conflict in that parti-
24 cular case, and that satisfying the other right will cause more
25 damage to national security than ignoring that right would cause to
that right. I mean, as a minimum, you've got to show that on the
whole you're doing more for rights, and I think you very strongly
have to make the case that it's not just somehow imaginable that
this might affect national security. You really have to show that
it will, indeed, in a very serious way, affect national security,
if it will, indeed, in a very serious way, affect other people's
rights.

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1 Finally, I would like to just mention the fact that we are
2 making national human rights law. I mean, laws are made through
3 cases, through court decisions, and the fact that some things are
4 not so clear should be accepted, I think, as a challenge. Alaskan
5 peoples have plenty of problems of their own. I'm sure you're not
6 looking for other problems to take on, but I think you should note
7 that in fighting your own battles, you may be helping along other
8 indigenous people to establish in a clearer way principles that
9 are, perhaps, not so clear now. But conceptions of human rights do
10 change.

11 In the United Nations, they talk about three generations
12 of human rights. Not everybody is on board even with the second
13 generation and I for one have some doubts about the so-called third
14 generation myself. But the point is just that we argue about these
15 things, we adjudicate these things, and gradually we come to agree-
16 ments and sometimes we come to agreements that things we didn't
17 think were rights before, we now do think are rights. It's not
18 that the oldest rights somehow get priority. If we really accept a
19 right, then it really is a right. So, I think that you can contri-
20 bute to this process and should welcome the chance.

21 On the other hand, and this is the final thing, although
22 rights change, they don't change just because individual govern-
23 ments say they do. They don't change just because individual
24 scholars say they do, either. I can't just announce one and that
25 makes it a right, but neither can governments. I mean, the whole
point about human rights is that they are prior to the decisions of
governments and this is as American an idea as you can get. I
mean, that was the whole point about the American Revolution; that
there were rights prior to government acts and government acts
could be judged in terms of those rights.

 The sort of language you find in ANCSA is really quite
wonderful, I think. I mean, it says things like: all aboriginal
titles are hereby extinguished. Well, I don't know. That depends

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1 on what those titles are based on. If they're based on genuine
2 human rights, they are not the sort of things that governments can
3 extinguish.

4 MR. BERGER: Thank you, Henry.
5 Oran, you wanted to say a few words before we pass on to Steve?

6 MR. YOUNG: Thank you. I wanted
7 to make a few brief observations about international law and then
8 to draw out some of their implications for indigenous peoples and
9 the concepts of group rights. But before doing that, let me just
10 make one quick observation or response to something Henry has said
11 that struck me as very interesting.

12 It occurs to me that there is nothing whatsoever
13 mysterious about the idea of land as an indivisible asset of a
14 group, even in our dominant western culture. We're all familiar
15 with various notions of undivided shares in land, and in fact, we
16 have quite an elaborate set of legal distinctions about different
17 kinds of undivided shares in land. It may be that we often associ-
18 ate that with groups that are quite different from indigenous
19 groups. One of the most ordinary groups holding undivided shares
20 in land is the family, for example, a set of members of a blood-
21 related family.

22 What I think is really the mysterious, or problematic,
23 issue is the alienability or inalienability question rather than
24 the indivisible question. The whole notion that the land is quint-
25 essentially alienable is incredibly deeply embedded in dominant
western ideologies, and particularly the prevailing or most
powerful economic ideology of western capitalist society. In fact,
the alienability of land and other assets is celebrated in modern
neoclassical economics as being one of its principal virtues.
Therein lies the possibility of achieving allocative efficiency in
economic terms. If you didn't have transferability and alien-
ability, it would lead to economic inefficiency, and by the way,
that's part of the ideology that's produced things like the limited

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1 entry system, efforts to create alienability in situations where it
2 previously didn't exist. So, that, I think, is the real set of
3 ideological, conceptual baggage that has to be overcome.

4 Now let me very quickly try to say some things about
5 international law, and then, perhaps, I should just preface these
6 remarks by saying that my professional background is really in the
7 field of general international relations and international politics
8 rather than law per se, but I want to speak to international law as
9 a facet of international relations.

10 By and large, international law at any given period in
11 time reflects to a very large degree the political and economic
12 realities of that time. What we call modern international law
13 which really emerged, then, was articulated and codified in the
14 16th, 17th, 18th centuries, and which places such a dominant
15 emphasis on the state, the state being the only true actor, the
16 state being the fundamental building block, the central structural
17 element of the entire system, was a doctrine, a set of ideas that
18 became a politically exceedingly powerful tool in the hands of
19 certain centralizing European elites.

20 It's true, of course, that this doctrine later on played an
21 important role in the dealings among European colonial powers, but
22 what was going on in Europe at that time? There were a lot of
23 separatist movements within France, Spain, and what we now call
24 Great Britain. The doctrines of international law provided
25 powerful conceptual, theoretical tools which the elite that later
on gained control in the name of the state and in the name, ultimately, of the nation state, were able to make use of in order to suppress and overcome the opposition of other groups. In fact, they not only succeeded in their own terms, but they succeeded beyond, probably, their wildest expectations. The doctrines of what we call modern international law with the dominant central role of the state became a conceptual, theoretical system which spread in time and geographical place far beyond the concerns of

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1 those who created it. It was probably one of the greatest, most
2 powerful developments of ideas known in human history. That's how
3 you get all of this baggage, which from the point of view of group
4 rights or indigenous peoples now in many ways constitute very
5 powerful obstacles to be overcome, chipped away at, eroded,
6 gradually transcended, all of the things that we've heard Doug,
7 Sandy, Henry and so on talk about. Nevertheless, the core still
8 remains there as a sort of an obstacle or problem to be overcome in
9 the forms of domestic jurisdiction, states as true subjects, and
10 various conceptions of true sovereignty.

11 Now, it seems to me, and this is what I really want to say
12 in this context, it seems to me that what is really important is to
13 look around to see whether or not there are important, large-scale
14 powerful changes going on in international society which are having
15 and will have the effect of diminishing, breaking down, changing,
16 transforming, the dominant role of the state as the principal, not
17 only juridical, but political and economic reality of the system.
18 From the point of view of indigenous peoples, it seems to me that
19 the good news is that the answer to that question is yes.

20 There are a whole series of very powerful, fundamental,
21 economic and political changes that are occurring and which are
22 changing the international institutional, including legal system,
23 in some profound ways which could prove very helpful and beneficial
24 to the concerns of indigenous aboriginal groups within the bound-
25 aries of nation-states. These, by and large, are not the
movements of indigenous peoples as the most powerful, and they are
things like the rapid growth of ethnic separatist movements and the
traditional core European states. The ethnic separatism, which is
now re-emerging, of the original internal colonial problem of
Wales, for example, the Brittany problem, the Quebec problem, the
continuing Belgium problem with the Flemings and the Walloons and
all those kinds of things are a very powerful set of developments
which could very well lead to profound changes.

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1 place with respect to these other developments.

2 My suggestion, or my concrete recommendation, is that in
3 addition to looking at the human rights issues and some of these
4 other developments in international law indigenous peoples, if
5 they want to achieve their goals in terms of practical, concrete,
6 political realities, would be very well advised to open up the most
7 expensive and best possible working relationships with the leader-
8 ship of these other profoundly transforming forces. They should be
9 on good terms with transnational environmental groups. They should
10 not reject out-of-hand multinational corporations because, while
11 they may be exploitive and raping the land in certain respects,
12 they represent a force moving in the same direction in certain
13 senses.

14 Indigenous peoples, in other words, should work very hard
15 to make common cause, to link their concerns, to develop good
16 working relationships with these other transforming institutional
17 forces, many of which are exceedingly well financed and have access
18 to a lot of other levers of power and influence and access to the
19 media and so on, and that, I think, could be an extremely effective
20 initiative or strategy, let's call it, over the next generation for
21 indigenous peoples to have their views injected significantly into
22 this whole transforming process.

23 MR. BERGER: Thank you. I think
24 that what we'll do now is move on and call on Steve Kakfwi to
25 speak, and once again I welcome Steve, who was here when we began
our first Roundtable in March of '84, and I'm glad he was able to
return, if only for the last two days of the Roundtable. Just
before Steve begins, I've been asked to say that for some of the
folks in the room the smoking is a bit of irritant, so if you are
smoking, you are entitled to continue, but if you feel that you
would like to extinguish, if that's the right word, your smoking
materials, please feel free to do so.

Steve Kakfwi, please go ahead.

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1 MR. KAKFWI: Thank you very
2 much. What I'd like to speak about to you is about some of the
3 work that, as aboriginal people in northern Canada, we've under-
4 taken over the last number of years. In northern Canada, the last
5 part, I guess, of what you might call the frontier is also the
6 homeland of the Dene Nation, and the Inuit, the Eskimo people as
7 well, and the Meti, that is, the Meti being people that are of
8 mixed blood, that have, in some people's opinion, I guess, a
9 separate culture from the original aboriginal people.

10 In any case, the Northwest Territories has about a million
11 and a half square miles of lots of bush and snow. There's a lot of
12 islands up there. It's largely about the size of about one-third
13 of Canada's land mass. It's a very large area and it's populated
14 by only about 40,000 people, the majority of which are aboriginal,
15 that is, the Dene, along with the Inuit form the majority of the
16 population up there. What we've undertaken is to redesign the
17 territorial government, which is basically a colonial government,
18 to make some changes to it so that we can fit ourselves more
19 appropriately, or fit the government into the way we choose to make
20 decisions and conduct our business up there. It has the blessing
21 of the -- or had, when I left, the blessing of the Canadian govern-
22 ment.

23 I say that because about ten years ago or so when the Dene
24 Nation was starting to organize politically, we issued a very con-
25 troversial statement which put us up in the front pages of the
26 media for about a week. The statement was basically a declaration
27 of how we see ourselves, and it was called the Dene Declaration.
28 It stated how we see ourselves in the world community and basically
29 declared ourselves as members of the world community with certain
30 rights.

31 The two most controversial parts of the declaration was
32 the part that read: "The government of the Northwest Territories
33 is not the government of the Dene and the government of Canada is

1 not the government of the Dene." That put us way out in the left
2 field with the extreme radicals of the day and as well with the
3 separatists of Quebec for a number of reasons, but it was a state-
4 ment that isolated us for a number of years. We were in the bad
5 books, I guess, of the government. We had incredible problems with
6 our relationship with the government for some years, but we were
7 serious about those two statements that were included in the
8 declaration and the present situation with us speaks to that
9 fact.

10 The statement about how we view the government of Canada;
11 what we were saying there is that the federal government had not
12 yet worked out with us, not only as Dene people but as aboriginal
13 people in Canada, a place in that country, and that in the
14 Constitution of Canada, there was not sufficient work done to
15 guarantee us constitutional protection, and further to that,
16 legislation that would specify exactly how the relationship that we
17 would have with the federal government would be implemented, and
18 would be manifest at the community or regional level.

19 The second part of the statement which we talked about,
20 the government of the Northwest Territories not being the
21 government of the Dene, it's a colonial government and was more so
22 ten years ago, when people were just elected to this Territorial
23 Council which is, for all practical purposes, a colonial govern-
24 ment. That is, the federal government in Canada still owned all
25 the resources basically, and made all the major decisions about
what happened in the Northwest Territories. The Legislative
Assembly, or the Territorial Council, as I guess it still is,
legally, had some subcontracts with the federal government to run
education, some medical services, social services, but all the
major and the political power still was with, in fact, one of the
cabinet ministers in the federal government, what they call the
Department of Indian and Northern Affairs.

Up until 1976, I believe, or 1978, the Dene Nation boy-

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1 cotted this government and its elected council because we did not
2 recognize that the government of Canada had a right to give us this
3 creature that had no power, as if to say that we had no right to
4 make major decisions about our land and our people and how we
5 lived. We insisted on initiating some process where we would have
6 a right, along with not just the Inuit, but with the non-Native
7 people as well of the Northwest Territories, to redesign a govern-
8 ment that we could identify with, so we could design our place in
9 the western world, or in Canada for that part.

8 This is what we initiated about three years ago. The
9 elected people on the territorial council agreed and did make some
10 statements suggesting that they saw the government as an interim
11 government, and that a process of a constitutional development
12 would be undertaken and it was. There was an agreement with the
13 Inuit in the eastern Arctic who complained for years that the
14 government was too far from them and that what they wanted was to
15 divide the Northwest Territories into two territories and that the
16 eastern part, which would be largely dominated by the Inuit would
17 be called Nunuvut (ph), which means Our Land, I believe. I don't
18 speak the language, but I think that's what it means.

16 The interesting thing about it is, like I say, the entire
17 Northwest Territories is a million and a half square miles and it's
18 populated by only a little over 40,000 people, I believe, and yet
19 people agreed that yes, we will divide the territories, yes, we
20 will undertake discussions to develop constitutions for the two
21 territories which we agreed we would create, and the government of
22 Canada, as well, accepted that whole notion. Politically they
23 supported it, financially the support was there.

22 Of course, we ran into difficulties. I think there were
23 two difficulties. One, the Inuit of the eastern Arctic wanted an
24 early agreement on division; that is, the priority would be to
25 focus attention on where the boundary was going to be that would
divide us into two territories. The Dene nation supported a vote

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1 on that process even though we had very strong reservations about
2 whether we could agree to division before we talked about consti-
3 tutional development. That's where we ran into some problems
4 because the Inuit and the cousins, or the Inuvialit (ph), who were
5 originally Alaskans that came down to the Beaufort Sea, wanted,
6 along with the Inuit of the eastern Arctic to be in one big
7 territory together. So, the argument started to sound like the
8 creation of an ethnic homeland. That impression, I guess, didn't
9 do anybody any great favors.

10 But ourselves in the western part of the territory, we had
11 absolutely no interest in supporting division if the territory in
12 which we were going to be was not of sufficient size and with suf-
13 ficient resources to satisfy us. As well, we wanted the communi-
14 cation and transportation links to make sense and that was the
15 argument we had about the proposed division which was supposed to
16 take place along the tree line. As the Inuit were saying, we want
17 all our traditional lands and we want to take all our people with
18 us, and we didn't quite agree with that, so we are presently at an
19 impasse.

20 It seems difficult for us to support -- would you call it
21 an Inuit Homeland, because one of the things that happened is the
22 Beaufort Sea is, I think, -- well, it's hundreds and hundreds of
23 miles between the Beaufort Sea and Baffin Island, and one of the
24 original arguments that the Inuit were using was that Yellowknife
25 was too far away from the Inuit of the eastern Arctic and that the
big argument on which we supported them was that they wanted to
bring government closer to themselves. But the proposed division,
it went right back to square one where their territory was so big
that people in Frobisher and Tuktoyaktuk in the Beaufort Sea never
see each other. They never have. There is no relationship. There
is no transportation, there's no communication links at all, but
that is where we're at presently.

I think for some people, they are getting a little bit

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1 discouraged because somehow it doesn't seem possible to some people
2 that people could, through negotiations, decide where a boundary is
3 going to be between themselves. It is just usually done by war or
4 by just grabbing. I mean, whoever is the stronger of the two would
5 decide. So, some of us have some doubts about it, but we hope to
6 continue and try to reach some sort of an agreement, even if the
7 agreement is to say, well, it looks like we really didn't have to
8 divide the territory but we should still redesign the government
9 so there's an improvement for everyone, even if there is no ethnic
10 homeland or territory for the Inuit by themselves. That seems to
11 be something that is probable, but again, it's difficult to say
12 because we have a number of parties that are negotiating this
13 process.

14 The Territorial Council, or Legislative Assembly as they
15 call themselves, are only one of the parties involved in the nego-
16 tiations. The Dene Nation is involved. The Meti Association of
17 the Northwest Territories is involved. The Committee for
18 Aboriginal People's Entitlement in the Beaufort Sea area is party
19 to these negotiations. The Inuit Tap Reset (ph) of Canada are
20 party to the negotiations as well as a number of Inuit regional
21 organizations. I guess the beauty of it is that I don't know of
22 any other place in North America where aboriginal people are
23 invited to redesign a government and find a way in which we could
24 design a role and that position in that government.

25 I think in the years of work that the Dene Nation has
done, one thing that really marks it as separate from anyone else
is our obsession with changing things. We're always trying to
change things so that we feel more comfortable with our sur-
roundings. An example is, internally within the Dene Nation, we
started out being an organization that was just primarily for what
you call treaty people. I am not a treaty person. That is,
legally I am not an Indian, but we don't differentiate about that,
so even though it took us a number of years, what we did was, the

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1 Dene Nation now is open to all the Meti, the non-legal aboriginal
2 people that are of Dene descent. We have, at the community level,
3 a chief and councils that, again, were originally set up primarily
4 for legal or treaty Indians. We've opened the membership to
5 everyone of Dene descent, whether they are Meti or non-legal
6 aboriginal people. We've set up regional councils that take into
7 themselves a number of small communities that average in size about
8 five hundred people, just for political lobby and to share infor-
9 mation, to gain some political strength in face of other large non-
10 Native communities that for a number of years have dominated the
11 government of the Northwest Territories.

12 One of the difficulties that we are faced with, and I
13 think this is probably all over the world, goes by the term of
14 turning into neo-colonialists. That is, after your people take
15 over a government or an institution, it's only a matter of time
16 before your own people start doing the same thing to you. It's
17 remarkable because it's alive and well in the Northwest
18 Territories. People that are very good friends of mine that I
19 worked with for a number of years took the opportunity, and, in
20 fact, we encouraged as well, our people to run for these positions,
21 and these people that, even as short as a year ago, were saying:
22 "This is not our government; this is an interim government," are
23 now what you would call ministers. They're saying: "Well, you
24 know on second thought, we're not doing too bad as a govern-
25 ment." It's a concern for us because I think people forget that
they're not going to be around as ministers for all eternity, even
though they may want to, but that the system that's in place there
is -- that's the problem and that's the concern that I have and I
think a number of us have because it doesn't seem to take very long
before it happens that people start to be taken in by the system.

One of the mechanisms or processes that we have to make
changes as well is through the land claims process. Here what
we're using it for is to -- a specific example of how we're going

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1 to use this to change the system of government is to negotiate an
2 agreement on the management of wildlife and renewable resources.
3 This is, again, something that we find in the next couple of weeks,
4 but basically what it does, it sets up a management board with 50
5 percent aboriginal people in place on it, so it's sort of like a
6 parapolitical negotiation. This management board is going to fit
7 into the structure of government that we will hopefully complete
8 negotiations on over the next few years. So, the claims process
9 fits very well into this whole process and we're hoping to make a
10 number of other agreements that would have protection by legis-
11 lation and by the fact that the Canadian Constitution as well
12 recognizes aboriginal rights even though they say they don't know
13 what it is.

TAPE 13, SIDE A

11 One of the things that the new government of Canada, the
12 federal government has undertaken to review is what you call the
13 claims policy. That is, they are reviewing those things that they
14 think are negotiable to the claims process. I mention this because
15 it's important to recognize that the extinguishment policy that, I
16 guess went through the United States as well as southern Canada, is
17 making its last stop in northern Canada. They've extinguished
18 everybody else and there's just Inuit and the Meti and the Dene to
19 go. We're hoping to make a last stand, so to speak.

18 There's a number of scenarios being developed by people in
19 Canada that object to this whole policy. For us, what the govern-
20 ment wants to do is to say: "Well, we don't know what your rights
21 are, so why don't we just make it very simple for all of us and
22 let's say we agree to extinguish all of the, whatever they are, and
23 then in exchange we'll give you back some rights. We'll give you
24 back land rights, rights to some compensation, hunting rights,
25 trapping rights." That's basically the policy and I know, Doug,
you talked about it here, but I think we did last year. The whole
idea we have of aboriginal rights is that it's everything. It's

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1 all the rights you have as a nation, but it just stops a few inches
2 short of total sovereignty and that's just because of the political
3 realities of living in a nation state. If we say that too often,
4 we'd probably all be political prisoners.

4 Again, that's the difficulty we have in negotiating with
5 the federal government, and one of the analogies that we use is to
6 say that we go to the negotiating table with a full box and we
7 don't know what all of the rights are in that box, but we know that
8 it's a full box. But the Canadian government says it's an empty
9 box, and what we're going to negotiate with you is what rights
10 we're going to throw in there for you. That's the impasse that we
11 have, and as somebody said, or was related earlier, the rights to
12 make a living, to survive as a distinct people, is not negotiable
13 and what we need to do is to make sure that the government accepts
14 that very well, but it's also complicated by the fact that under
15 law under the Charter of Rights, there is no recognition or defi-
16 nition of what we term as the rights of a collective, that is, the
17 rights that we have to our land.

14 As someone said earlier, you can't own it as an indivi-
15 dual; the government is not capable of recognizing that we as an
16 aboriginal people have a collective right to a certain area of
17 land. So, we have some difficulty with that as well. Some of the
18 laws that are being considered by our territorial government, and
19 it's, again, kind of unbelievable, I guess, but they just are
20 presently proposing to pass a human rights code which recognizes
21 individual rights but makes absolutely no mention, other than that
22 they will respect whatever aboriginal rights are recognized in the
23 future. But what that threatens to do is that anybody that feels
24 threatened about the collective hunting rights of our people, for
25 instance, and feels that they are being discriminated against, can
take our entire agreements, whatever agreements that we have that
give us collective hunting rights or the rights as a collective
people to own certain areas of land, that legally that would be

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1 thrown right out the window. So, it's a whole series of things
2 that we have difficulty with.

3 I think, as with other people in the world as well, that
4 our worst problems are some of our own people. That is, we spend a
5 lot of time, I think, fighting each other. It's not only across
6 Canada, it's right at home. For some reason, I guess, historically
7 we don't get along that well with the Inuit. We have only every-
8 thing to gain by working together, but for some damn reason, we
9 just can't do it. The whole idea that all we have is ourselves and
10 if we don't do something together fairly soon, then we're going to
11 lose this opportunity to define things for ourselves and to re-
12 arrange those institutions and those governments that are offensive
13 to us at this time. The government is not denying us that process;
14 it's our own people. As aboriginal people, we just can't seem to
15 get along, and the personal politics between ourselves is kind of
16 pathetic, but for people who are involved it's very real.

17 For some reason, I guess, maybe the law of conformity too,
18 as well, some of us start to get too uppity or too well-known, then
19 our own people turn against us because, you know the law of con-
20 formity, I guess, is very strong in our culture. So, the process
21 is all there. We've done our homework. We've made this declara-
22 tion a number of years ago. We followed up on it and these things
23 are happening now. But we're spending a great deal of time
24 fighting amongst ourselves too, and I think that's the difficulty
25 that I find. I think that we, in the western world, then, the
Dene, the Inuit, the Meti, have carved out the beginnings of a very
comfortable place, but it looks like the petty politics and the
racism or whatever you want to call it that exists between us is
the one thing that is threatening to deny us of it.

Those are the comments I wanted to make about where I come
from, so I would like to thank you for your time and for listening.

MR. BERGER: Thanks very much,
Steve. I think that's what is known as good news and bad news. We

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1 all hope that this is a temporary interruption of what has been a
2 most hopeful period in northern Canada. We know that folks like
3 you will, I am sure, be able to improve the situation that has now
4 stalled that progress.

5 Well, I think that this would be a good time to stop for
6 lunch and to come back and 1:30. Then let us just discuss the
7 whole subject of self-determination for Native peoples, the stan-
8 dards that ought to guide us and I'll ask Rayna to open the discus-
9 sion. Rayna insists that this be one of very much give and take,
10 and it should be a very useful way in which to end our delibera-
11 tions. So, let's make it 1:30.

12 (HEARING RECESSES)

13 (HEARING RESUMES)

14 JUDGE BERGER: Let's take our
15 seats, shall we? Since this is the last session and we just have a
16 couple of hours and we were going to chat informally, maybe Moses,
17 Gard and Muana and you would like to come up and sit at the table,
18 all of you, since this is really the last gasp. Tony Vaska is
19 here; he's participated in our roundtables before. Tony, please
20 take a seat. Doug Sanders has had to leave, so please feel free to

21 UNIDENTIFIED VOICE: (INDISCER-
22 NIBLE DUE TO DISTANCE FROM MICROPHONE)

23 MR. BERGER: Yes. Well, we'll do
24 the best we can. Well, Rayna, you wanted to start off, and I was
25 eager that you should do so, so let's just carry on.

MS. GREEN: Well, I didn't want to
start off so much as I would like to see if we can have a genuine
conversation. God, I don't want to say dialogue, that's so
overused, but a genuine conversation among the people here about
some of the issues that have come up over the last few days and
some of the issues that I'm sure have inevitably come up every time
the Commission has met, wherever they've met. I suppose some of

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1 them have come up, really in the last couple of hours.

2 I personally would like to thank Steve for the presenta-
3 tion this morning. That was enormously provocative and in that
4 presentation he raised a number of issues which I think really
5 offer us a frame for dialogue within the framework of some issues
6 that we've raised earlier. For example, the whole issue of Native
7 models for governance, for education; Native models for the
8 administration of the welfare of our people; Native models for
9 decisions about who is Native and who is not; Native models for
10 decisions about the way we run our lives, about the way we get our
11 food, the way we protect our land and so forth, and I really want
12 to thank Steve for that.

13 I'm particularly impressed by what I think is absolutely
14 revolutionary and what the Dene Nation has done in opening its
15 membership to the people who belong to the Dene Nation and not
16 accepting governmentally imposed standards of who should belong to
17 the Nation. I think that's an issue we should talk about.

18 We might talk about issues like that in a number of dif-
19 ferent contexts. For example, the whole issue which arises with
20 ANCSA about descendants' rights seems to me to be primary, and I
21 know Rosita and a number of others have raised that repeatedly.
22 Again, this is an issue that really centers around who defines us
23 and how we define our world and who controls that definition. With
24 ANCSA it is quite clear that that definition was imposed by Outside
25 as to who shall continue to have control over land and over
resources, and I think that's an issue that ought to come up.

Other issues which I think are compelling are the issues
that a number of us raised before, which have to do with the arena
of law and policy and so forth. Most particularly, I guess, the
context I'd frame it in is "so what?" So what if the law does
this, so what if the policy does that? Are there issues that
reside out of that arena? Oran raised one most provocatively this
morning, although he didn't go with his line of comment in the

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1 thought he was going to take it.

2 I'm very grateful to him for raising the issues, for
3 example, of transnational corporations, and the "so what" question
4 that I would like to pose, perhaps, for some discussion, is: if
5 the United States nor any power can no longer control transnational
6 corporations, what difference does it make what laws they make
7 about Natives if they can't even control these other institu-
8 tions? Do they offer a model for us, perhaps, either in
9 collaboration with them or in actions against them, or in actions
10 apart from them, that have any relevance to our lives?

11 I'm very grateful to Robert Goldwin for suggesting that we
12 link up with transnational terrorism. I'm quite compelled by that
13 notion, and perhaps somebody will want to explore that.

14 MR. GOLDWIN: I didn't suggest
15 that.

16 MS. GREEN: But you let that par-
17 ticular cat out of this particular bag. Well --

18 MR. BERGER: I know you are both
19 speaking in jest, so --

20 MS. GREEN: Yes, but it certainly
21 is provocative. Well, I raise some of these issues all in the
22 context of the possibility for having a discussion, not about the
23 past and the way tradition operated in the past, if the past is
24 only used as a glowing fond memory of what we think ought to be,
25 but to use the past and to use tradition and to use the projection
of Native models as a gloss, perhaps, on the future and to see if
we cannot talk about what ought to be and what needs to be by way
of what we know we are and what we can do and what we have done
without a tedious and unnecessary, I think, total reliance on what
we've been given. You know, rights given to us, laws given to us,
structures imposed on us. I don't wish to raise the possibility of
talking about Cloud Cuckoo Land. I don't think that's the kind of
thing we're raising here, but rather what might we learn from our-

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1 selves in order to teach our own children and to teach others, and
2 I say teach not just in the context of education as it's narrowly
3 understood, but in a much larger arena of governance, leadership,
4 economic growth, health care and all those arenas which do concern
5 us.

MR. BERGER: Thank you, Rayna.

Did you want to carry on, Virna, from there?

6 MS. KIRKNESS: I wish that Rayna
7 would pick one particular area. I know there's been a lot of talk
8 on the categorization of Indian people and I don't think there is
9 any as bad as there is in Canada, really, in terms of the categori-
10 zation of people, because I think the people here are all well
11 aware of the fact that the Native women in Canada, many Native
12 women in Canada are no longer classified or regarded as Native in
13 the legal sense. There has been an ongoing battle for a long time
14 to have that changed.

15 On the other hand, there are people who have no Indian
16 blood whatsoever who are legally considered Indians in our
17 country. I think that's just about the ultimate mistake in what's
18 going on. I've heard around the table that there are many other
19 categorizations of people. It makes it so difficult to talk about
20 our people in our country because we're talking about status
21 Indians, non-status Indians, Meti people. We have so many dif-
22 ferent categories, and yet, I really wonder about this issue. In
23 Canada, the issue seems to be, well, we'll change the Indian Act
24 and no longer have this apply to Native women, you know, that they
25 should lose their status. Then the question is: how far back do
we go in reinstating the Indian women. Do we go all the way
back? If we reinstate them and they marry non-Indians, then how
far do we go in terms of blood and recognizing their children, if
they're mixed bloods, as Indian people?

Then the argument goes, well, if we do all of those things
and make a decision, the Indian bands themselves say: we want to

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1 decide who will have membership in our bands. Well, I don't think,
2 personally, and I'll say that, I'm in Alaska anyway, I don't think
3 personally that Indian bands have any more right to decide who is
4 Indian than anybody else. I think either you're Indian or you're
5 not. Really, it is a problem and I would like to have some time
6 spent on that, too, just to hear some other comments.

7 MS. GREEN: I was going to say, I
8 think this particular issue gets at the heart of one of the most
9 primary issues facing Native people, and that is the right to
10 determine who they are and to say, this is who we are, and not to
11 have anyone else define that issue. The whole issue of descen-
12 dant's rights and so forth, as I say, with ANCSA is going to be
13 critical. It's that basic. We've talked about all sorts of other
14 rights, human rights to liberty, human rights to life and all the
15 others, but the issue -- the power and the liberty to define your-
16 self is first and the most fundamental way. I think this is
17 critical, absolutely critical.

18 MR. BERGER: David Case.

19 MR. CASE: Let me say a couple of
20 things to that point. With respect to what we've heard here with
21 particular regard to the Claims Act, the question came up of why
22 did the Claims Act chop Native stockholders' rights and ownership
23 off at December 8, 1971. Ignoring for a moment that stockholding
24 might not be a good idea in the first place, why limit it to people
25 born and alive on December 18, 1971? And the most telling comment
to me, and I can only reflect my own personal recollection, was Guy
Martin's comment, and Guy Martin was the assistant to Gravel or
somebody at the time, and he said that that was what the bean
counters wanted, the BIA, the bureaucracy wanted to be able to
determine who was going to get the money, who was going to be part
of the settlement.

I think that mentality and that attitude is probably at
the root of a lot of the government categorizations of Native

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1 people, an effort to limit the group of people whom the government
2 or whoever is going to be paying the benefits and whatever else and
3 whatever form that may take. So, I think your point is very well
4 taken, that the definition of who is a Native, who is an indigenous
5 person in the United States or Canada, is decided for wholly wrong
6 reasons, and that is a decision much better left to -- well, I
7 don't really think it comes to the question, maybe, of whose values
8 are being used here; I think it's a matter of the government
9 wanting to limit the category of people who are going to be the
10 beneficiaries of a treaty, if you can use the term beneficiaries,
11 or any particular program.

12 That's all I really have to say, sort of as my view of a
13 background to that.

14 MR. BERGER: Sheldon?

15 MR. KATCHATAG: Thank you, Justice
16 Berger. I think it would be appropriate at this time for me as
17 Chairman of the United Tribes of Alaska to express what I hope are
18 the feelings of Alaska's Native people, our village and tribal
19 governments, and appreciation and respect and a tremendous thanks
20 to you, Thomas Berger, and to the Review Commission, all its staff
21 and everybody that has been instrumental in this entire process.

22 In addition to this, I think it's also appropriate that on
23 behalf of our Alaska Native people and the United Tribes of Alaska,
24 that we would like to extend a formal invitation to not only the
25 Review Commission and the Inuit Circumpolar Conference and the
World Council of Indigenous People who sponsored the Commission an
opportunity to present your final report and recommendations of the
Review Commission to the second annual Congress of the United
Tribes of Alaska. This is going to be a statewide gathering of
village and tribal government delegates and leaders and it is ten-
tatively scheduled for the week of 15th of September here in
Anchorage at the Eqan Civic Center.

As I said earlier, this Commission has provided an oppor-

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1 tunity, a forum, very unique in the history of our people for them
2 to express their concerns, their views, their reservations about
3 the impact of ANCSA on our lives, on our people, on our way of
4 life. More than 1,400 Alaska Natives have testified. You have
5 held hearings all over the state and even down so far as Seattle,
6 and I had made the suggestion and I hope that the suggestion will
7 bear fruit in the final deliberations of this Review Commission
8 before it does go into recommendations and its final report, that
9 the Alaska Native Review Commission would hold at least one hearing
10 in Washington, D.C. After all, we've heard from all parties that
11 have been part of ANSCA, but this report, as far as Native people
12 are concerned, will not have the impact or effect that we desire it
13 to have if, in fact, this message is not conveyed back to Congress
14 and the federal government.

15 You have asked in the introduction to this roundtable some
16 very important questions that some of the participants have felt it
17 necessary to reword. Questions such as: by what right did the
18 white people come here and take our lands and make laws and say
19 that we must obey them? Others have said: by what right did
20 Russia sell our land to the United States? How could these great
21 powers hand our land over the counter like a toy? The Alaska
22 Native people, the people who I hope I do represent as best I can,
23 acknowledge that we cannot turn back the clock but we are entitled
24 to be treated fairly now and in the future.

25 In talking with people across the state, I have become
very aware of different feelings that come from the heart and I
think they are most accurately reflected in the paper presented by
Bishop de Roo when he quotes from the McKenzie Valley Pipeline
Commission Hearings of which Justice Berger was Commissioner. On
statements made by Chief Frank T'Selie of Fort Good Hope in 1928,

--

MR. BERGER: That was '75, I
think.

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1 MR. KATCHATAG: But the letter was
2 written in 1928 by a Catholic priest.

3 MR. BERGER: Oh, sorry.

4 MR. KATCHATAG: This is written in
5 such a way to say that we as a people do not want to fight and
6 struggle forever just to survive as a people. Your nation has the
7 power to destroy us all tomorrow if it chooses to. It has chosen
8 instead to torture us slowly, to take our children from us and
9 teach them foreign ways and tell us you are teaching them to be
10 civilized. Sometimes now we hardly know our children. You have
11 forced us into communities and tried to make us forget how to live
12 off the land so you could go ahead and take the resources that we
13 trap and hunt and fish.

14 You encourage us to drink liquor until we are half crazy
15 and fight among ourselves. What else, other than liquor, is a
16 territorial government willing to subsidize to make sure that
17 prices are the same throughout the Northwest Territories? Has it
18 subsidized fresh food or clothing or even pop in the same way? No,
19 only liquor. The government knows very well that liquor helps keep
20 my people asleep, helps keep them from realizing what is really
21 happening to them and why.

22 Personally, I have tried at the local level to do some-
23 thing about alcohol and alcohol abuse and from personal experience
24 of seventeen years of trying to cope with alcohol, it dawned on me
25 that you cannot preach to people with an alcohol problem, you have
to show them by example the differences of what you can accomplish
with alcohol and without, and I would like to point out that since
I personally sobered up on the 12th of October, 1982, that I have
managed to put myself in the position where I can, at least,
reflect my personal views on ANCSA, on the Native situation, and
why I believe that alcoholism is not just a disease but a symptom
of a greater problem, and that problem has to do with the greater
fabric of our Alaska Native people.

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1 I would also like to commend you, Honorable Thomas Berger,
2 because you have engaged in an undertaking, a great challenge, one
3 that faces all good people and their communities, assuring that the
4 purpose and process of democratic participation is achieved, that
5 the access and opportunity for the broadest information and educa-
6 tion is maintained. Alaska Native people in the United Tribes of
7 Alaska await with great anticipation the final report of your
8 Commission. We hope the report truly re-affirms the dignity of our
9 tribal people and tribal people all over the world and our right to
self government and autonomy, and most importantly, that the
recommendations will provide avenues for positive, constructive and
mutually acceptable resolutions to these differences. Thank you.

10 MR. BERGER: Thank you, Mr.
11 Katchatag. Thank you very much. Tony Vaska.

12 MR. VASKA Thank you,
13 Commissioner Berger. It seems to me that the exercise that we've
14 been going through and let me call it an exercise for the moment,
15 that we see the task of the Commission is answerable to an entity
16 called the Inuit Circumpolar Conference. The discussions we've
17 heard thus far over the last two years, at least the ones that I've
18 heard, have dealt with a great variety of subject matters in terms
19 of how western national states deal with either their indigenous
20 populations or their minority groups.

21 I don't know that we can point to a definition of what the
22 United States identifies as a Native American. Obviously, if you
23 look at the different tribes across the country, the United States
24 has dealt with them separately and differently so that, in effect,
25 I think what you have is a hodgepodge of public policy towards
Native Americans.

I've said this before and I'll say it again, the attempts
by the United States Congress in Alaska are vastly different than
the attempts by the U.S. Congress in, say, Oklahoma or, for that
matter, South Dakota. Without the legitimacy that is needed to

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1 effect change by the U.S. Congress, through whatever means, I think
2 the exercise we're going through will be slow in coming about.

3 We heard about the major changes in the world arena con-
4 cerning how different nation-states are dealing with their
5 indigenous populations or with their different ethnic groups. From
6 my perspective, I say that's fine, but who is going to afford a
7 legitimacy to the needs or the wants of those indigenous groups or
8 ethnic groups? It seems to me that without the consent of that
9 nation-state, whichever one it is, whether it's Canada or the
10 United States, without a public policy consent to agree to major
11 public policy changes, we've simply gone through an exercise that
12 the major nation-state will not recognize.

13 Senator Ted Stevens, for instance, is not going to come to
14 the Inuit Circumpolar Conference to say, well, I want to know what
15 it is that you guys are going to suggest to us so that I can enact
16 new legislation, move into a treaty with Canada so that we have
17 consistent policy recommendations and policy actions for the Inuit
18 and other Native populations in North America. He's simply not
19 going to say that. The way the system presently works, he calls up
20 governing Native peoples.

21 So, what we have in the last fourteen years, and forgive
22 me if I sound pessimistic; I don't mean to be. I'm meaning to
23 point out what I see as facts and movements within the Native com-
24 munity and the State. It seems to me that the State of Alaska, the
25 sovereign State of Alaska and the sovereign United States of
America, when they want input for changes they go find AFN and they
go find AFN's lawyer or slew of lawyers, and say: "We are about to
enact some changes that will have major impacts on you; what do you
suggest we do to do that?" They don't come to Elim or Unalakleet
and say: "Sheldon Katchatag, please, we're going to make some
major changes in how the United States deals with tribal governing
bodies, whatever they are." That simply doesn't happen. I think
that it's unfortunate that that doesn't happen, and many in a

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1 public position to enact those kinds of changes at least try to ask
2 for a public forum whereby the United States in its different
3 agencies is forced to listen to the citizens' views of what changes
4 should be made.

5 It happens at all different levels, and obviously there
6 are a lot of different issues you can point to where it does
7 happen. The arena that I work in deals mostly with natural
8 resources, so I'm most familiar with that and I will try to use
9 that as an example, but probably a more serious example that we
10 have to face, and I'm not quite sure who the "we" is, it's a
11 universal "we" that doesn't include anyone except myself, is, for
12 instance, making a decision of membership in a tribal group.

13 For all the legitimacy that's given to the United Tribes
14 of Alaska, for instance, I've never had a vote to elect a tribal
15 member to attend the United Tribes of Alaska meeting. I come from
16 a community of 4,500 people. Approximately fifty percent of the
17 population is a mixture of Alaska Natives. The town of Bethel, I
18 believe, sends a representative to United Tribes, I'm not sure, but
19 we've never had elections. We've never determined who constitutes
20 that tribal entity. If you look at the public policy directives by
21 the United States government, it varies from one Indian group, from
22 one tribal group, and sometimes in the same vicinity of people who
23 consider themselves to be of the same tribe, there are differences
24 with how the United States government deals with that.

25 The problems that Canada faces are vastly different as we
heard this morning and now this afternoon about tribal member-
ship. Those kinds of questions are not being dealt with, for
instance, by the recognized Native leaders in this state. AFN is
not going to come out on the issue and say: "Well, this is how all
the Alaska Natives feel about tribal membership and this is how
they're going to define it." By the very fact that somebody back
in 1971 agreed to a corporate system for determining membership in
some organizations, the corporations, they cut it off there and I'm

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1 with it."

2 I'm starting to ramble.

3 MR. BERGER: Well, Tony, thanks
4 for those thoughtful remarks. Maybe I could just make a few obser-
5 vations of my own in light of what Sheldon and Tony have said.
6 This Commission is unique in that it isn't sponsored, and
7 everywhere I've gone in the State, every village and every town, I
8 have made it clear that I do not represent the government of the
9 United States or the State of Alaska, that this is an undertaking
10 sponsored by two international Native peoples' organizations, and I
11 may say that at the outset I was skeptical of this whole under-
12 taking, but I found as I proceeded around the State that I was well
13 received and people accepted, I think, that this was a worthwhile
14 venture. I think they understood the limitations. They knew I
15 wasn't there as the designate of the State or the federal govern-
16 ment.

17 I think that we're charting some new territory and I don't
18 think anybody can foresee the impact that this Commission's recom-
19 mendations will have. They may have no impact; they may have very
20 little impact; they may have considerable impact. I may say that
21 I'll look forward with great interest to see what the outcome may
22 be.

23 We tried all along to work closely with all of the Native
24 organizations in Alaska, and, indeed, we have invited to these
25 roundtables, and in fact, we've had a standing invitation to both
the AFN and the UTA, and I should say that the AFN has usually sent
somebody who has participated. Charlie Johnson, the president of
AFN has been to two roundtables and participated fully in them. I
should also say that I think that in every region I've been to,
officers of the regional corporations have testified at the
hearings. I think there are maybe one or two exceptions.

We've sought in every village we've been to to have the
corporation, the local village corporation and the tribal

1 government, and we've had it, I think, in every case where the
2 village corporation is functioning, where the tribal government is
3 functioning. Some places, both are not functioning; some places
4 neither, and then we've turned to the city government. It's quite
5 a varied picture.

6 But some people have asked in the villages what you've
7 asked, and it may be appropriate if I just say what I've said to
8 them. They've said: "Well, why are we here?" Very few have said
9 it, but occasionally, they've said it. "Why are you here?" And I
10 said, "Well, I was asked to come." It may not have been an invita-
11 tion that was unanimously offered, but it seemed to me appropriate
12 to accept. But I said: "My job is to go around the State and hear
13 what people in the villages and the towns have to say. How did
14 this Land Claims Settlement work out?" And I've said to them:
15 "I'm here to find out how you feel about it; how did it work out
16 here in the village, on the ground, and what are the problems as
17 you see them, and where do we go from here?" And I've said that my
18 report will reflect what those people in the villages told me and
19 insofar as it lies within my capacity, or in anyone's, I suppose, I
20 will try to frame recommendations that meet the concerns that they
21 have.

22 I have said that the report will be released in September
23 and I will send it to every village corporation and every tribal
24 government and all the other organizations in the State, and I've
25 said as well that I'll send it to everybody who testified and then
it's up to them. That's my job, and then it's up to Alaska
Natives, in one fashion or another, to decide what they make of it
and how useful it may be to them in planning for the future.

I think that the issues that Alaska Natives are facing
here are very tough. I don't think anybody who has examined them
is under any illusion about that. I hope that my report and recom-
mendations will make a constructive contribution to resolving what
is unprecedented in any jurisdiction and which I think that

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1 everyone believes has to be addressed. That's my job and I guess
2 it's appropriate that I should have, at this last meeting, said
3 something about what I conceive my role to be.

4 It is, as far as I know, not the type of commission that
5 has ever been undertaken before and may never be again. Not by me,
6 at any rate, but it is conceivable that the precedent may have
7 value one way or the other. It may be something that folks will
8 decide in the future that they don't ever want to see again, and on
9 the other hand, it is conceivable that folks may say, well, let's
10 try that. But all of that lies in the future and I'll maintain my
11 subscription after I leave Alaska to Tundra Times and Alaska Native
12 News, not to mention the Daily News and the Times. We shall await
13 the outcome, but foretelling the future is a difficult thing to
14 do.

15 MR. KAKFWI: I missed the one
16 plane already today, so I want to go the airport a little early. I
17 just want to say goodbye to everybody here. Thank you again for
18 inviting us to the Roundtable discussion.

19 One of the things that I forgot to mention this morning is
20 that in the Northwest Territories we have an agreement to begin a
21 process to rename all the landmarks in our traditional area. So,
22 we have all the Scottish/English names. Some of them will be
23 changed to Dene names. We hope to carry it on into public
24 buildings as well, in that it's all part of the process of
25 decolonizing, I guess, and redefining the world.

As you know, Mr. Berger conducted an inquiry into the
Arctic Gas Pipeline, or a couple of proposed pipelines in the
McKenzie Valley a number of years ago, so as a joke I might suggest
calling one of the lakes over there Berger Lake.

(LAUGHTER)

MR. BERGER: That's not that
funny.

MR. KAKFWI: Anyway, thank you

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1 very much and I wish you all a safe trip home if you're traveling.

MR. BERGER: Thank you, Steve.

2 Thank you for coming.

3 MS. MILLER: First of all, thank
4 you for inviting me to sit in today, Judge Berger. I'd like to
5 react and try to encourage some dialogue on what I listened to this
6 morning. It's extremely frustrating to try to think like a white
7 person. I got a very bad headache this morning from trying to
8 follow the comments that were made and finally, I rested back a
9 little bit and didn't try after all.

10 Anyhow, I want to respond on some points to Mr. Shue's
11 very noble effort to conceptualize the Native status and aspira-
12 tions into the dominant western way of thinking. May I say, with
13 all due respect, that that is not possible. You can try to make
14 some approximations, but ultimately those approximations themselves
15 will still be lacking. The reason is that our relationship with
16 the environment comes from our hearts. Our entire frame of
17 reference is different.

18 It is difficult even for us to verbalize our relationship
19 to the land and resources. It's not an everyday topic of conver-
20 sation. Therefore, an effort to compartmentalize, package,
21 categorize indigenous groups to your understanding is at best
22 inadequate.

23 I would like to offer a bit of advice that may have some
24 settling effect on all this. I think in really simple terms, but
25 maybe what I'm saying isn't simple after all. It seems to me that
to respect the fact that there is a difference in understanding is
quite simple. It is in my mind, anyway. For example, while
western economic thought is embedded, entrenched, in the doctrine
of the alienability of land, in your own backyard there is an
exception because the doctrine of inalienability of land is even
deeper entrenched in the much older tribal institutions than is
your doctrine of alienability of land in western thought. I got

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1 that out, that's the main thing that's been bothering me.

2 Therefore, even as our allies and advocates of Native
3 rights, you to need to stretch your minds to the point of realizing
4 that there are some differences in philosophy and thinking that you
5 will have difficulty understanding because most of it emanates from
6 the heart and, in fact, cannot be translated into western con-
7 cepts. Just respect that and form your support on that basis and
8 try to communicate this respect to the rest of society that you
9 deal with and that we will always have to be dealing with.

10 Where do we go from here, and using what instruments?
11 With respect to Alaskan Natives and our place in the western world,
12 we cannot ignore our political identity that separates us from
13 ethnic minorities in this country. Notice I did not say other
14 ethnic minorities, because we are not ethnic minorities. In fact,
15 we must articulate very clearly to ourselves and to everyone else
16 that we are not ethnic minorities; we do have have a political
17 identity and we must keep this in mind as we decide what our place
18 is in the western world.

19 MR. BERGER: Thank you, Mary.
20 Robert Goldwin?

21 MR. GOLDWIN: Well, when I thought
22 you might call on me twenty minutes ago, I was prepared to say that
23 you should skip me for awhile because I didn't want to change the
24 subject of many important things that were being said. But now the
25 timing is perfect because what I have to say is an exact counter-
part to what has just been said. So, I'll read what I've been
scribbling out over the last few hours.

First of all, may I make a modest suggestion that the
title of the conference might be the place of Native peoples in the
world rather than in the western world because from what I'm about
to say and what I think Oran Young said in anticipating what I had
been writing, the world is becoming something that might not be
called western anymore and that anybody's place in the world has to

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1 be looked at in possibly a new way.

2 We started the conference with a text. All mankind is one
3 was the principle first enunciated by Lewis Hanke and I think that
4 it's clear that all decent men and women of every culture subscribe
5 to that principle. What is means is that we're all equal, and not
6 only in our rights but in dignity and that we're all made in the
7 image of God.

8 We know that there are many inequalities among mankind.
9 Individuals differ in strength and intelligence and industrious-
10 ness, but that does not alter the equality of all human beings as
11 equally human. We are truly brothers and sisters of one human
12 family, but when we reflect further, it's also true to say that all
13 mankind is divided into thousands and thousands of smaller
14 groupings based on differences of language, religion, race, history
15 and way of life. The bonds that unite these smaller different
16 groupings are very strong. These bonds seem to give meaning and
17 shape to our lives and our understanding of ourselves, who we are,
18 and in fact, these bonds are much stronger in most cases than the
19 bonds which unite all mankind and make us say that all mankind is
20 one.

21 It is just as true to say that all mankind is many. Now,
22 this duality is evident everywhere, for instance, in the
23 Declaration of Independence, whose central affirmation is the
24 universal principle that all men are created equal, but it starts
25 out by saying that this is a time when it becomes necessary for one
people to dissolve the political bonds that have connected them
with another. In other words, although it is stating a universal
principle about all men being equal, it states it on behalf of one
people separating themselves from another people.

Now, in recent decades the hope has been encouraged that
mankind would become more unified, that religious and racial dif-
ferences would be reduced, that the boundaries that separate men
would be diminished in importance and that we would make political

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1 progress toward becoming one world. At the same time, the economy
2 has become increasingly a world economy, and these are things that
3 Oran Young pointed out so well before lunch. This world economy
4 has been growing in size and importance and growing in independence
5 from political control, leaping over national boundaries and
6 tending to standardize and even homogenize the merchandise of world
7 markets. You can travel all around the world now and you see the
8 same goods in identical stores, no matter what city you're in, on
9 whatever continent.

10 In addition, of course, we have high technology which
11 through computers and communications and transportation again are
12 overleaping the national boundaries and, to a large extent,
13 reducing if not eliminating their significance.

14 These globalizing tendencies have produced a strong and
15 startling counter-reaction. The incredible material benefits of
16 commerce and technology are not distributed very evenly and neither
17 are the disadvantages. A significant number suffer disadvantages
18 that far outweigh the benefits. Chief among these disadvantages is
19 a certain emptiness characterized by shallow television programs
20 and alcoholism and drug use, which is worldwide. That emptiness
21 that we all associate with modernity and that now, in this
22 conference, we can associate with the dual truths that all mankind
23 is one and that all mankind is many.

24 The movement is strong all over the world away from the
25 larger entities and back to these smaller groupings based on
religion, language and way of life. It seems to me to be a
powerful factor of human nature that individuals have a strong need
to be part of a community and that the world community, or national
community, or anything like it does not satisfy the need for most
people; the need to be closely associated with people of the same
kind, however that's defined.

In fact, the meaningful communities seem to be grouped now
on different bases and to have the characteristic of being

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1 exclusive. The story that was told about the two Sikh men on the
2 train, I think well illustrates the two sides, the duality that I'm
3 talking about. Here are bonds of community so strong, so vital, so
4 essential to that man's life, so precious to him, that he would not
5 cut his hair even though he knew the danger that he faced. But
6 that story also tells us that because of hatred between Sikhs and
7 other groups, they are moved even to murder each other. In this
8 case, we have to emphasize the fact that the killers were Hindu,
9 that is, the people of nonviolence.

10 I think the problem we have to face as we talk about the
11 importance of community, that community has the effect also of
12 dividing people into very hostile groups as well as providing that
13 meaning to life that we all derive from community with people of a
14 like way of life.

15 Sheldon gave an analogy yesterday of the relations of
16 different kinds of peoples to marriage, and he said there were
17 elements of a good marriage, which he called the four C's: commit-
18 ment, consideration, communication and cooperation. Now, I checked
19 with Sheldon and he isn't married. I've been married for forty
20 years and I thought I saw a certain defect in what he was saying,
21 but I didn't want to rely on my experience alone. So, before he
22 left this morning, I checked with Lewis Hanke, who has been married
23 for 59 years and he agreed with me. Of course, what Sheldon left
24 out was love. You can't have a good marriage without love even if
25 you pledge yourself and practice as hard as you can commitment,
consideration, communication and cooperation. You can be friends,
you can be partners, you can be associates, but you can't be
married.

So, it seems to me that it's not a good analogy. The
trouble is that hatred is more common between strongly loyal
communities than love and it's not just the difficulties of
aboriginal people in their relations with each other or with other
societies. It's a universal human condition. What joins us to

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1 others separates us from others.

2 We live in a time, I think it's fair to say, of worldwide
3 disarray. There's been a severe weakening of the national poli-
4 tical powers; it's a time of disconcertingly rapid change and
5 peoples of every kind are struggling for survival as a separate and
6 distinct people all over the world, not just the aboriginal
7 peoples. Oran Young said, in describing the same phenomenon, that
8 it's a good era and what he means is that there are opportunities
9 for significant beneficial change, but of course, it remains to be
10 seen how good it will be.

11 We don't know if the changes will be changes for the
12 better, but many peoples, including Native peoples but not only
13 Native peoples, very many, numbering in the hundreds of millions,
14 do not have control as a people over their own lives. One can make
15 a long list of them. I tried to pick ones that one wouldn't think
16 of ordinarily. The Germans are not unified and longing for unifi-
17 cation. The Basques in Spain, the Tamils in Sri Lanka, the Welsh
18 in the United Kingdom, the Formosans on Taipei, and one could
19 extend that list indefinitely. They all think of themselves as
20 separate and distinct peoples. They differ markedly in their way
21 of life, their language, their religion, race, from those in whose
22 midst they live, and they can honestly say they do not have control
23 over their lives as a separate and distinct people.

24 Now, we have spoken of the dominant culture over and over
25 again, and of course, I'm in a strange situation here. It's ironic
that I should end up as the spokesman of the dominant culture
because, as I think I'm the only Jew in the house, I am of a tiny
minority element but a separate and distinct people who have long
experience in living in the midst of aliens in our land and the
champion survivors although we don't do too well. At any rate, it
falls to me to say some things about dominant culture.

The dominant culture is as hard to understand as the
aboriginal culture and I think that it's wrong to say don't make

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1 any claims to be able to describe it. How in the world can anyone
2 say anything effective that will bring about constructive change if
3 all you can say is: "You know, those people have a special
4 relationship with the land. I can't explain it to you; they can't
5 explain it to you, but take it seriously." I don't think that's
6 going to be very effective. But don't think that the dominant
7 culture is an easy one to describe. It also is not just one but
8 many, in fact, a multiplicity of cultures with a very long history
9 and a very complicated literature that goes back thousands of years
10 and which involves a very great variety of controversies. It is a
11 long, very difficult task to understand the western culture, and I
12 think we distort the problem very seriously and end up with a bad
13 diagnosis to think that we can describe the dominant culture very
14 easily but it's the aboriginal culture that's difficult to explain.

15 The dominant culture is not one thing and it is just as
16 complicated as aboriginal culture to explain and define. There are
17 varieties of western thought, and consistent with my suggestion
18 that we have to think of world now rather than western world, the
19 dominant culture includes now many non-western influences.

20 Bishop de Roo spoke of recommending that for liberating
21 purposes we look at the dominant culture from its underside and all
22 I could think of was getting to the movies too late when there is a
23 very popular movie being shown and ending up on the leftmost seat
24 in the first row. Now, that's looking at a movie from the under-
25 side and what do you get? You see the same movie that everybody is
seeing, but it's all distorted. The people look ten feet tall and
very ugly and I think that's what happens if you look at the
dominant culture from the underside. Ten feet tall and very
ugly. It's better to look at things straight on and see it without
distortion; six feet and not distorted.

Now, the question was raised repeatedly by Sheldon: why
are Christians not Christian in their behavior? As a non-
Christian, I can't answer the question with any confidence, but I

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1 do know this: modernity means questioning. One of the partici-
2 pants told me last night, and I won't say who it is, we were
3 talking about how we grew up and he told me how he questioned
4 himself right out of the church he belonged to. He asked questions
5 that they couldn't answer and finally they excommunicated him.
6 That's how it is with the Christian world and with any credo and
7 especially with a tradition.

8 It's not congenial to persist in questioning, and that's
9 why modernity now has put all religions and all traditions very
10 much on shaky ground. They're not especially compatible, except
11 for Jews. The word Israel literally means wrestling with God and
12 Jews are questioners by tradition and by training and, as someone
13 has argued, in their genes. I'm not sure about that, but it is so
14 that even with the Orthodox Jews too much questioning is not
15 congenial and I think that that gives a clue to why modern
16 Christians don't seem Christian in their behavior, in the context
17 in which you were asking about it, Sheldon.

18 I had another criticism of Bishop de Roo's paper, and that
19 is he gives too much credit for power to the techno-industrial
20 influence on Christianity. He dated the bad things from about 400
21 years ago with the enlightenment and the rise of tehno-industrial
22 influence. It seems to me examples of invasion, oppression,
23 suppression, murder, and colonization abound in the Old Testament,
24 in ancient Greek history and Roman History, and that was before
25 both Christianity and the techno-industrial influence. Then, under
26 Christianity but before the techno-industrial influence, we had the
27 Crusades, we had the Inquisition.

28 My point is that we ought to look elsewhere for the
29 explanation of the past injustices and the present plight. If
30 we're seeking a cure, the diagnosis has to be right and if we put
31 the finger of blame on the wrong thing and then try to correct
32 that, we may expend a lot of energy and wind up still with the
33 problem. The causes of injustice are deeply rooted in human nature

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1 and not a recent phenomenon.

2 Well, I conclude. I think the roots of the problem that I
3 think we are wrestling with are two-fold. First, we must hang on
4 to the principle that mankind is one, a respect for the equal
5 humanity of all men of whatever culture or way of life, and we must
6 hold on to mankind is many, a sustained effort to understand the
7 other ways of life and to explain our own to others and not be
8 daunted by the obstacles of the natural hostility and the natural
9 misunderstanding that are inherent in the problem. If we're going
10 to get rid of injustice, we have to engage in a constant search for
11 the real sources of injustice.

12 MR. BERGER: Thanks very much,
13 Robert. Oran Young?

14 MR. YOUNG: First, two very brief
15 comments on what others have said. On the notion that it's a good
16 era, what I meant to say by it's a good era, and I think that
17 Robert would probably agree with this, is that it's good because
18 it's an era of opportunity and it's an era in which we are
19 experiencing and will experience fairly dramatic kinds of changes
20 rather than just marginal, incremental kinds of changes. Surely we
21 don't know that those will be changes for the better, but unless
22 one believes in a certain sort of determinism, and for that matter,
23 an unfortunate or negative determinism, it's a period in which
24 there are, at least, opportunities for energetic, thoughtful people
25 to consider bringing about serious changes. I think that's, to me,
an optimistic statement.

Next, Mary made a comment about the entrenchment of the
notion of inalienability with respect to land and indigenous
cultures. I think I and perhaps several others had earlier on this
morning made a comment about the entrenchment of alienability with
respect to goods such as land and particularly much of western
economic thinking. My sense is that both of these things are true
and that the operative term in this context is entrenchment. We

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1 are, in other words, dealing with deep seated, very entrenched
2 intellectual or cognitive phenomena and I think that that rein-
3 forces the question or the concern raised several times, certainly
4 several days ago by Rosita, in saying are we really dealing here
5 with a very fundamental clash of values or world views so funda-
6 mental that it's not always a matter of necessarily always
7 conscious opposition or antaqaonism, but simply inability to
8 intersect or communicate because of the entrenched quality of quite
9 different perspectives on things.

10 Well, so much for those general points. I guess the other
11 comment, or the other issue I wanted to raise at this point is to
12 wonder whether we might come around in this final session for at
13 least a few minutes to the whole question of education, which I
14 think Tom has introduced a couple of times in making comments. I
15 also have noticed on our handout sheet, our marching orders that
16 were distributed yesterday, a question to the effect of: how can
17 education be used as a means to better promote indigenous rights,
18 and I think that's a very intriguing and important question parti-
19 cularly because, as I'm sure we all know, in many circumstances, in
20 many periods of time, education has really been part of the problem
21 rather than part of the solution.

22 A focus on education of a certain type might very well be
23 regarded as the central element of something you might call liberal
24 colonialism. I mean, not just good old conservative, reactionary
25 colonialism of the power-oriented sense, but the liberal self-
congratulatory sort of colonialism in which education has various
kinds of assimilative loss of language, confusion of values kinds
of effects. So, it seems to me that the thing that I'm really
interested in is: how can one turn education around to do exactly
what the question on the sheet suggested? I don't really know the
answers to that.

One particular, concrete instance that I have been
somewhat impressed by that might be worth giving a little thought

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1 to is the example of the Katavik School Board, an organization
2 which many of you are probably quite familiar with. It's an entity
3 that grew out of the James Bay settlement and is a regional school
4 board for northern Quebec and it has initiated a very extensive and
5 very active program to transform, to have a really major impact on
6 education in the Inuit communities of northern Quebec, focusing on
7 the revival and strengthening of language, but much more than that,
8 the preparation of educational materials, textbooks and other sorts
9 of educational materials which would be based on Inuit materials,
10 so that when kids get their textbooks to learn about a whole
11 variety of basic subjects, they do so with the images and concepts
12 and examples of their own setting and circumstances, so that the
13 sort of socialization process is sort of redirected in a way that's
14 much more appropriate.

15 That has struck me as a very interesting project. It is
16 one that has been carried out in very large measure by Inuit people
17 themselves with some cooperation with other people. I wonder
18 whether anybody had any further comments about this, how can educa-
19 tion be used as a means to better promote indigenous rights, parti-
20 cularly in the Alaskan context, and whether there is anything in
21 the settlement that somehow serves as an obstacle to educational
22 development or whether anyone has other responses to this question
23 which strikes me as really very fundamental.

24 MR. BERGER: Rosita?

25 MS. WORL: I have a number of
different points and I guess we're not going to get into our
dialogue or communication, but I'd like to respond to Oran's last
statement before I outline at least my general perception of what I
see happening. I've been struggling, myself, with how are Native
people going to achieve the cultural maintenance and autonomy that
I think I hear them expressing as a desired objective, and I guess
I've been really excited about this kind of a discussion. Right
now, I'm again at a state of hopelessness because the problems are

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1 so many, so immense, so complex, and all of us are so busy doing
2 all that we can.

3 At this particular point in time, Native people are faced
4 with another decision. If, and it will probably be not if, when
5 the ANCSA amendments as proposed by AFN are adopted in Congress and
6 being the political realist that I am, at this particular point in
7 time, it looks like those eight resolutions are the resolutions
8 that are going to go forward. Native people are going to be asked
9 to vote on their destiny. They're going to be asked whether they
10 want to be tribal people or whether they want to be corporate
11 people. So, it seems that we have already achieved some of the
12 objectives of ANCSA as articulated by such people as Guy Martin and
13 others who were involved in the enactment or in Congress, that
14 there was an objective for at least economic assimilation if we are
15 at the point where we are going to have to vote on it now.

16 It also seems that we have progressed to a point, I don't
17 know if it's progress or not, but we are now openly talking about
18 conflicts and differences of opinion in the Native community
19 because in 1971 we were at least in a unified position of going for
20 a land claims settlement. Now we are talking about corporate
21 Natives versus traditional Natives, or tribal people, indigenous
22 people and tribal governments.

23 Anyway, we are going to be at the point where we have to
24 educate again Native people about exactly the effects of the things
25 that you are going to be voting on. If you are going to be voting
on accepting new Natives, what are the implications for the
survival of the tribe if you do not vote to amend the law to allow
for new Natives? Clearly, we already see that we have differences
of opinion in the Native community even though at an emotional
level people are saying we want to take care of the new Natives,
But when you look at the surveys, and granted that the surveys are
not universal but maybe only taking in 20 percent of a population,
we still see a significant number of people saying no, we don't

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1 want new Natives because it's going to decrease the kinds of money
or stock that I have.

2 So, we are at a point now where we have to start educating
3 Native people about what they have to do to survive just with this
4 corporate ANCSA entity and let alone talk about what are the things
5 that we need to define, to identify, to define ourselves as Native
6 people, the kinds of things that Rayna was talking about. But now
7 we also have to educate non-Native people about what it is that we
8 want, and I just want to share this with you. I have the responsi-
9 bility at this particular point in time to be evaluating the
10 proposed curriculum for the State of Alaska, curriculum guide. I
was supposed to evaluate it for cultural sensitivity and sensiti-
vity to Native people.

11 I have engaged different Native people around the State to
12 evaluate the different curriculum subjects. As we had anticipated,
13 the one area of most difficulty was going to be social science,
14 even though I have to say that even in areas as basic as science,
15 computers and mathematics, we still have problems with cultural
16 sensitivity, but social science turns out to be really the greatest
17 problem of them all. It starts off, identify the major obstacle
18 for the American westward expansion and, of course, Native people,
19 Indian people. So, I mean, the tasks of education are multiple but
20 I'm not even too sure if that is the sole answer or the answer.

21 TAPE 14, SIDE A

22 Now, I'd like to just summarize what I have heard Native
23 people saying, or what we've been discussing here in this
24 Roundtable and in previous Roundtables, and that is the question
25 that we are all grappling with. That is: how are indigenous
people going to survive culturally? Now we are hearing: how are
we going to survive with some measure of political autonomy?
Clearly, indigenous people are expressing this all over the world
if we can accept what we have heard from the various participants
at this meeting and previous meetings.

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1 Well, it seems that if this is going to be a reality or
2 something that we're going to move toward, then some of the things
3 we're going to have to do are look at the laws that currently
4 affect indigenous people. It seems that we're going to have to be
5 altering many of those laws if, in fact, Native people are going to
6 be allowed to perpetuate their societies, which, in most instances,
7 translates to land. How are we going to protect Native peoples'
8 land? Okay, how are Native people going to do that? How are they
9 going to amend laws? How are they going to effect changes?
10 Clearly they lack the numbers and they lack the economic powers to
11 change laws. We don't have the pipeline today to act as leverage
12 in amending ANCSA.

13 So, it seems that we must begin to develop strategies;
14 strategies to utilize other means and means to persuade non-Native
15 people to support the claims that Sheldon has talked about, the
16 right to cultural survival, the right to political autonomy. So,
17 where are we again? We're back to ideologies, ethics, and
18 morality. We're back to Las Casas debates. Maybe we've made some
19 progress; I don't know, but those are, I guess, the tasks, some of
20 the issues, and again, I'm still left with questions.

21 MR. BERGER: I think in nature of
22 things, we're bound to be left with questions. Might I just sug-
23 gest that we proceed in the following way: Disa, you wanted to say
24 something, and I said earlier that I would arrange that, and maybe
25 you could go next. David, you wanted to say something.

UNIDENTIFIED VOICE: (INDISCER-
NIBLE DUE TO DISTANCE FROM MIKE)

MR. BERGER: All right. David and
then Disa and then Paul Goldwin, you wanted to say a few words.
Then I'd like to come to Gard and Muana, if that's all right, and
Virna. Well, we've still got a little bit of time. If you don't
mind, let's just stop for five minutes for a cup of coffee. Do you
mind that?

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(HEARING RECESSES)

(HEARING RESUMES)

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MR. BERGER: David, you start off then.

MR. CASE: Oran had a question as to whether the Claims Act had done anything specific about education and my first reaction to that was no, but after Rosita got done, I realized that the answer was yes. One of the earlier versions of the Claims Act, the bill that passed in 1970, in fact, passed the Senate, would have terminated BIA educational programs in Alaska within five years, and that particular feature of termination was eliminated from the final bill that passed in favor of a provision to study programs that were provided to Native Americans and to do something about them implicitly in the future. I'll get back to that point as to what's happened about those programs in a bit.

But the Claims Act itself didn't do anything about education except, of course, mandate an institution which people would become either formally or informally, and I think it's been the the latter, educated about and that's the corporation. I think it's worth reflecting on the kind of values that are probably educated into Native shareholders by the fact that for the last fourteen years they have participated in a corporation which focuses on the assets of the corporation and the stock in the corporation as an individual asset, and I think that has been a terrifically significant process of education, probably, and probably not for the best in some views.

Second, as to the effect of the Claims Act or events subsequent to it have had on education, and I think this really reflects something that is a problem in Alaska and an anomaly or incongruity, that originally the Alaska State education system was highly centralized. Indeed, the whole State structure of administration and it is bizarre to me that in a state this size and this

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1 diverse, that it has one of the most centralized forms of executive
2 government in the country. That's conscious in the Alaska
3 Constitution and so much so that the Alaska Education Department in
4 rural Alaska was controlled from one Anchorage office for years.
5 Finally, that was decentralized into a series of rural education
6 attendance areas.

7 There's a lot of dissatisfaction with that. What has been
8 significant to me is that the BIA schools in the late '70s were
9 also transformed and it became possible for the local communities
10 to contract for the administration of the BIA Indian School, and
11 what you found for a few brief years was that Native communities
12 for the first time were really making their own curriculum
13 decisions and hiring and firing decisions, and I think that was
14 very significant. Now, of course, the product of the study, or
15 maybe it's just the federal cutback, has resulted in the closing of
16 the BIA schools. The last contract schools are supposedly, and no
17 one ever knows how this will turn out, but are supposedly to be
18 closed effective, I think, this year, at the end of this academic
19 school year.

20 So, you have a system of education that seems to me to be
21 partially decentralized, but I think it's fair to say that there is
22 some dissatisfaction with the amount of control that people have in
23 the villages over the local schools. That, I think translates into
24 questions of what can local people do in the villages to affect the
25 curriculum and what their children are taught, because it might be
better if the curriculum is controlled from Bethel or Barrow than
if it were controlled from Juneau. But Rosita, I think, indicated
from the fact that there is a central state-wide curriculum, that
there are even problems with that and that decentralization even
further might be one avenue to pursue.

MR. BERGER: I think, just so we
can maintain the discussion in an orderly way, Paul Goldwin, who
has been on previous roundtables when he was holding the position

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1 that Vernita Zilyes has now, and Paul is now with the State
2 Department of Education. Paul, please carry on with this
3 discussion if you will.

4 MR. GOLDWIN I --

5 MR. BERGER: What is your new
6 post? Forgive me.

7 MR. GOLDWIN: My new post, techni-
8 cally, is as Special Assistant to the Commissioner of Education,
9 but I am the Coordinator for Rural and Native Education for the
10 State of Alaska. What that means is that I'm kind of a politician,
11 essentially. I get to work on some of the political issues that
12 plague the State, and in particular, relative to this business of
13 the BIA schools and also the 638 contract schools being closed.
14 That's true, on June 30th of this year, that will be the end of BIA
15 education activities in the State of Alaska. All schools in the
16 State will then be in the REAA's, the Rural Education Attendance
17 Areas, and there are five remaining communities that have 638 con-
18 tract schools, five communities that have BIA operated schools.

19 The difference here is that the 638 schools are, in the
20 best sense of the word, under local control. They are totally
21 controlled by that individual community with really no outside
22 influence. That ability to do that was as a result of the Indian
23 Self-Determination and Education Assistance Act that allowed a
24 local community to contract for services that the BIA would
25 normally provide. Anyway, the budget problems in the United States
has forced the closure of those things, those schools, or that kind
of activity and so as a result, these communities, particularly the
638 communities, are having trouble coming into the REAA system.

Now the REAA system was designed originally provide for
local control. The State at one time did have a very centralized
operation. The REAA legislation tried to accommodate the concept
of local control so that you would have districts that didn't have

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1 too many villages in it and then that district, presumably, would
2 be culturally cohesive and so forth so that the district board then
3 could actually put in place curriculum and so forth that was
4 meaningful for that area and for that community.

5 The problem that I'm currently working on is, again, this
6 business of transferring the 638 schools into the State REAA
7 system. That a lot of times is not very much fun because there
8 really is a loss of local control in this case. A community has
9 essentially absolute control over what goes on in their schools one
10 day, and the next day they won't. Rather a board that sits in
11 Bethel will be determining the education of the children on July
12 1st. That is very much a difficulty for those communities and I am
13 trying to work with the communities --

14 MR. BERGER: Is that board in
15 Bethel for all of those 59 villages in the --

16 MR. CASE: Well, in the REAA boun-
17 daries don't go according to, like, Calista boundaries.

18 MR. BERGER: Right.

19 MR. CASE: They are smaller than
20 that. In the case of Lower Kuskokwim School District, or LKSD,
21 there will be in that district when these schools transfer 28
22 villages or 28 communities that will be operated from Bethel
23 educationally. Maybe that's good and maybe that's bad, but the
24 point is that even in a subregion of Calista, which is the outcast
25 district, you still have, or you still can identify cultural vari-
ations and then there are socio-cultural variations just because of
Bethel. I mean, Bethel is not like Akiachak, is not like it at
all, really. Akiachak is one of the villages that is going to have
to come into the REAA fold.

Working with the communities, I have tried to make some
suggestions as to what they could do, like, for instance, lobby for
the development of another REAA that would effectively cut in half
the LKSD region. That would provide more local control because you

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1 would have an REAA that was more culturally cohesive and that would
2 have less villages in it; a coastal REAA, as an example.

3 What finally came out of all this, anyway, was that
4 Sackett and Ferguson introduced a bill that would establish an REAA
5 around each one of those 638 communities so that, in other words,
6 five more REAA's. I have some questions as to whether that's going
7 to get by the legislature given the revenue shortfalls of the State
8 this year, but that would again gain them that absolute local
9 control and that's one way to do it. The only problem is that that
10 it is a kind of expensive way to do it, but that would be a way to
11 accommodate complete local control.

12 The model curriculum that was being talked about here is
13 on track. It's being developed, but we do need to have an
14 integrated, cohesive educational system in the State. We need to
15 have bottom lines if we're going have an educational system.
16 That's very much implied in the Constitution of the State. Some of
17 the problems, though, that I have had in the Department of
18 Education with regard to just the philosophy of education, if you
19 will, is that, you know, I came from Kotzebue originally and I was
20 culturally an Eskimo. I look at myself now after this educational
21 process that I subjected myself to, which was a Ph.D in physics,
22 and I wonder am I the same person as I was back then when I was
23 five years old, as an example. Am I still as Native now as I was
24 then?

25 Well, I can feel certain really deep responses in myself
as to this day. As an example, we had a UTA meeting in Sitka and
one of the UTA people, Teresa Peoples (ph), who is now Teresa
Ricketts (ph) and I got up to dance and the band had a particularly
good beat and it was a beat that was very similar to what you hear
in the Eskimo dances. Well, Teresa and I were Eskimo dancing
because that is something that just comes out of me naturally when
I hear that beat. So, I'm Eskimo to the degree that I retain those
real deep environmental things, but I am not the same anymore.

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1 The fact is that education changes people objectively. If
2 you go into a traditional community and seek to educate the
3 children of that community, you have changed them objectively,
4 physically. You have actually changed them. Sexton Haroldson (ph)
5 gave a paper here in Anchorage that said that if you want to retain
6 the traditionality of a culture and you still want to provide
7 education to that culture, to the people of that culture, then you
8 had better not educate them beyond the sixth grade because if you
9 do, you've just essentially removed them from their traditional
10 culture.

11 Now this can be explained by some of the new findings in
12 brain research. There really is an objective difference in your
13 brain, in the wiring of your brain, after you've been exposed to
14 the formal educational process. It's been known for quite awhile
15 that the formal educational process changes certain cognitive
16 skills. That's obvious. You increase your ability to classify;
17 you increase your ability for abstract thought; you increase your
18 abilities in articulation. Those have been known for a long
19 time. I might add, those are the three major components of the IQ
20 test. So, you are influenced by that.

21 It has been recently learned, however, that when you
22 subject an organism, whether it's a human being or any neurological
23 organism, to a different environment from the one that they are
24 used to, let's say, or growing up in, you can affect the wiring of
25 their brain. Indeed, people, when they are exposed to a different
influence, like, for instance, an educational influence, lots of
mathematics courses, for example, while they are young, while they
are in the so-called arborization phase, they will grow new wires
for you. They will be actually different, physically different.
The aplicia (ph) theory of learning also indicates that there are
biochemical differences that are realized in the brain when a
person learns.

 The reason why I bring all this stuff up is that it's kind

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1 of a heavy number. You have cultures in transition and you want to
2 have them remain the same. You don't want them to change so
3 fast. You want to provide the good stuff for them like educa-
4 tion. I mean, those are the people that I came from out there. I
5 want them to have education, but by virtue of wanting them to have
6 education, the better education that I deliver in the mathematics,
7 reading and writing sense, the more I am changing the culture that
8 I wanted to protect. It's a real dilemma.

9 But on the other hand, I justify that on the basis that,
10 well, cultures are in transition and that's it. They are, and I
11 don't see that there is any way of maintaining the status quo with
12 the world population and the population of the United States, I
13 just can't see that it would remain the same or even that it's
14 desirable that these cultures remain the same. Is that desirable
15 to have a static, completely traditional, non-moving culture? I
16 don't know that that's particularly good.

17 Education, anyway, does change people and it changes cul-
18 ture. It's part of the transition process and either fortunately
19 or unfortunately as the case may be and depending on how you look
20 at it, education accelerates that process. It's one of the most
21 accelerating processes there is.

22 The only thing I can think of that would have an influence
23 of a similar nature would be television on all those communities
24 because that puts a whole different aspect on the community. I
25 remember going into a lot of those communities a year after televi-
sion was there. I'd been there before and I was there after and to
note the behavioral difference in the people, it was amazing to me;
it was absolutely amazing to see that behavioral difference.

That's pretty much all I wanted to say on the philosophi-
cal end of things, but I do have one other thing that perhaps this
Roundtable would be interested in as far as programs are concerned
in the Department of Education. One of the things that we did get
before I came on board at the DOE was some money from the legisla-

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1 ture to produce two key things. I think I've heard this from the
2 people in rural Alaska time and time again that they would really
3 like to have, and that's, one, that we're producing some ANCSA-
4 related material and we're doing a cultures program.

5 The way that we finally settled on doing this, anyway, is
6 this is a group of six videos with support curriculum material for
7 target audience of kids, whether rural or urban, grades 10 through
8 12, that explains ANCSA in a civics like sort of a way. The first
9 block of programs is going to be just a hardcore civics type of a
10 thing. The cultural program we're going to tie into ANCSA. ANCSA
11 and 638 will be the theme of those ten videos and it will show
12 cultures and what law does to culture, what law does to people.
13 So, it will take the hardcore ANCSA curriculum, like you might
14 learn in a pre-law class or something like that, that kind of
15 curriculum, and it will follow it into a more cultural orientation
16 or social orientation. So, I think it sounds really good if the
17 contractors can pull it off. It's kind of a demanding sort of
18 thing to ask somebody to do, but it's a good idea if they can pull
19 it off. I'll be interested in seeing if they can, but we have a
20 lot of really talented people in the State of Alaska and I'm sure
21 somebody can.

22 That's about all I wanted to say and I thank you.

23 MR. BERGER: Thank you, Paul.

24 Virna, would you like to carry on the discussion from there?

25 MS. KIRKNESS: Thank you, Tom. I
was interested in hearing Paul's comments here. I'll begin with
the comment that he made about learning and what happens after
grade six and what I understand him to say about the fact that we
change so much. I think, regardless of who we are and what we do
and how we learn, change is just a matter of course and that it
will happen. I'm always a little worried about people that will
draw conclusions such as that. I mean, there is a lot of research
going on right now. I shouldn't say a lot; some research on, for

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1 example, right brain, left brain theories, or research about Indian
2 people, and they try to tell us that we're really right brain
3 learners and the school system really gives you a left brain kind
4 of learning. My answer to that is: no wonder there's a lot of half
5 brained white people. No, I didn't mean to say that; I was going
6 to keep this clean.

7 I think we always have to be so careful to seek the
8 evidence and a lot of evidence in any matters like this because I
9 would feel really, really terrible to believe that we would change
10 drastically in ourselves and who we are as Native people. I just
11 say that, the only thing I want to say is a caution that we don't
12 do that, that we really seek the evidence a lot more.

13 The comment he made on local control of education; I'm
14 really sorry to hear that they are moving into the other kinds of
15 schools. I think it's a backward step from contract schools
16 because what I wanted to state myself in all of this discussion
17 about education is that I think that really the only answer to
18 education for ourselves is that we have to own our own education.
19 We really have to own our own education. We have to stand up to
20 all the education systems that are prevailing upon us to accom-
21 modate us in that particular way. I really feel that the only
22 direction to go to come out even is to own our own education and
23 that is the position that we've taken in Canada.

24 I just want to speak briefly to what we're doing in
25 Canada, not to say that everything is working perfectly, but these
are the sorts of things that we're working toward. In 1972, we
established a policy of Indian control of Indian education and this
policy was established by the Indian people of Canada. It's a
policy where we lay out our own philosophy and our directions and
goals in Indian education. In fact, we had the policy accepted by
the federal government in 1973 and had an agreement that they would
implement the proposals that we had in our policy statement.

One of the underlying philosophical statements is this.

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1 One of the things that we believe is that education for our people
2 must do three things. It must foster pride in ourselves, pride in
3 oneself, understanding of our fellow man and living in harmony with
4 nature. I hope that you will just pick out from there the signi-
5 ficant things to yourselves, because whenever we talk about owning
6 our own education, we're so much criticized for trying to be
7 separate, but maybe that's the only way that we can survive and
8 have our place in this world. We want education, this is stated in
9 our policy statement, to prepare us for total living, to enable us
10 to have a free choice of where to live and work (I think that's
11 critical too), to enable us to participate fully in our own social,
12 political, economical and educational development.

13 All I'm talking about is ownership, owning our lives,
14 owning our directions. This Indian control of Indian education
15 policy of ours is based on two principles that are really
16 recognized in Canadian society and one of those is parental
17 responsibility and local control. Like we were talking about local
18 control, we can't have control from Ottawa and control from the
19 regional offices or control from Bethel and expect something really
20 important to happen. It has to be local and it has to be parental
21 responsibility.

22 Education in our country, we see it as part of the self-
23 government process. The way it happens for us is that the minister
24 of the Department of Indian Affairs, through a contribution agree-
25 ment, provides monies to our Indian bands to administer our own
education systems. Indian bands, in turn, can designate their own
education authority, and often that's elected or appointed school
boards that they have.

Another statement; we talk about curriculum a lot and I'm
so tired of the patchwork we're doing. You know, we're taking the
provincial curriculum and we're always attempting to try to patch
it up so that it can relate to us in a certain way. I think that a
fundamental thing underlying all the curriculum that is in our

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1 school is this, and I was trying to remember from our policy state-
2 ments, since I didn't bring it with me, states this: "Unless a
3 child learns about the forces which shape him, his history, his
4 culture, his language, customs, he will never really know himself
5 or his potential as a human being. What he learns must be rooted
6 in his culture and learning must reflect the values of our own
7 people." Some of the values are independence and self-reliance.

8 I was listening to Rosita when she mentioned that you're
9 looking at the curriculum here in Alaska, and we've done a lot of
10 that too. We've done that too and tried to put in more appropriate
11 social studies. I think that in a sense, and maybe I sound like
12 I'm contradicting myself when I say that there is a lot of work to
13 be done there because the kinds of materials that are being used
14 right now for Native and non-Native people are really wrong. We
15 took a look at the social studies book in Manitoba and we found
16 just many, many gross errors in the whole thing.

17 Just recently, in trying to correct this in British
18 Columbia, they commissioned or contracted a publishing company to
19 put out books and they did one on the explorers. I wish I had it
20 here with me because we're saying it wasn't really these explorers
21 that really found these places but the Indian people. So, they're
22 trying to reflect that a little more.

23 I had an opportunity to read some of these books and I
24 thought this one was rather strange, I might just relate it to you,
25 about Anthony Hendy (ph). I don't know if you know the great
26 Anthony Hendy, and I think it's the Hudson Bay, I don't know
27 myself. Anyway, he apparently, as many did, had an Indian wife.
28 The author decided that a good way to really show this is to have
29 Gray Goose Woman, who is Anthony Hendy's Indian wife, to tell the
30 story of her life with this great Anthony Hendy. And so the story
31 goes, I mean, she's talking about how wonderful he is and it really
32 griped me from two aspects, one, from the woman aspect and how they
33 had her worshipping Anthony Hendy and from the Indian aspect,

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1 because if any of you have ever gone in a canoe in the rough
2 waters, there is absolutely no darn way that an Indian woman can be
3 heading a jacket for Anthony Hendy. That was the way they
4 portrayed it, doing these great wonderful things.

5 Anyway, that's just my example of the kinds of things that
6 go on and I think there are things that can be done with our
7 materials. For example, commercial time. It would be better to
8 buy my book on Indians of the Plains. Grollier of Canada, 1984.
9 (LAUGHTER) What I'm trying to say is this: I really do believe
10 that if we are going to learn social studies and that, we have to
11 be authors, also, of the textual materials. If you look at the
12 kinds of textbooks that are out now, they are all quoting each
13 other, all the things that happened from the secondary sources, and
14 I think we have to try to write a truer social studies and readers
15 and what have you.

16 I don't want to take too much time, but let me just say,
17 back to the policy, we also made a statement about teachers and
18 counselors, that we need more Native teachers and counselors who
19 are trained because we know that they know the culture of the
20 people and they will have high expectations of the children, will
21 be role models. These are some of the things that we've been
22 hearing in passing here. Teachers will teach from the known to the
23 unknown and build on the foundation and not beside it, and so on
24 and so forth. Non-Native teachers and counselors have to learn
25 about our culture and beliefs and so on, and we need to stabilize
the teaching force.

There are a lot of things that we could say about the
policy and it's been in existence for over a decade. I just
recently wrote a paper myself called: Indian Control of Indian
Education over a Decade Later, and I point out some of the larger
problems within that, but not to dwell on the problems. I want to
say that it really is the only way to go. I'm convinced that
Indian controlled schools is what we have to do. We have to own

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1 our own schools.

2 Our objective, of course, in these schools, is to provide
3 a quality education for our people. It's so hard to explain that,
4 that we want what you want for your children. I mean, other people
5 want for their children, we want the same type of thing. We want
6 quality education and meaningful education for our people. Parents
7 have to be involved in this kind of a situation.

8 When we talk about who will design the Indian Education,
9 well, our people will design it and our people can design it and
10 have been doing it. The elders have a great part to play in these
11 schools and what you would see. Let me just describe what I think
12 is a really fine Indian controlled school, or an Indian school, is
13 if you walk into the school and you know you're in an Indian school
14 because you have pictures, you have things that reflect Indian
15 life. You don't have the lion and the alligator for your ABC's,
16 but you have Aleuts, Alaskans... (LAUGHTER) You know, you have
17 things that are relevant to our own people. You would have
18 children singing Indian songs, doing Indian dancing.

19 I just saw that the other day. In December and January, I
20 visited a lot of these schools that I'm talking about because I've
21 been one of the people who have really advocated Indian control of
22 Indian education in our province and in our country, and I was
23 really pleased to go into these schools because you should see the
24 pride in those children's faces when they are showing you their
25 singing and their dancing. I mean, we all respect the Mexican hat
dance and -- oh, no, those are our friends and neighbors. No, just
kinds of folk dances, but why not our own kinds of dances in the
schools too?

They read stories and poetry about Native people. In the
science area, there are many things that Native people have contri-
buted in science. Things about our own government and the tradi-
tional way of governing. You see all kinds of things going on.
You see, foremost, Indian people in the schools. You see elders in

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1 there helping in the schools. I don't want to leave you with the
2 impression that we just sing and dance and do bead work, which is
3 what often happens. Not at all, but a lot of that can be added
4 into the curriculum and there are many ways that you can work in
5 math, as I say, science, health, there are so many things that we
6 could talk about in that as well.

7 When you see this happening only as a basis of operating
8 from the known to the unknown, that is the connection we're trying
9 to make because that's a cliché in the education world, in moving
10 from the known to the unknown, and yet for years we've been
11 subjected to the unknown and you're not really building on the
12 foundation and you're not involving your people in the whole
13 process.

14 So, there is beautiful poetry by our own people. There
15 are lovely stories, all kinds of things that we can do. When you
16 teach reading, for example, you are teaching reading. You should
17 have material that's familiar to yourselves, to the people in your
18 community when you're doing that, and yet I taught for many years
19 using a book called Streets and Roads, which is mostly streets in
20 northern Manitoba where the only way you could get there was by dog
21 team -- no, airplane. You know? Just about as bad as that. You
22 try to teach a child what an elevator is, and the silly monkeys
23 going up and down in the elevator, you try to explain that. You're
24 using foreign concepts to try to teach a subject, oftentimes, in a
25 foreign language.

26 Anyway, just to conclude this, I'd like to say that some
27 of the results already of ten years of Indian control of Indian
28 education in some of our schools really shows an improvement in
29 attendance. People are always saying that people are dropping out
30 at grade 8 and 9, and you see a difference, your people are staying
31 in longer. Indian controlled schools see it as total education.
32 Most of them have adults in the schools that are also learning, and
33 it goes right from play school, right up from that type of

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1 situation. The attendance in some places has gone from 50 percent
2 to almost 100 percent. The attendance has gone up, the people are
3 retained in the schools, the grades are improving, the parental
4 involvement, which is critical, I think, to the whole education
process, is there.

5 I guess the proof for us and just to make the connection
6 that I firmly believe, as many of our people do, is that we need to
7 get into post-secondary education. There again, we are working in
8 those institutions. In fact, I think in Canada it's admirable that
9 there is an Indian controlled university or college in
Saskatchewan, where they can work within their own culture as well.

10 Yesterday when Robert Goldwin, and I don't know if he's
11 turned me off or not, wanted to know about some of the -- you know,
12 you're the one yesterday that was asking what kinds of ways in
13 education, are there some principles or some elements that maybe
14 could lead in the direction of this, and perhaps this is not
15 terribly new to a lot of people, but I knew that eventually this
16 whole Roundtable would try to look to education for some of the
17 answers and they are all obtainable. I've been trying, I guess, to
18 illustrate here how within the 21st Century, we can have a
19 meaningful kind of education. There isn't the time to deal with
20 the more specific areas, which we are really trying to begin to
21 deal with, and we have done a lot of work in curriculum ourselves
22 based on our languages and all kinds of work because it is diffi-
23 cult to have to change a system and move back into the kind of
24 learning that is meaningful today.

25 I am sure that Mr. Berger didn't intend for me to talk so
long, but I did make a few notes yesterday on that item when you
were asking.

MR. BERGER: Thanks very much,
Virna. I think we all appreciate your description of some very
real successes that have occurred where we come from in Canada and
for which Virna, I should say, is in many ways largely respon-

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1 sible. That won't come as any surprise to you, having heard her.
2 Gard and then Disa and then Robert Goldwin and then me.

3 MR. KILOWA I share your
4 enthusiasm and appreciate your presentation that you've just
5 made. I too wonder what kind of results would have happened if
6 some kind of body chemistry tests were given to our ancestors after
7 devising such intricate ways of recording the environment that they
8 lived in so well. I get a little bit annoyed at left brain, right
9 brain kind of stories because I think they sometimes tend to
10 stereotype cultures in ways that are -- they're skewed, they have
11 absolutely no relation to what really happened. At least that's my
12 own point of view.

13 I happen to be the Culture Education Chair for the Office
14 of Hawaiian Affairs and also serve on the President's Advisory
15 Board of the Kamamea (ph) schools. Yesterday I talked about the
16 last princess of the Kamamea Dynasty who left all of her estate,
17 the revenues, to support a school for Hawaiian children. That was
18 done almost 100 years ago. I wanted to talk briefly on the
19 schools, go into a little bit of Oha (ph) and think we have a
20 little different attitude; we have just a little twist that's maybe
21 a little bit different, maybe not, it depends on how you look at.

22 Then, as you were all talking, I was thinking back and the
23 last queen, Liliuokalani, and Kolakawa (sp), the last king, were
24 very interested in education. The native Hawaiians, of course,
25 started the public schools. I talked about the fact that when the
missionaries developed the language, the Hawaiian nation became
literate almost in a year's time, the entire nation. Such was the
new learning, they met it with such eagerness and they became
literate.

TAPE 14, SIDE B

26 The school that I want to talk about, however, is -- oh, I
27 wanted to say, too, the king and the queen used to pick children of
28 high potential and they would send them away for an education.

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1 They deliberately sent them to Italy, to France, to England,
2 because they wanted to groom leaders and they wanted them to be
3 world citizens. They wanted them to be of the world and yet know
4 their own culture well. The queen herself spoke three foreign
5 languages. She composed music; she translated the ancient chants;
6 she was steeped in the hula and the oli (ph), so she and the king,
7 and he was the first king to, whatever it means for a small and
8 feeble nation, to go around the world. He made a trip around the
9 world to see how the rest of the world lived and he had a very
10 global kind of understanding and wanted his subjects to have that
11 kind of understanding also. It was the king who, despite the
12 missionaries' objections, restored the hula, the chants and all the
13 ancient learning. He did it despite the great missionary objec-
14 tions to pagan learning and to anti-Christian or whatever they
15 called it at that time.

12 At the Kamamea School, there are three divisions that
13 comprise the educational program. There is a campus program for
14 about 2,000 students with about a third of that student body who
15 are boarders, they live on campus, and that division has
16 strengthened its program to where they expect from the sophomore
17 years the students are to take the scholastic aptitude tests. They
18 are given all the cultural courses and the cultural languages and
19 the orientations as well as they are given computer instruction,
20 they are given the best that -- you might define it as western
21 education, but they are given an opportunity to learn that too, so
22 that when they come out of that school, when they graduate, they
23 are now, as a result of the last ten years of work, they are going
24 into the finest colleges in the nation and they are expected to come
25 back and be leaders in their community.

23 The President's Advisory Council is not just Hawaiian
24 people, either. We have on our advisory board the chief executive
25 officers of the largest industries and corporations of the business
world in Hawaii, and the reason why we think that's important, as

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1 well as the people in the Department of Education, is we know we
2 have to sensitize the State of Hawaii and the other kinds of
3 people. We want them to be sensitive and to understand and to
4 appreciate the first culture of the islands, and that is why we
5 have that kind of make-up.

6 The second division, the second program in the school, is
7 the extension education division. But first of all, let me go back
8 to the campus program objective, the objectives of the whole
9 school, so that you have an idea of what they look to. By the year
10 2000, the achievement scores of Hawaiian children will be at least
11 at parity with national norms as measured by national standardized
12 tests in reading and mathematics. A high percentage of students in
13 the campus program will demonstrate achievement of exit skills at
14 levels appropriate to their potential. On an ongoing basis, high
15 risk pre-kindergarten children in our programs will demonstrate
16 readiness for kindergarten at an appropriate age level as measured
17 by appropriate tests. By December, 1985, we will have assisted the
18 State Department of Education in developing up to four models of
19 alternative education programs with an 80 percent success ratio
20 measured by graduates returning and remaining in the mainstream for
21 at least ten months of completion. Methods and results will be
22 shared by other agencies.

23 Another goal is to develop culturally related academic
24 materials and conduct programs for public and private schools which
25 will reduce the negative impact of loss of culture and cultural
26 difference. By September 1, 1997, the percent of Hawaiians
27 enrolled and succeeding in all post-secondary education institu-
28 tions will correspond to the proportion of Hawaiians in the
29 statewide population. We also will be concerned with the types of
30 post-secondary education.

31 In extension education, the goals are: to assist the
32 Department of Education in developing and maintaining four models
33 of alternative education and up to three continuing education

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1 models, sharing methods and results with other agencies, to develop
2 culture related education materials and conduct programs which will
3 reduce barriers to educational achievement, which may be related to
4 loss of culture and cultural difference, and to increase, again,
5 the percentage of Hawaiians enrolling in succeeding post-
6 educational institutions.

7 The Extension Education Division is comprised of seven
8 major components: Neighbor Island Resources on three islands, a
9 Hawaiian Studies Institute, summer programs, alternative education,
10 Nawapuuapawaii (ph), which is a remedial program, continuing
11 education and Nahokoma (ph) of Hawaii, which is a scholarship fund
12 for children graduating from -- not from Kamamea, but from the
13 other public schools, who wish to continue their education.

14 In addition, the new activity for this year is an
15 interesting one. We have a koa (ph) reforestation project. The
16 children, the students, will be involved in the planting of 10,000
17 koa (ph) seedlings in Hilo. We have an intense teacher training
18 program for alternative education staff with a focus on cooperative
19 learning and evaluation. There is an adult basic skills inter-
20 agency model that we have incorporated. We also serve adults.

21 Let's see. I could go on, but I think I'll go on to the
22 third division, which is the Center for the Development of Early
23 Education, and they are charged with the responsibility of
24 educating preschool and elementary school children and the develop-
25 ment, dissemination, and demonstration of methods for improving the
26 education for Hawaiian children from pre-natal to twelve years
27 old. We have a study with forty families right now, mothers,
28 expectant mothers, and looking at the ways Native families prepare
29 themselves for the educational experience.

30 We have a pre-kindergarten demonstration school, we work
31 with all state agencies and the University of Hawaii because we
32 think that 20 percent of the school population is made up of native
33 Hawaiian children and the public schools have a mandate to continue

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1 Hawaiian studies in the public schools and we feel that we have to
2 assist and strengthen and reinforce those programs. It not only
3 impacts on Native children, it impacts on all of the children who
4 go to the public schools and all of them benefit from it.

5 We also assist the elderly. For instance, we have a
6 Kupuna (ph) program. The grandmothers and grandfathers go into our
7 public schools and they conduct Hawaiian language lessons, lessons
8 in Hawaiian dance and song, and the effective learning that is also
9 a spin-off as a result of these experiences brings a closeness, a
10 unity, that is important if we want Native Hawaiian culture to
11 survive and last in our Islands.

12 Those are the three. I will tell you that the campus
13 program, 2,000 kids; the alternative extension education programs,
14 33,000 children, 2,000 adults; the Center for Research and
15 Development, about 2,000 students and the forty families I talked
16 about, and it's costly. The campus program's budget for the next
17 bi-annum is \$9,219,000, the Extension Education Program is
18 \$3,561,000, the Center for Research and Development is
19 \$5,800,000. It's an expensive venture and it's all privately
20 financed by the legacy of the princess.

21 MR. BERGER: Thank you, Gard.
22 Muana, would you like to add something?

23 MS. MUANA: I would like to. I've
24 just taken a few notes as we've gone along. Seeing the children
25 here, and I hope that we do keep in mind and that reminds us, one
of the reasons we're here is because we're concerned about our
children and we're concerned about their futures; not only those
here today, but those coming tomorrow.

This whole issue of blood quantum that was raised earlier,
we have a situation now where 50 percent Hawaiians are considered
Native Hawaiians and are able to get benefits from our trust,
whether it be Hawaiian homestead lands, Hawaiian reservation lands,
or assets of our ceded lands. The feeling is with we Hawaiians,

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1 the Office of Hawaiian Affairs, as it has been said, has taken a
2 position on lowering this blood quantum and I wasn't a member of
3 the Office of Hawaiian Affairs at the time that they took this
4 vote.

4 There is concern in the Hawaiian community by some about
5 lowering this blood quantum and I think that even Native Hawaiians
6 who are attempting to sue the Office of Hawaiian Affairs have
7 pointed out a concern that at least the decision be made by 50
8 percent and 100 percent Hawaiians; that the decision to lower the
9 blood quantum would be voted upon by those who are most affected.

9 Also, it should be understood that the more Hawaiian you
10 have, the more economic and social problems you have as well.
11 That's where so many of problems lie.

11 Some of the comments you made, Mr. Goldwin, about the fact
12 that we are all brothers and sisters and we were all created equal,
13 if that were the case there wouldn't be the need for Native
14 concern. If in the past and in the present we have been treated as
15 brothers and sisters by the dominant culture and this -- we are in
16 this quandry. As you mentioned, there is also, as with any good
17 relationship for a marriage, there is a need for love. Well, if
18 this love has been shown to we Native peoples by those who came
19 into our lands instead of treating us like we are pyorrhoea and
20 considering us subhuman in some instances, if that love were there
21 we wouldn't probably be in this Roundtable today.

19 Oran mentioned this alienability of land and that's a big,
20 big danger. As an example of what has happened in Hawaii to a
21 Hawaiian that was set up to help the Hawaiian people, this Queen's
22 Hospital that Gard had mentioned earlier. There is a hospital, but
23 before, as Hawaiians you could go there and be treated and not have
24 to pay anything. There are Native hospitals here. We don't have
25 that luxury. In that past at these hospitals Natives would be
treated free. Several of our queens started hospitals. Queen
Kapuleni (ph) a maternal hospital as well as Queen's Hospital,

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1 which was started under Queen Emma. These hospitals at one time
2 had large land bases, not just those hospitals. Also, Gard had
3 mentioned the Lunolilo (ph) Home, a home for our elders. Now, this
4 also had a large land base, but through the years the institutions
5 remained but their land bases have been alienated. The land bases
6 have disappeared. So now we don't have those land bases and we
7 also have to pay to go into these hospitals that were set up to
8 give us free medical service.

9 Also Gard was mentioning the Bishop Estate and the Kamamea
10 School. (INDISCERNIBLE) Bishop was the daughter of my great-great-
11 grandfather. I have no resources, but that's beside the point.
12 The Kamamea School, as Gard mentioned, in the early days of Kamamea
13 School, the young people ended up going to Europe to school, to
14 different institutions in Europe and they came back from what I
15 have been told by elders of ours, they came back with high ideas
16 they had learned very, very well. This was a threat. The Kamamea
17 School, our princess had set it up, but three of the five original
18 trustees helped to overthrow the monarchy. So, when these young
19 people came back near the turn of the century with all of these
20 fine ideas that they had picked up in Europe, the Kamamea School
21 started changing. It changed to make us farmers; it changed to
22 other knowledge. They stifled our intellectual avenues because
23 they saw that the early students had come back with good tools and
24 this was a threat to those who had stolen our nation.

25 This whole emphasis was changed from going to these fine
schools. Today, a number of graduates of the Kamamea School,
although we do have some doctors, lawyers and Indian chiefs, excuse
the expression, that come out of that school, many end up working
for the police department, the fire department, climbing the tele-
phone poles and the electric company. In a lot of instances many
have been relegated to the roles of keeping the -- how do you call
it? Instead of being the leaders, we end up climbing the telephone
poles and being policemen. Now this is after taking some of the

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1 so-called brain power of the Hawaiian community. The tests are
2 very, very hard to get into that school.

3 When I went to school there, I think it was about 1,500 of
4 us took the test and only several hundred were lucky enough, and
5 it's supposed to be such a great honor going to that school,
6 passed. So, they take the top brain power and then they relegate
7 them, in a lot of instances, to subservient positions in the
8 community considering the vast resources of this school.

9 Also, as far as the culture was concerned, it wasn't until
10 we started the Hawaiian movement in 1970 and started saying to
11 these leaders of Kamamea School, and I went to Kamamea School, what
12 you do is program us to be good whitewashed brownies because there
13 was never much culture taught at the school until after the
14 consciousness, the renaissance, until after the Native peoples'
15 movement started in Hawaii, and I think that it's important to
16 point that out.

17 Rosita had mentioned, and I'm glad she did, about the
18 whole issue of land because that's a very top priority for Native
19 peoples. You need land to live on; you need land for your
20 families; you need land to grow food on, especially in a place
21 where it costs a great deal of money to live.

22 I wanted to get back to what -- I believe his name is
23 Paul, the educator had said, the fact that once you get an
24 education you change and you are not the same. I think an educa-
25 tion can be very good to use as a tool to help our people. For
some of us we've learned through getting a higher education, we've
learned the game of dominant culture through that education. It's
important to be able to learn skills to be able to help your
people, but unfortunately some that have become more highly
educated have lost touch with the values of our people, our culture
and our land, and that's where the problem comes in. It's not too
much education, but it's losing the values that are very, very
important to your peoples, and that's where the problem comes in.

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1 goodies that were laid on that, were doctors. They understood
2 science and they understood physics. Why would we want to take
3 someone out of that environment to teach them something else unless
4 it's to change them?

5 Now I'm up here for a number of reasons, and one is I not
6 only want to be part of history, but I want to make darn sure that
7 I'm an ancestor too. I understand while being present at the tail
8 end of a symposium the other night, on of the keynote speakers said
9 we don't just go around killing Indians any more and I thought, oh,
10 my, there are four ways you can kill a human being. I don't recol-
11 lect the gentleman's name, but he named them all. One is
12 emotional, physical, sexual, and destruction of property and
13 pets.

14 I can talk about this because I specialize in the dynamics
15 and politics of violence, but well-meaning people in the name of
16 God were going to educate us and their education process is now
17 classified as a felony. It was an act of violence to spiritually
18 rape us. What we're saying now is yes, we accept it, it did
19 happen, no we didn't like it, and I think the first word that
20 should be put into that educational system from grades K through 12
21 is no. We could teach other people the same thing that we're
22 teaching other people in the villages, how they respond to sexual
23 assault is no. You have no right to do that to me, no one has the
24 right to do that to me. If I let you mess with my body, my
25 emotions, my intellect, you're going to take my land because the
end product of any act of violence is death of someone. Whoever
that's inflicted on will die.

We're finding that a lot of people, and I hear them being
called New Wave Natives and what was the other term about
Afghani? I don't know what that means, but I have a sneaking hunch
that if we don't study the history of what we've been through,
someone tells me that we're doomed to repeat it.

An orphanage was constructed in a village. The inside of

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1 it was renovated by the fathers and brothers and uncles and grand-
2 fathers of these orphan children. The education in there would
3 have been Christian. The name of this orphanage is named after an
4 Alaskan missionary who wrote several wonderful documents using the
5 term "white male superiority for these diseased, heathen, ignorant
6 people, but I was filled with love as I was riding over those
7 niggerheads to that school." Now they're naming it after this
8 kind of a man. This did not happen in the 1800's; this is
9 happening now. Who gave anyone the right to take the children away
10 from their living parents? Nobody did.

11 From what I understand from the symposium that was done
12 the other night, this type of treatment went on for the sake of
13 getting the treasures that were owned by the indigenous people of
14 that area. Rosita made a comment that perhaps we need a lobbyist,
15 perhaps we need this, anyway, we have to pay someone to do that.
16 We don't know where we're going to get the money. We got money.
17 We have so much money in the natural resources of the land that it
18 cannot be calculated, so if you want oil, we got oil. If you want
19 diamonds, I got diamonds. You want timber, I got timber. If you
20 want it, you can have some of it, but you don't need to kill me to
21 get it because the movement with Native women in the State of
22 Alaska started with one word, no. No, you can't; no, you don't
23 have the right; yes, I have the right not to like it.

24 I was interested in Mr. Goldwin's reaction yesterday,
25 which was okay, which I appreciated when, apparently, a speaker
said as a woman I am going to scold you. I don't think a scolding
is necessary if what we call the dominant culture will really look
at what's happened to us and really look at what the history of
well-meaning educators, of well-meaning tradesmen, of well-meaning
conquerors, if you will. Look at the history to make sure that
that doesn't happen again and to put a stop to those forces that
are already penetrating the indigenous people of the Arctic. I am
told that we have 21 years left, and alcohol will take us at the

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1 rate we are going.

2 If one of the four categories of violence is the
3 destruction of property or pets, what we tell women that are
4 battered is when that happens the message from the perpetrator is
5 loud and clear. This is what I'm going to do to you. What is our
6 property and pets but the tundra and the reindeer and caribou that
7 are on it? If someone is going to go in there and mine my land
8 without even asking me permission if they can do that, that's
9 destruction of my property, that's destruction of my pets, the
10 salmon, and nobody has a right to do that.

11 We're saying no to ANCSA and we're saying no to spiritual
12 battery. We're saying no to everyone and anyone that would cause a
13 destruction in Yupik society and with the four quadrants that make
14 us human just like you do.

15 Thank you for this opportunity and I appreciate this.

16 MR. BERGER: Mr. Goldwin, you
17 wanted 15 seconds?

18 MR. GOLDWIN: Well, that was if
19 Sheldon would cooperate with me. I gave him a brief list of
20 objectives for Native education. I'm not sure if he wants to
21 present it. Well, he agreed with it, and we were going to do it
22 jointly. But I can do it in two minutes.

23 MR. BERGER: All right. We've
24 only got two minutes and then we have to clear out.

25 MR. GOLDWIN: I prepared this list
in talking to Virna Kirkness yesterday because I thought if one
started out with an incomplete and tentative list of what the
criteria would be for judging education for Native Alaskans, that a
lot would come out in the discussion of it, seeing where you wanted
to go and how you wanted to do it, and so I present this very
briefly.

First, fluency in the Native language as a criterion, an
objective. Second, development and preparation for full membership

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1 in the tribe or the Native community. That would include necessary
2 subsistence skills, knowledge of the history, arts, culture, and I
3 put down religion and I crossed it out because you get into all
4 kinds of problems in trying to teach religion in schools, but it
5 would come about anyhow. I think, if the idea were full preparation
6 for membership in the community or tribe.

7 Third, leadership in the community. Political, cultural,
8 educational, especially, that is, development of your own teachers,
9 and the health services and everything else you can think of. So,
10 not only membership, but leadership.

11 Now then, the list extends, and here, I think, come the
12 tests of just where you think the place of the Native community
13 will be in relationship to the non-Native community. Fluency in
14 English, preparation for citizenship in the United States and in
15 the State of Alaska, including these preparations for leadership
16 there, too.

17 And finally, the one that I think requires the most
18 discussion would be choice. Preparation for a truly free choice,
19 of how far to go in education and the kind of adult life to live
20 and where it would be lived and in what sort of pursuits and in
21 what relationship to the Native community. Then I add, with a
22 strong preference for a life devoted to the Native community. I
23 present those as suggestive of what use you could put criteria to
24 because starting with that list, you can decide how first of all
25 how incomplete it is and what else would have to be added, how far
to go -- it would raise the problems of the relationship of the
community to the non-Native community, and it leaves the arduous
task of trying to decide how to implement those objectives.

MR. BERGER: Thank you, Mr.
Goldwin. I want to thank you all. We've had a good four days
discussing the place of Native people in the western world, or the
world itself. Might I make one suggestion that would appropriately
sum up the discussion? I know there are a thousand loose ends. No

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1 one expected that we would tie them all up. A philosopher named
2 Pascal once said that the object in life should be to become what
3 you are, and perhaps the discussion about education is really
4 directed toward enabling Native people to become what they are and
5 you have to know what you are in order to engage in a process of
6 becoming what you are.

7 Well, my thanks to all members of the Roundtable and best
8 wishes for a good trip home. Thanks especially to our friends from
9 Canada and from Hawaii and from the Lower 48. My thanks as well,
10 and I feel I should say this, to the 1,450 and more Alaskan Native
11 people who spoke to this Commission at all of those villages far
12 from the centers of power, and I want to promise them, through you,
13 that my report will reflect what they have told us. I think I
14 should say that my recommendations will be designed to be helpful
15 to Alaskan Natives and to Native people in other countries. It
16 will be submitted to the Inuit Circumpolar Conference in September
17 and I, with some pleasure, come to the end of the public hearings
18 of the Alaska Native Review Commission.

19 The only other thing I have to say is that you are obliged
20 to leave the hall at once so they can set up the bingo tables.
21 Thank you again.

(OFF THE RECORD)

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