
THE STANDING SENATE COMMITTEE ON ABORIGINAL PEOPLES**EVIDENCE**

OTTAWA, Tuesday, January 31, 2017

The Standing Senate Committee on Aboriginal Peoples met this day at 9 a.m. to study the new relationship between Canada and First Nations, Inuit and Métis peoples.

Senator Lillian Eva Dyck (*Chair*) in the chair.

[*English*]

The Chair: Good morning and bonjour. I would like to welcome all honourable senators and members of the public who are watching this meeting of the Standing Senate Committee on Aboriginal Peoples, either here in the room or listening via the web.

I would like to acknowledge for the sake of reconciliation that we are meeting on the traditional lands of the Algonquin peoples. My name is Lillian Dyck from Saskatchewan, and I have the privilege of chairing the Standing Senate Committee on Aboriginal Peoples.

I would like to point out that because of the motion passed in the Senate in December, we are welcoming several new members to our committee this morning. I would now invite my fellow senators to introduce themselves, starting on my right with the deputy chair.

Senator Patterson: Dennis Patterson from Nunavut. Good morning.

Senator Raine: Good morning. I'm Senator Nancy Greene Raine from British Columbia.

Senator Enverga: I'm Tobias Enverga from Ontario.

Senator Beyak: Senator Lynn Beyak from Ontario. Welcome.

Senator Oh: Senator Victor Oh from Ontario.

Senator Tannas: Scott Tannas from Alberta.

Senator Boniface: Gwen Boniface from Ontario.

Senator Pate: Kim Pate, Ontario.

Senator Watt: Charlie Watt from Nunavik.

Senator Mégie: Marie-Françoise Mégie from Quebec.

The Chair: I would like to welcome our new members from the independent group: Senator Mégie, Senator Boniface and Senator Pate. Senator McPhedran will join us in a few minutes.

Today we begin our new and exciting study on what a new relationship between the government and First Nations, Inuit and Metis peoples in Canada could look like. We will begin our study with a few meetings looking at the history of what has been studied and discussed on this topic.

Today I have the pleasure of welcoming to our committee Professor Jim Miller, Professor Emeritus of History, University of Saskatchewan, who is a well-known authority on many aspects of indigenous history in Canada. Professor Miller, you have the floor for opening remarks, and then we will open up the floor for questions from the senators. If you would begin please, Professor Miller.

J.R. (Jim) Miller, Professor Emeritus of History, University of Saskatchewan, as an individual: Thank you, Senator Dyck. Good morning, senators. Thank you for the invitation to come and discuss with you an important aspect of our country's history.

One of the prominent themes of the Truth and Reconciliation Commission's work was the importance of history. **Canadians' "lack of historical knowledge" has serious consequences for First Nations, Inuit and Metis peoples and for Canada as a whole. The commission continued, stating that "history plays an important role in reconciliation. To build for the future, Canadians must look to and learn from the past."**

In fact, the idea that a proper understanding of history is a key to solving the problems of the present and building a better future is prominent in all three reports that the TRC produced between 2012 and 2015.

Many people believe that Canada's record, like that of its American neighbour, is one of unremitting conflict from first contact until recent times, but if Canadians consult the history of relations between indigenous and immigrant peoples, what do they find? The pattern of relations between Native and newcomer in Canada has been quite different from that of the United States. That difference, in fact, holds clues about how to work together productively in the future. In all regions of Canada — and I'm going to emphasize Eastern Canada because of limitations of time — first contacts and interactions between indigenous peoples and European newcomers were harmonious and fruitful.

This positive picture is not the result of any inherent moral superiority of the peoples who colonized Canada compared to the founders of the United States. Rather, the reason for positive relations in early Canadian history is economic. Unlike the Thirteen Colonies to the south, where agriculture was a major part of the economy, in early New France, the local economy was built on commerce and furs. Indeed, this was the economic reality in every region of Canada after contact between Europeans and Indians.

What was distinctive about relations within the trade for furs was that economic forces compelled the different peoples in the exchange to cooperate. The reason was straightforward. Indigenous people had the skills — things such as knowledge of the lands, transportation routes, food resources and the animals — that Europeans needed to pursue the trade.

Perhaps the clearest, most graphic example of what I mean is the trade in beaver fur, which dominated the 17th century. The favoured, prime pelt was what was known as "castor gras d'hiver" — literally translated, "greasy winter beaver." What that referred to was that the prime fur was a beaver pelt that had been worn as part of a garment with the fur against the body for the winter season, during which abrasion, smoke and oils from the body had the effect of stripping off coarse outer guard hairs, leaving only the fine downy filament that furriers wanted. That was a clear example of how the First Nations were absolutely essential, not just to locate, to take, to skin, but in this case to process the fur for trade with the Europeans.

Indigenous peoples were more efficient procurers and processors of furs than the newcomers could ever hope to be. For their part, Europeans were few in number, largely ignorant about how to survive in the North American wilderness, and unskilled in capturing and removing hides from beavers and other animals. The dominance of commerce — in Eastern Canada, a dominance that lasted almost two centuries — ensured that the small European population would need the cooperation of the indigenous majority.

Equally important, newcomers saw no need to change the Natives' way of life. Apart from Christian missionaries who sought to convert First Nations to Christianity, the Europeans involved in a commercial relationship took a "live and let live" approach to relations.

The other prominent activity that emerged, especially in the 1700s, was military relations between Europeans and First Nations as France and Britain contended for control of North America. Here too, European military leaders saw no reason to try to change their First Nations allies. Indians' skills in forest dwelling, travel via the river systems, forest diplomacy and North American warfare were exactly what French and, later, British strategists desired. Their need for indigenous allies was reflected in the creation of peace and friendship treaties in the early 18th century, as well as in the use of First Nation wampum belts, creations made of shells strung on deer gut. Wampum belts were the means of recording negotiations in this period of the 18th century.

It's important to note that most First Nations in the East in this early period found alliance with the European fur traders who were concentrated north of the St. Lawrence River and the Great Lakes far preferable to siding with the agriculturists in the Thirteen Colonies and, later, the United States. From the Seven Years' War through the war of the American Revolution to the War of 1812, First Nations favoured the traders in the North over the more southerly farmers.

The history of early cooperation and fruitful relations was not all positive, of course. Europeans unintentionally brought with them pathogens to which indigenous North Americans had little or no immunity. As a result, even in this positive early phase, Native people suffered a horrific loss of life to disease. There were also occasional armed conflicts, things such as the intermittent conflict between New France and the Five Nations, the Haudenosaunee or the Iroquois, in the 17th century. But overall, unlike the United States, Canada never adopted a policy of annihilation of the indigenous peoples.

Relations between First Nations and the British North American colonies, however, were transformed in the early 1800s when the economic foundation of the colonies shifted from commerce to an expanding agricultural economy. The encouragement of settlement, the development of urban centres, in the west the decline of the bison, and a reduced demand for furs meant colonists no longer needed First Nations economically. Indeed, they now constituted a barrier to settler goals. These economic changes represented a threat to indigenous peoples. While trade had encouraged cooperation, agriculture levelled the forests where they lived and pushed the peoples apart. Immigrant colonists and indigenous hunter-gatherers were now rivals for resources, not partners.

From the altered economic relations, other changes soon flowed. Because colonial farmers found indigenous hunter-gatherers an inconvenience, colonists urged their government to control and restrict Native people. For their part, British authorities who no longer believed they needed the diplomatic and military assistance of First Nations were anxious to reduce the costs of dealing with Native people.

The result of these changed attitudes was the development of a radically different policy aimed at indigenous peoples. Whereas newcomers once had sought the economic and military cooperation of partners and allies, now they wanted to isolate and change them. The outcome of this shift was a series of policies that attempted to control and reshape the behaviour and values of Native peoples — to reshape them economically, politically, socially and culturally. In other words, the result now was an aggressive attempt at assimilation. The policies that have caused so much damage, such as residential schooling, are all aspects of the drive to assimilate indigenous peoples that developed in the 1830s in Upper Canada and was carried over by the Dominion of Canada after Confederation. Passage of the Indian Act in 1876 solidified the assimilationist policy.

Efforts to compel First Nations to farm, to govern themselves with elective institutions, to drop cultural practices such as the potlatch and the sun dance, to adopt Christianity and to change how they saw the world — all these things brought about dislocation and misery from which Canada is

now trying to extricate itself.

Assimilative policies frustrated communities in their development, undermined families in their relations with one another and unsettled young individuals trying to understand themselves, their community and their place in the world. Discriminatory gender provisions corroded relations between males and females too. Although assimilation ceased to be official policy decades ago, its consequences, as in the residential schools, continue to be felt.

A proper understanding of this history can help us “build for the future.” If we learn from the past, as the TRC said — that we enjoyed good relations when we worked together on mutually beneficial projects and experienced terrible relations when our goals became incompatible — that better future will require rediscovering things that encourage economic cooperation.

A vital preliminary step to reconciliation, though, is redress of the ill effects of a century and a half of destructive assimilationist policies. Settling land claims, improving indigenous education, rebuilding safe and healthy communities and respecting indigenous people's desire to map out their own paths are all essential first steps. Redress should precede and then accompany reconciliation, and then both Native and newcomer Canadians can define mutually beneficial ways to work together.

Two obvious fields for such cooperation, areas in which indigenous peoples have prior rights and vital knowledge, are resource development and environmental rehabilitation.

Canadians once worked together cooperatively. If they understand the reasons for that fruitful beginning and why cooperation later ceased, they can build a better future together again. Thank you.

The Chair: Thank you, Professor Miller. The floor is now open for questions from senators.

Senator Patterson: This has been a very useful, big-picture look at where we are today as we seek to help our new government define a new relationship with Aboriginal peoples.

Professor, I found it interesting that you described quite a contrasting history between Canada and the U.S. in the early days of contact because of different economies, but then you say that following the 1800s, when land became an issue in Canada as the fur trade declined, we began to follow the conflict and assimilation policies of the United States south of the border. Did the Canadian government follow patterns of land dispossession and developing reserves that were learned from the United States?

Mr. Miller: It was more a matter of following the dictates of the Royal Proclamation of 1763. Thank you for your question, because it raises an area I didn't have time to get into, which is the making of territorial treaties in the late 18th and 19th century.

Following the Royal Proclamation, the Crown began to negotiate for access to indigenous lands, and this led to a process of dispossession and reserve creation, as you suggested. It was parallel to things that happened in the United States, but it really was inspired by British Canadian imperatives.

Senator Patterson: You recommend that we should seek to once again achieve the partnership that marked the early days of contact, where settlers relied on indigenous people to manage the land and harvest its resources and take care of the land, but you say redress should precede those efforts at reconciliation. You spoke of settling land claims, improving indigenous education, rebuilding safe and healthy communities and respecting indigenous peoples' desire to map out their own paths.

As a committee, we have struggled with a lot of these same issues. Our committee did a major study on education. We've been looking at issues such as housing and drinking water and treaty settlement over the years. To be candid with you, we found it to be a very frustrating exercise. We have made recommendations that haven't always been carried out, and we've seen slow progress. Government has put a lot of effort into these issues, and there isn't a lot of progress. Even one of the major land claim agreements reached in North America amongst the Inuit of my territory resulted in a very significant litigation because there was a failure to implement what most people had hailed as a remarkably progressive treaty.

You're saying we should redress these issues before we talk about reconciliation. Well, we've been trying. Canada has been trying, and our committee has been trying. I think with this study we've been hoping to find a new path forward rather than continuing to bang our heads against the wall working on these very important issues. I'm not diminishing them. But you're saying no, we should continue to work on these issues and that reconciliation can then follow. I guess I'm hoping there might be another way, a new way, rather than just seeing slow progress on these major and seemingly intractable issues. Would you comment on that frustration we've felt in this committee?

Mr. Miller: Yes. Ideally redress and reconciliation should proceed together. I didn't mean to suggest a complete program of redress had to be initiated and completed before we move to reconciliation. Ideally the two processes would work together in parallel. The danger is if we don't do redress as well as reconciliation, indigenous peoples will say, quite reasonably, "Talk is cheap, but what about justice? What about solving these accumulated problems, the products of 150 years of policy?" So I think, to answer you briefly, the two processes should proceed together.

Senator Patterson: Thank you.

The Chair: If I may intervene here, I was very taken with your last statement, Professor Miller, with regard to redress. Talk is cheap but what about justice. Could you expand on that a little bit more? In my mind, I'm trying to determine what redress means. Could you give us some examples of what you might consider redress to be?

Mr. Miller: Perhaps I can tell a story from the South African experience. There was a story told there during the South African Truth and Reconciliation commission about Mr. Tabo and Mr. Smith. Mr. Smith, a very powerful member of the white minority, had managed to steal or appropriate a cow that belonged to Mr. Tabo. When the truth and reconciliation process began, he had a certain amount of remorse, and he reached out to the indigenous African and met and talked with him. They had tea together and they were all very cheery and jolly. As he was about to leave, Mr. Tabo said, "Mr. Smith, what about the cow?" Mr. Smith said, "We had a wonderful meeting. We talked, we had tea, we're moving toward reconciliation and you go and spoil it with that." Well, indigenous people in Canada want to know, what about the cow? What about solving these things?

Perhaps a more energetic application of effort to roughly 1,000 accumulated claims would be one thing that could be done, as well as acceding to the instructions of the Canadian Human Rights Commission to deal with the allocation of funds for the support of young indigenous people. There are a range of things that could be done.

I agree with Senator Patterson that it would be daunting or impossible to tackle them all and solve them all quickly, but some meaningful progress would have a salutary effect and promote better reconciliation.

Senator Enverga: Thank you for being here today. I think this is a new era that we have been waiting for.

You mentioned a proper understanding of history. Are your views and comparison between the U.S. and Canada part of the school curriculum now in Canada?

Mr. Miller: It's becoming part of the school curriculum. It's not yet completely implemented. The view of the interpretation of Canadian history and the history of Native/newcomer relations is one that began about 35 years ago in the academy, in the universities, and has become the consensus view there. The way our educational systems work is that interpretation and innovation at the post-secondary level eventually filters down to the secondary and elementary levels. We're in that process now.

In my province, the province of Saskatchewan, it's well under way. For almost a decade now, the province has had a system in the schools, a curriculum, called "Teaching Treaties in the Classroom" that is very successful in educating the whole population about the importance of treaties as the foundation of Saskatchewan society. Indeed, it was Saskatchewan Treaty Commissioner David Arnot who coined a phrase that's become well-known now, namely, "We are all treaty peoples."

That's a specific example of how the process works, and perhaps helps to explain why it's not completely implemented yet but is under way. A number of provinces, the N.W.T., Ontario and some others, have announced that, as part of their response to the TRC, they will overhaul their curricula to try to make it more promoting of reconciliation.

Senator Enverga: I'm hoping this curriculum will be implemented for everybody as soon as possible. It is important for Canadians to understand the history of Canada. I do not know if it's one of your suggestions, but perhaps history should be part of a requirement for every new Canadian, like new immigrants here in Canada, so that a proper understanding of our relationship with the indigenous community will be further established and maybe strengthened at the same time. Could that be one of your recommendations?

Mr. Miller: There is a fair bit of history in the booklet "Discover Canada" that new Canadians get as they prepare for citizenship. One of my volunteer activities is that from time to time I act as the presiding official at citizenship ceremonies. I talk with newly created Canadian citizens, and they have been through the process of learning. I agree with you that more would be better, but then more education about their history would be better for all Canadians.

Senator Beyak: Thank you for an excellent presentation. It was very informative for us. I travel a lot in the United States, as I'm sure everyone does, and I have visited museums of Native history. They seem to be living in harmony there, but could you tell me if that relationship between the government and First Nations is working or if there's another model anywhere in the world that we could emulate a bit instead of reinventing or trying to reinvent the wheel.

Mr. Miller: I think the United States has serious difficulties, especially if we look at things like the Dakota access pipeline situation. That's a very clear example. They have a fairly lengthy history of violence directed towards Native Americans, as they term them.

Perhaps the most fruitful example I can think about in the world, although it's not one that fits the Canadian case perfectly, would be New Zealand. The reason it doesn't fit perfectly is that the Maori in New Zealand are roughly 15, 16 per cent of the population, whereas indigenous peoples in Canada are about 4 to 4.5 per cent. Although interestingly, in the province of Saskatchewan, indigenous people are about 15 or 16 per cent.

In New Zealand, they have had, from their earliest days, separate political representation in their Parliament for Maori. They have very productive educational programs there, well-supported indigenous language programs and other things such as that.

They also have something very effective, though expensive, for the resolution of claims, namely the Waitangi Tribunal, which interprets and solves problems that arise from the Waitangi Treaty of the 1840s. That's the closest example, but it's by no means a perfect match, senator.

Senator Beyak: Thank you very much.

Senator Raine: Thank you very much for being here. I had a question, but I'm going to park it and follow up on Senator Beyak's.

I'm also aware of the Waitangi Tribunal in New Zealand. When I look at the multitude of treaties that we're facing in Canada, which we're not really resolving, I ask myself: Could there be a better way of resolving the treaty issue? I agree that the treaties have been broken and that many Canadians don't understand that we are all treaty people. Our government signed those treaties on behalf of us, even though we weren't there then.

Has there been any work done at the academic level on some form of Waitangi tribunal that could be established here in Canada? Could you expand a bit on how that tribunal works in New Zealand?

Mr. Miller: There really hasn't been anything in Canada equivalent to a study of the Waitangi Tribunal. There's been a lot of study of the New Zealand case, however. The reason for that is, of course, with the Treaty of Waitangi, you've got one treaty for the whole country. We have dozens or hundreds of territorial treaties across Canada.

We have tried to approach the treaty resolution problem usually in one of two ways. The first is litigation, which is highly problematic as you all know very well. It's time consuming, expensive and rolling the dice. It's either win or lose completely, as a rule.

The other is basically an attempt to talk our way through differences of an interpretation. Both Saskatchewan and Manitoba have had treaty relations or treaty commissions. They have not had enormous success, it must be admitted, and the Manitoba one has essentially stopped functioning. Justice Linden, in his Ipperwash inquiry report, recommended a treaty commission for Ontario, but it appears as though that will not happen.

If a treaty commission could be effective, I think it would be a good alternative to litigation. We have not yet found a mechanism, though, to make treaty commissions effective.

Senator Raine: Following up on that, I realize that indigenous people who lived in North America before contact were organized in nations much different from what we call First Nations. We're just using it as another term for an Indian band, which was an artificially created entity by the Indian Act or by the government.

How important is it for us to roll back and look at how indigenous people were organized in groupings, in nations, before contact? My gut feeling is that there is as much difference between the world view, the culture and the soul of the people, if you like, of, say, Cree membership or descent versus Secwepemc where I live in British Columbia. It's as different as Portuguese versus Germans — completely different kind of history and the way people live.

Should we be finding out how to put back the original First Nations — or I guess you could call them original indigenous nations — so that the artificiality of how it's all chopped up now doesn't get in the way of progress?

Mr. Miller: We can't, of course, restore the situation that existed at contact, but we could understand better, as you're suggesting, how indigenous societies are organized and how they function and what the dynamics are.

To take a specific example of what I mean, I think it would be very beneficial if non-Aboriginal Canadians understood that most indigenous societies are organized around kinship, and this is an absolutely vital concept, institution and practice. One deals with strangers usually, if you want to cooperate with strangers, by making kin of them in a process that anthropologists call fictive kinship or ascribed kinship, and you accomplish that by carrying out ceremonies together: formal welcomes, feasting, gift giving, smoking the pipe.

Why would it matter if we understood that rather than being ignorant of it? I think it would help non-Aboriginal Canadians to understand what First Nations mean when they talk about the spirit of the treaties and that Canada has violated the spirit and intent of treaties. They're referring to the fact that the treaties were made in that context I've described. In the Prairie treaties, for example, in every case except Treaty 4, you had a process of kin-making that happened at the beginning of the negotiation process.

If non-Aboriginal Canadians understood indigenous peoples better, I think they would be more understanding of indigenous peoples. One way to understand them better would be to understand how they function.

Senator Tannas: Thank you, Dr. Miller. This has been terrific, and I've got my head swimming with questions, but let me try one here.

I love your "What about the cow?" To me, we have to deal with that. Do you think there is ever the possibility that we can make reparations for the cow so that we never, ever have to talk about it again and we can move forward? Do you think that's possible, in a perfect world, a moment where all Canadians come together and say we want to deal with this, we want to create equality of opportunity, we want to respect the culture, we want to do absolutely everything, and we want to pay for the cow? Do you think that's all possible to be done in a generation?

Mr. Miller: No.

Senator Tannas: How long do you think this will take?

Mr. Miller: It took about 150 years to create the problems we face today. I think an optimistic view is it might take about 100 to resolve them. But let's not be disheartened. Let's look back at where we've been.

Senator Tannas: What if we don't have a hundred years? What if we see immigration coming, people coming from horrific situations, far worse than whatever happened to First Nations in Canada, as you've detailed? The colonists didn't run around and kill people and so on colonists. There are generations and waves of immigrants coming from horrible places that will have far less interest and far less sympathy and will be the taxpayers and the financiers of whatever the cost of the cow is from a time when they weren't here.

I'm very nervous that we don't have 100 years to fix this and that we need to figure out a path forward. I hate to say it, but can you point to any shortcut that you have seen anywhere that could be helpful for us as we go through this? I may have been disrespectful — and I don't mean to be, in any way, shape or form — but I view this as something that is so urgent. Many of us do. That's why we're here. That's why we stuck our hand up for government, was to try and do something urgently here. We have a Prime Minister that believes this is an urgent, urgent issue. You can see it in his actions and in the posture of the government. Are there any hints you could give along these lines?

Mr. Miller: A preliminary comment I would make is about immigrants and their attitudes. I hear frequently that immigrants will not understand and will not be supportive of attempts to bring about reconciliation, but my experience in dealing with new Canadian citizens is that they are very eager to learn about the history and culture of the country. If we can instruct them properly, I think they will be sympathetic.

You are putting your finger on the real problem, though, and that is, "How do you keep the Canadian voters onside to support an aggressive, expensive campaign of redress and reconciliation?" You probably won't be surprised if I reply, "Education."

Senator Beyak: This is not meant to be a controversial question at all; I'm just curious with your expertise. Many years ago I voted for Pierre Elliott Trudeau because of his white paper for First Nations. I had personal interests at the time, and still do, family members, and I thought it was perfect.

You can fill me in a little bit better on the history of it, but it was something like trade your status card for a Canadian citizenship — a one-time payout at that time of about \$500,000 per Native — and you became a Canadian, pursued your culture and your interests, your beadwork, your language, on your own dime and your own time, and we all became Canadians together. The people loved it, the First Nations people. What they called “the Indian industry” didn't — the chiefs, the band councils, the people who were in charge.

Trudeau caved about six months into it and didn't do it, but it seems as though Justin — we had a lady here, Pam Palmater, talking to us about how they're trying to assimilate Natives by not registering them properly and through 6(1) or 6(2).

Mr. Miller: Bill C-31.

Senator Beyak: Yes. I wondered if you had any comments on that. It did seem like a very good idea at the time, for us all to be Canadians together. The best of intentions were in the Truth and Reconciliation Commission. They didn't mean to hurt anybody. The fathers and sons and family members of the nuns and priests, to this day, have to bear the reputation as well, and nobody meant to hurt anybody. The little smiles in the Truth and Reconciliation Commission are real, the clothes are clean and the meals are good. There were many people who came from residential schools with good training and good language skills, and of course there were the atrocities as well.

Do you have some thoughts on whether something like that could work today? Do you think Justin Trudeau is going down that path, and is it possible to pay out — now it would be millions of dollars per Native — and we all become Canadians together, to settle all the treaty rights?

Mr. Miller: The major defect in the white paper of 1969 to which you refer was the process that produced it. There was a series of consultations, so-called, that went on between First Nations and other indigenous leaders and government officials for several years leading up to 1969. When the policy statement emerged in June of 1969, it reflected none of those consultations. What it reflected was the philosophy and approach of the Prime Minister, a highly individualist, anti-nationalist ideology. Nothing wrong with it.

I was a young man then. I was supportive not of the white paper specifically but of Trudeau's general approach at the time. But the problem was that it was enormously disrespectful to indigenous peoples. They reacted and their leadership reacted, and it was a united reaction right across the country in opposition to it. Therefore, Trudeau and Chrétien, the then minister, backed off and suspended the white paper.

I don't think anything like that, either in terms of process or substance, is in the cards for the immediate future — at least I hope not.

Senator Beyak: Well, the Native people still talk to me about it, the ordinary folks on the ground who just want to go to the mall, get their nails done, get their hair done, live in peace and prosperity. They are tired of the bickering. They are tired of everybody speaking for them. They'd like to have a national referendum, Native to Native — where do you want to live, what do you want to do, how do you want to move forward — instead of all these groups that supposedly speak for them, but they don't feel that they do speak for them. I'd love to speak to individual Natives across the country and see how they really feel.

Mr. Miller: I understand that you're going to be travelling across the country. I assume you'll have a chance to speak to and hear from individual indigenous people.

Senator Beyak: Thank you very much.

Senator Sinclair: I want to apologize for not having been here at the beginning, Dr. Miller. I was at another meeting and missed the first part of your presentation. If I'm about to ask you a question you have already dealt with, you can just say so and I'll read the transcript.

In terms of assisting and defining the relationship, Dr. John Borrows, in his publications, often refers to the Treaty of Niagara and the reference in the negotiation process around the Treaty of Niagara of 1764, to the promises contained in the Royal Proclamation of 1763, as what he sometimes refers to — not always — as the foundation of a new relationship going forward, in which the Crown agrees to go back to its position in the Royal Proclamation of respecting the internal sovereignty of indigenous First Nations. I wonder if you have a thought about the Royal Proclamation of 1763 and the Treaty of Niagara process and the work that Dr. Borrows has done around that.

Mr. Miller: It's too bad you were busy and unable to be here at the beginning, senator, because I spent a lot of time praising the Truth and Reconciliation Commission.

Senator Sinclair: Then for sure I'll read the transcript.

Mr. Miller: I am a huge fan of John Borrows' work in general and the work in particular on the proclamation and the Treaty of Niagara. Basically for the benefit of senators as a group, Professor Borrows argues that the Royal Proclamation, which was a unilateral Crown document, of course, was converted into a treaty because Sir William Johnson, the first head of the Indian department in our history, distributed the proclamation throughout central and eastern North America, called an enormous conference of First Nations leaders together at Niagara in 1764, in the next spring/summer, and got their agreement to the terms of the Royal Proclamation in a long conference, and they produced a wampum belt from that conference.

Professor Borrows' argument is that those actions converted a unilateral Crown document into a treaty. The significance of that is if it's a treaty, it's protected by the 1982 Constitution by section 35, for example. So I think it's a sound argument. You cannot actually connect every one of the dots to get to the conclusion, but there's enough evidence there to I think with confidence make the inference that John Borrows draws from it.

Senator Sinclair: Thank you.

Senator Boniface: I just wanted to follow up on your comments on treaty commissions. Again, looking for a path forward, where would you have seen or where do academics see the commission as having been successful in any aspect or if one construct of a commission was more effective than others?

Mr. Miller: The treaty commissioners have been most effective in education, both public education and education in the schools. I hope you can forgive a little bragging, but the Saskatchewan commission was far and away the more successful of the two we have had so far. As I mentioned briefly before, it fostered and supported the creation of new curricula on treaties as a basis of Saskatchewan society for the schools. The current government of Saskatchewan mandated the use of that curriculum in all schools beginning in 2008.

The other thing that the treaty commission under David Arnot did was carry out a very ambitious program of public education through a speakers bureau and through TV commercials that were by and large sponsored by the CTV network. They ran on Saskatchewan television channels. The theme was, "We are all treaty people," and it tried to convey that message.

The Saskatchewan Treaty Commission did facilitate a lot of useful conversation between First Nations leadership and the federal Crown with the provincial government there as an observer only, but it didn't lead to any fundamental change.

Senator Boniface: Thank you.

Senator Raine: You mentioned the Saskatchewan and Manitoba treaty commissions, but there's one in British Columbia as well, and I'm just wondering if you've looked at that. I do realize you said you would focus mostly on Eastern Canada, but is it patterned in a similar way to Saskatchewan and Manitoba?

Mr. Miller: No, the British Columbia Treaty Commission is a very different sort of commission. It was created by agreement among the two Crowns and some the leadership of British Columbia First Nations to address specifically the question of Aboriginal title. Of course, most of British Columbia still has non-surrendered Aboriginal title, in effect, and that began in 1992 to try to create treaties. It has a handful of them, basically 25 years later, but that's all.

The other commissions were more a matter of working on interpretation, modernization and implementation of existing treaties. They are quite different in character, but thank you for the reminder. It is an important example of a treaty commission.

Senator Raine: Thank you.

Senator Patterson: Professor, in your comments this morning talking about looking at redress alongside reconciliation, you mention an obvious field for cooperation being resource development. The environment is connected with that. Senator Tannas has said we have urgent issues. I think most Canadians would agree that resource development issues are pressing issues that are a source of confrontation and frustration from many parties. At the root of the problems of resource development are dispossession of land and concern about proper stewardship of land.

I would put it to you that in comprehensive claims settlement, in the North in particular, the federal government took a different approach to the management of land. One was to give the First Nations, the indigenous nations, big chunks of land. The Inuit of Nunavut own almost 20 per cent of the land in the Nunavut territory, which is the biggest in Canada, in surface or subsurface. They were also given rights in the management of land, in the regulatory process, through co-management schemes. Finally, they were given a guaranteed share of revenues from land. I've always thought that this was a possible model for reconciliation in the rest of the country.

We have lots of land. Now, a lot of it is alienated by third parties in Southern Canada, but there still is a lot of Crown land. Canada and provinces don't need to be the only ones that obtain revenues from resource development. Our regulatory system in some quarters is seen as not credible and needing to be reformed. I'm not sure if I agree with all of those sentiments, but what would you say about these principles of co-management, resource revenue sharing and generous reallocation of Crown land as a basis for redress in this whole contentious issue of land and resources?

Mr. Miller: As a preliminary comment, senator, I agree with you that resource development issues can be a source of frustration. Sometimes, though, they are a source of cooperation. In my province, the Muskowekwan First Nation is in agreement with the potash company to develop a \$3-billion mine, and they are quite happily working with that resource company. In many other provinces — and British Columbia is an example — there are many cases where the First Nations have worked out bilateral agreements with forestry or resource extracting companies. It's not always about frustration. It's sometimes about cooperation, and we tend sometimes to focus a bit on the frustration part of it, for I guess understandable reasons.

To come to your principal question, yes, I think what was done in the Nunavut agreement can serve as a fruitful model, where there is sufficient Crown land available. I would part company with you, though, on one point, senator, with respect, and that is the way you characterized some of the terms. I don't think Canada gave the First Nations anything. I think they let them keep their lands, basically. That quarrel apart, I think I agree with you.

Senator Patterson: Thank you. I stand corrected.

Where this reconciliation has worked — you mentioned the potash project in Saskatchewan, which I know a little bit about, where we've had these bilateral agreements — what allows these partnerships to occur instead of the confrontation that we see in other places? What is it that is done right in those situations? Is it enlightened companies? Is it different government policies? What are the ingredients to create a win-win situation in resource development?

Mr. Miller: I don't claim to know the mechanics of all the agreements by any means, but I think on the whole, the reason it happens where it happens is that the First Nations, or Inuit in some cases, are approached respectfully by the companies and are dealt with and negotiated with on that basis. Where it doesn't work fruitfully is when they're not respected and when resource companies and governments try to carry out development without dealing with them properly.

Senator Patterson: Just a quick footnote: I believe companies approach Aboriginal peoples respectfully in Nunavut because they're required to negotiate impact and benefit agreements before getting a licence to develop. Companies know that they have to form partnerships if they're going to develop resources in the North by the terms of the land claim agreement, which is protected by the Constitution.

Mr. Miller: Now that the Supreme Court has promulgated the doctrine of duty to consult, perhaps that applies everywhere.

Senator Oh: Professor, I agree with your comments on the importance of education. As a Canadian of Chinese background, I have spent a lot of time learning about the discriminatory legislation instituted against members of my own community. It has given me a greater understanding of our past and current situation. **Do you think that indigenous children would also benefit from having access to a curriculum that would enable them to understand their current context?** Would this continue to give them greater capacity to mobilize or to advocate for their own interests? Are there any programs across Canada that provides indigenous children such information, or is it mainly just through their own communities?

Mr. Miller: During my career, one of the things I worked on was the history of residential schooling. I published a book on the subject in 1996. One of the things I discovered in doing the research for that book and since is that indigenous people have always been interested in and open to learning from Europeans. They've never been closed-minded about their knowledge, their technique or their religion, for that matter. I think they always had been in most parts of the country.

I think there's every reason to believe that educational systems conducted by indigenous peoples will indeed convey the kind of information and knowledge you're talking about to their young because they see it as strategically necessary and as vital to the future success of their young people and their communities, basically. I would be very optimistic about what they will do in their educational systems.

Senator Enverga: **Professor, you mentioned that one of the causes of the difficulties right now is assimilation. Canada is not a melting pot like the United States.** We have multiculturalism whereby we respect differences and we use those differences to build a stronger nation. It aids in a culture of understanding, tolerance and acceptance. **Is this working for the indigenous group or does it create a more complicated workplace or culture for our indigenous groups? Is it helping at all culturally?**

Mr. Miller: I hesitate to speak for them. It's not my place. However, I think that indigenous people resist being seen as another tile in the multicultural mosaic. If I may be a little flippant about it, to borrow a statement that came from the United States, one member of an ethnic community in the United States said, "Ethnic groups run restaurants. We're a nation." That was the answer.

I think indigenous people see themselves as distinct people, as nations, not just another ethnic group within a multicultural society. They're not opposed to it, but they see their own status and place within the country as something different from newcomers, basically.

Senator Enverga: Could multiculturalism be a cause for misunderstanding between the different cultural groups and our indigenous people? Could that create more problems?

Mr. Miller: I think the process that Canada uses to educate and acculturate new Canadians before they become citizens should head off that potential danger. As I mentioned, I deal with a fair number of new citizens as a presiding official sometimes at citizenship ceremonies. They seem well informed and quite comfortable with the special status that indigenous peoples hold in the country. They are eager to learn more about it. That's been my experience.

Senator Raine: I have a follow-up question. These days, refugees and immigration are in the forefront of the news. I find it very unfortunate and a bit disheartening that we hear from the media comments like, "We are all immigrants." It's like there was nobody here when we got here. We're losing a really good opportunity at this particular point to reinforce not only the fact that the First Nations were here but also the fact that their values and their culture give us something to learn from. Do you have a comment on the role of the media in informing Canadians?

Could you go back to what you said about Saskatchewan, where the government sponsored advertisements about "We are all treaty people" and how that worked? Did that help to change the attitudes of all Canadians? I know it's not a common response, but I have heard responses from people who say, "I came here with nothing and I worked hard. Look how well I've done. Why don't those people get off their butts and get to work?" That's really unfortunate. So just some more comments on that?

Mr. Miller: I think we all get frustrated with our media from time to time. It's important that we try to understand what they've been going through too, however. They have been taking a real hammering financially with the drastic technological change that has been going on over the last quarter century, roughly. I think we should cut the reporters a bit of slack, because there aren't very many of them, they're not given any time to do research and prepare, and their editors are very few in number and they can't do much to help either. I share frustration about the media sometimes, but I try to be understanding as well.

In the Saskatchewan case of teaching treaties in the classroom, the curricula were developed by a team of educational professionals sponsored and encouraged by the treaty commissioner for Saskatchewan. Then the provincial government mandated — that is, instructed, through the Department of Education — that all schools would adopt and use those curricula, from the lowest grades of elementary school through Grade 12. If you're interested in that, all those curricula are available at the website for the treaty commissioner, www.otc.ca. I think it has been successful. We'll know better in 10 years, but I think it is a very useful model that others could emulate.

Senator Beyak: I don't think I've ever asked three questions in all the time I've been on this committee, but it's so nice to have a historian here. Thank you.

I was interested in what you said about the residential schools and the book that you wrote. Again, I have testimonials from many people. I live in a riding that has 52 First Nations around us in our catchment area, and I have many friends there, and they have sent me testimonials about many good experiences. The best example is the playwright Tomson Highway, who credits his success to

going to residential school. He acknowledges the atrocities but says there were good people doing good things, who taught him language and how to play the piano. I wonder if you could tell me a little bit more about that side of it.

I was disappointed in the Truth and Reconciliation Commission's report in that it didn't focus on the good. The people I talk to are Christians. They belong to Spirit Alive, a group in Saskatchewan, and Tribal Trails. They look through the windshield rather than the rearview mirror. They want to move ahead in positivity and happiness and not focus always on the past. Do you hear anything like that, or did you do that kind of research for your book?

Mr. Miller: You're putting me in a very difficult position with Senator Sinclair sitting here.

Senator Beyak: I know, but he's a very open-minded man too.

Mr. Miller: I think the Truth and Reconciliation Commission report did talk about the staff at the residential schools and did say some positive things about them. It did try to acknowledge that there were some positive results for some people. My own research found the same thing, that there is a very small minority that had a good experience.

My research told me, though, that overwhelmingly people had a very mixed experience. There were some good things, things like sports — and the TRC report brought that out very clearly — and a variety of other things like that, but many more difficult things, such as emotional deprivation; poor care; inadequate instruction; overwork; aggressive and hostile proselytization by missionaries and so forth. That was my experience. I hope you'll excuse me if I weasel out of it and don't say anything more.

Senator Beyak: Thank you very much.

Senator Sinclair: In an opinion piece written in the spring of 2016, the former treaty commissioner of Manitoba, Jamie Wilson, wrote about an experience he had speaking with students in a location in Manitoba. In his opinion piece, he said that when you look at the impact of the Indian Act upon the First Nations people of Canada, it certainly has had negative consequences. But he said that there is actually a good example of people who have been able to live successfully in areas where they hold title in common, where they have the right to educate their children free from outside interference, the right to their own culture and the right to be protected from outside interference with their own culture, the right to practise their religion without outside interference, the right to freedom from outside interference in their forms of self-government, and the right to manage their own economies. He refers specifically to Hutterite colonies, and he said that Hutterite colonies are an example of how Indian reserves could have been if the government had not passed the Indian Act. Do you have a comment about that?

Mr. Miller: Yes. I have a lot of comments, but I'll try to be brief.

I think it's one of the tragedies of Canadian history that literally at the same moment that Canada was making treaties following indigenous ceremony — such as Treaty 6, the Treaty of Fort Pitt and Fort Carlton — at the very same time in 1876, Canada passed the Indian Act. The reason it has been tragic is that the treaties — at least the way they were made, if not the way they were implemented — embodied that idea of kinship creation that I tried to describe very briefly. Whereas the Indian Act, of course, set up a completely different relationship between government and First Nations, a relationship not of kin who help and support each other but, rather, of parent or trustee and child, or ward — a totally different relationship. That blighted what could have been, I think, a much more positive relationship. If we had stuck with the treaty approach as it was negotiated in the numbered treaties, particularly the southern numbered treaties, I think we would be a very different country today. But that's not what we did.

Senator Sinclair: This is the big question: In terms of going forward, what is it that this committee, do you think, should be taking into consideration in terms of foundational aspects of the new relationship going forward? What are the keys that this committee should be looking at in terms of how we get out of the current situation and into a situation that has been promised by the Prime Minister in his various speeches?

Mr. Miller: I think again I would quote the TRC final report and talk about the need to re-establish a relationship of mutual respect and support. I think that is the necessary foundation on which we can add the other instruments, such as education, both school and public, for example; redress to solve the accumulated problems as well as we can, as quickly as we can; and to promote reconciliation and better relations.

Senator Patterson: I know you just had a short time to present, but I was kind of struck by your omission of any reference to the Royal Commission on Aboriginal Peoples. I know that it was created in a different era, post-Oka, and there were a lot of tensions in Canada over some of those very difficult issues of the 1990s, but RCAP was an attempt to restructure the relationship between indigenous and non-indigenous peoples in Canada. That was the fundamental mandate, and their final report presented a roadmap for fundamental change for the next 20 years. It had 450 or so recommendations. The AFN says that 20 years later, maybe one recommendation had been implemented.

Can you just reflect on that experience of RCAP? I know it's a great source of data on history and information and research, but that report didn't seem to have recommendations for change, and they're studying the same issue that we are now boldly tackling, restructuring the relationship. Could you comment on the RCAP experience and maybe why it apparently hasn't helped to promote change?

Mr. Miller: I have a chapter on RCAP in a book on reconciliation that I'm publishing in September, so it's something I've thought about a fair bit.

I agree with you that RCAP produced an awful lot of very useful data, and the public community hearings that were conducted were very useful in public education. The problem with the report, however, was that it was inappropriate for the time and unrealistic. As the deputy minister of Indian affairs, Harry Swain, said of it, "RCAP was dead on arrival." By that, he meant and I mean that it called for things like enormous re-creation of a new system of governance, a third house of Parliament, for example, at the very moment when most Western democracies were marching resolutely in the opposite direction, trying to shrink the role of government wherever they could. This was the mid-1990s, for example.

Similarly, their recommendations, however worthwhile, would have called for an enormous, immediate expansion of expenditure, again at a time when the country was finally facing up to the fact that it had an unsustainable deficit and a rapidly increasing debt. You may recall that it was shortly after that that the Chrétien government, with Paul Martin as finance minister, tackled that problem in a very aggressive budget in 1996-97.

So RCAP had many good things about it, but I do think that the main thrust of its recommendations didn't suit the time and circumstances and therefore had little or no chance of being successful.

Senator Patterson: Thank you.

The Chair: Senator Watt will be the last questioner, but before we proceed with his question, I had a quick supplementary with regard to RCAP. It was in 1996 and that was the same year that the government introduced the 2 per cent cap, which I believe and the committee believes has had a serious effect on the financial well-being of the various First Nations across Canada. When that cap

was lifted, the provinces received a top-up, but the First Nations had never received that top-up. I'm wondering, in your view, do you think that has contributed to some of the financial difficulties that the individual First Nation bands have found themselves in?

Mr. Miller: Yes, it has been a huge aggravating factor for First Nations. If you don't mind a suggestion, if the committee is so inclined, you would profit from having as a witness Scott Serson, who was the deputy minister at the time. I interviewed him for my project. He understood that the cap, in his department's case, was to last two years and then be lifted and then, "My colleagues stabbed my in the back."

The Chair: Thank you. We did hear from Mr. Serson a few years back, and I believe he made a tremendous impact on the committee. Thank you.

Mr. Miller: The combination of the cap and a rapidly growing birthrate amongst indigenous people means that the gap between resources and programs just widens terribly.

Senator Watt: Thank you for your presentation. I guess an area I would like to cover is sort of based on partly my own personal experience dealing with the government in negotiations and also negotiating the constitutional rights of Aboriginal people.

I think at times we had to come to realize that there is within the system a roadblock that takes place from time to time. I'm not sure whether I'm making myself clear when I say "roadblock." I'm talking about obstacles in the negotiations themselves and also after the negotiations when it comes time to implementing what you thought you have concluded as a deal, as a treaty.

I do have questions that I would like to put to you. It's more on administrative matters, but at the same time it has the ability to influence political people, the ministers and people in the House of Commons who have to vote from time to time. I'm actually talking about two departments within the system. One is the Department of Indian Affairs. One is the Department of Justice. They're very well entrenched within their authorities. They know what they're doing. They know what they're following, the policy that has been set and agreed to by the system and to be the system, to be implemented, whether the people like it or not.

What do you do with a department, such as the Department of Indian Affairs, that has the tendency from time to time to influence a politician and make politicians make different decisions from what has already been agreed to? What do you do? This is an area where I would like you to give me some kind of response as to what we do with it. How do we deal with it in order to remove that obstacle, not only in the Department of Indian Affairs, as I mentioned, but also within the Department of Justice? I'll just leave that with you for now and maybe I'll have an opportunity to ask a supplementary question afterwards.

Mr. Miller: A wise man once told me, when I discussed with him the aftermath of the Prime Minister's apology in 2008 and why things went off the rail all the same, that it wasn't messaged down to the bureaucracy. That was the explanation. I think that indeed is a big part of what happened with the apology.

I think from that we could draw the conclusion that if we want change in the bureaucracy — and you have explained very well that there is resistance because there are accumulated interests there — then the person at the top has to be very insistent, repetitive and emphatic that this is to be done. I think that's the only way — from the Prime Minister to the group of deputy ministers to their various staff. I think that's the only way the message at the top gets messaged down to the people in the civil service.

Senator Watt: Do you feel that the leadership that we have within indigenous peoples, such as the Assembly of First Nations, Inuit Tapiriit of Canada, should work out an arrangement, a structure, before the actual negotiations take place, if the reconciliation will be moving side by side with trying

to arrive at a new understanding? Let me use the word "understanding" for now, because we are not yet there in terms of a relationship.

In order to have the Prime Minister and the executive arm held to it, in the sense that they have an obligation to move forward, do we need the general public of Canada to come to realize that we as an Aboriginal people in this country are struggling and we do need attention from the general public of Canada?

How do we deal with that? How can we mount pressure on the Prime Minister, with the executive arm, and try to remove the obstacles, like Indian and Northern Affairs and the Department of Justice, to try to move ahead? Would it be better to maybe call upon a national referendum, well-organized and establishing a target so the general public of Canada can follow and put necessary pressure from time to time when it is needed? Can you respond to that?

Mr. Miller: I think we're back to education. I completely agree with you that in order to get the political level to act and to get the bureaucracy to follow, the general public must be supportive. The way to obtain that support is by educating the public about the real situation, essentially. I really don't see any other way around it.

I would hesitate to try to tell First Nations and Inuit and Metis leadership how they should conduct their affairs. It seems to me they are pretty effective on their own.

Senator Watt: If this committee is to be effective in terms of nailing down what needs to be nailed down, it's a long road, and we will have to shift very differently from the way we have been conducting our business. If we do not take this opportunity that is available to us today, it makes me worry how long this opportunity will be around. There are problems. We are complaining about a lack of movement and quickness from the Prime Minister. I have heard comments from the outside from time to time saying maybe he's too young. Maybe he does not fully understand what should take place, but he's dealing with it as sort of icing on the cake.

I, for one, was appointed by his father, and I have always supported his father. I do support the Prime Minister, and I want to make sure that he is given a full opportunity to move ahead. If we don't help to get things moving in the right direction, I think we will be missing the boat again. I'm worried about the time. I know this is not really your area to respond, but nevertheless, we do have obstacles.

I want to get back to the Department of Indian and Northern Affairs issue. You mentioned the answer is in education. Does that mean that the Department of Indian and Northern Affairs, which administers the Indian Act, should continue on? Or should they be suspended and put on the side while the negotiation is taking place and not interfere? Would that be a solution?

Mr. Miller: The last Prime Minister that wanted to abolish the Department of Indian and Northern Affairs had to back away within less than a year. You may recall the white paper.

Senator Watt: Would it be better for this committee to take into consideration getting rid of it for now? That's all the First Nations have, even though we don't agree with it. Can we move in the direction, as a committee, of suggesting it should be suspended for a period of time, maybe with a timetable attached to it, to begin the negotiation and for the negotiations to conclude? If we don't move in that direction, we will keep on going. You have to have some kind of a sunset clause within the approach we are taking. Without the sunset clause, it could go on and on and on and never end.

Mr. Miller: With respect, I would encourage the committee to discuss that sort of action or other actions with First Nations political leadership and try to come to an agreement.

Senator Watt: Thank you.

Senator Raine: This has been a really interesting session. We've covered a lot of ground, but you mentioned in your remarks that following the passage of the Indian Act, efforts compelled First Nations to govern themselves with elective institutions.

The question of governance among First Nations has come before this committee several times. We know that governance is very important but that many First Nations have traditional ways of governing themselves. Many of us on this committee feel that the need for controlling how they govern themselves should be left to individual First Nations and there should be some mechanism to opt in to self-governance and opt out of the Indian Act.

I had a bit of a mentor in former Senator Len Marchand who educated me a little bit about First Nations history. He used to say **the Indian Act is both a fortress and a prison**. If you're ready to step out and go it alone, it is a prison. You can't get out. On the other hand, for many First Nations who aren't ready, it protects you and it gives security.

We can't just change it overnight. Have you, in your studies, looked into the ability for First Nations to opt out of the Indian Act and opt in to self-governance? We had a colleague, Senator St. Germain, who tabled Bill S-212 just before he retired which unfortunately hasn't received much attention. I'm just wondering if you have had a chance to look at that or if you had some thoughts on **ways to break down the prison walls of the Indian Act**.

Mr. Miller: I'm not familiar with that specific bill, senator, but I have done a little work on the governance issue for another book I published called *Lethal Legacy*. I had a chapter specifically on governance. For that project, **I interviewed leadership in the Sechelt First Nation in British Columbia, and of course they were unique because they negotiated their own self-government arrangements in 1986, if I remember the year correctly. They negotiated their way out of the Indian Act. Other examples include the Yukon Final Agreement of First Nations because there are provisions there for self-government.** Nunavut, of course, is a special case, as is the Nisga'a case.

Since 1995, federal governments have had a self-government policy and program. There are a variety of mechanisms available already, and I think if First Nations wish to avail themselves of some of them, there are openings there.

Can they be better? I'm sure they can, and I don't have the expertise to suggest how they should be improved. I think people you will talk to during your deliberations will probably give you some ideas on that.

Senator Raine: Thank you.

Senator Beyak: Senator Watt's question raised another question for me. He mentioned the government trying to make significant changes, and you said the only time a government tried was the white paper and look what happened there. **You mentioned that all across Canada there was unanimous support not to do the white paper, but none of the Native grassroots people that I work with and live with knew anything about it. They didn't feel that their band chiefs or their councils or any of the groups that supposedly represent them told them the details of it.**

I wonder what you think of having a one-on-one talk as we go across Canada. How do we reach the grassroots Natives and bypass the groups that supposedly represent them? Because they don't feel that they do.

Mr. Miller: I had never thought about that, senator. I would assume you can advertise and not just in publications but perhaps in First Nation and other indigenous electronic media. Let people know that you're available to talk to them if they wish.

In my work, I've always concentrated on the leadership because there you have institutions you can analyze and they produce materials you can similarly analyze. I'm not really much of an expert on the particular point you're raising.

Senator Beyak: Thank you.

The Chair: I will ask a supplementary to that. I don't believe we have talked yet this morning about involving youth leaders. Of course, as you probably know, Professor Miller, in Saskatchewan, the Idle No More movement arose out of four women who were from Saskatchewan, or working in Saskatchewan, and I believe they represented a sea change in how First Nation grassroots communities are being involved, primarily to some extent through education.

We're now seeing what I used to term the brown baby boom. We're now seeing an educated group of young people who understand what it means to be a First Nation citizen but also have the tools available to them of being educated in the mainstream educational systems, and Idle No More seems to have very good roots in communities. Do you see that group of people as an important and essential piece that we ought to consider as we move forward on our new study to develop what the new relationship should look like?

Mr. Miller: Yes, I think Idle No More was a game-changing development — it was outside the political leadership, to come back to Senator Beyak's point — with four remarkable women from Saskatoon, one of them a PhD candidate at the University of Saskatchewan, for example.

The other thing about Idle No More, of course — and maybe this is something the committee could use themselves — is the way that they used the new social media to communicate, to organize and to convene groups to do things.

The other thing about it, which is not often remarked upon but I think is also important, is that though they were tactful about it, the very existence and often the actions of Idle No More were an implicit criticism of the political leadership of First Nations organizations.

The Chair: Thank you.

Senator Sinclair: We have talked a lot about First Nations in this conversation, professor. For the benefit of the committee members, what are the unique aspects of the relationship between government and Canada with the Metis and with the Inuit that need to be taken into account when we talk about a new relationship with indigenous people that might differ from First Nations and their relationship with First Nations?

Mr. Miller: With the Metis, senator, the most important thing there is the lack of a land base as a problem that the Metis have to deal with and have dealt with for almost 150 years now. I think that's the biggest problem they have faced, and Canada will have to deal with that sooner or later.

I'm not as confident in commenting on the Inuit, but I would make one observation and that is that the Inuit have always behaved politically as though — and they say it themselves in the 1980s — they wanted into Canada. They always emphasized that more positive aspect of their agenda. That is something on which governments can build productively in dealing with the Inuit and with their leadership.

Senator Sinclair: Thank you.

Senator Pate: I was interested in your comment about RCAP, and I want to come back to that a bit and the decision not to implement many of the recommendations and to argue the economic arguments really missed the point of the impact of not addressing those issues that are, again, revisited in other justice reports but especially with the Truth and Reconciliation Commission.

In your review of this, have you looked at the corollary costs and the manner in which there has been no seemingly comparable expensing of the cost of criminalization and imprisonment, for instance, disproportionately of the indigenous peoples of this country? In particular, have you looked at the fact that women are the fastest-growing prison population, which is not indicative of their criminality, per se, but of their marginalization?

Many of the recommendations that first came out in RCAP and were repeated in the Truth and Reconciliation Commission actually have huge cost implications that seem to get buried in the discussions and not addressed front and centre. The Parliamentary Budget Officer costed one indigenous woman's sentence at \$7 million, for instance, which started off with a very minor offence and things accumulated in the prison system. If we invested that money not just in the community where she lived to benefit her but many others, we could see some very different results. I don't know if that actual analysis has happened about RCAP in particular.

Mr. Miller: I'm not aware of that analysis being done either. I think it's a very interesting question but not something that I have expertise in personally.

I would be a little cautious, though, about assuming that if RCAP's recommendations had been implemented, that there would have been tremendous change or all things would have been solved. I think of the recommendation on residential schooling, for example. They recommended that there be a commission of inquiry, basically — not the most inspiring conclusion. I thought that in 1996 and have thought that many times since.

Senator Raine: I really like to take advantage of witnesses when they're here. On our agenda we are currently looking at Bill S-3 on gender equity for First Nations people. From a history point of view, can you give us any kind of experience that you might have on how gender inequity came in through the Indian Act, and was it intentional and what efforts have there been to redress it?

Of course, you may have seen that the Quebec court has given an extension to the government of another five months I believe, to come up with better legislation.

I would appreciate a few comments, if you wouldn't mind.

Mr. Miller: I better get this answer right because my wife is a specialist in women's and gender studies.

The gender inequity actually came into legislation before the Indian Act. The Indian Act is 1876, but gender discrimination as a result of marriage out — as the expression goes — that comes in a statute in 1869 called the Gradual Enfranchisement Act. That's the first time that legislation specifies that if an Indian man marries a non-Indian woman — and I'm referring to status there, that's all — then that woman becomes an Indian person. Conversely, if an Indian woman marries a non-Indian male, she loses status and their descendants forever will lose status as well.

There was an attempt to reform that, to correct it, in Bill C-31, and it did create some redress. A fair number of people got status restored as a consequence of that. But what we're now facing is the unforeseen consequence that was in some of the details of Bill C-31, and that is what is sometimes called the "double grandmother rule," that unless you have successive generations marrying status Indian people, there still will be a loss of status down the road. I have seen demographic projections that are really quite hair-raising, that by 2070 status Indians will disappear, if you just project the way things have gone. So that's where it came from, that's where we are, and that's one nightmare vision of where it can go.

Senator Raine: Thank you.

The Chair: Thank you, Professor Miller. I think we are at the end of our time. I want to thank you on behalf of all the committee members for your presentation this morning. It was a good overview, and you have answered everything from A to Z with regard to indigenous history in Canada. At the end of this session, we should be granting you a Doctor of Letters with regard to being a witness at this particular committee. Thank you very much, and that is the end of our session.

Mr. Miller: I thank you for the opportunity to speak with you, and I wish you the very best of luck in your labours on this most important subject. We all need you to succeed brilliantly.

The Chair: Thank you.

And I should remind members there is no meeting tomorrow night.

(The committee adjourned.)