

QUESTIONS & ANSWERS FROM THE April 16, 2008

SIX NATIONS MRP COMMUNITY MEETING

QUESTION: When voting, do you have to be present? Do you have to show yourself or is it gathered? [Question refers to section in new Government MRP Bill C-47 requiring a ratification vote]

RICHARD: It is not clear in the legislation, because it doesn't get into that detail. It simply calls for a community approval process. My guess is that it would follow under the similar nature as if there was a vote for an election or a vote for a referendum. Ordinarily that has been the meeting of the community where people come and sign in and they vote. That has been the practice but, it is not clearly spelled out in the legislation.

LONNY: I think that is probably the way the process would work. That is how traditionally that gets done. But under any law that is developed under this legislation there has to be appointed by the government, a Verification Officer and that is the governments way of having control of the whole situation. That person whoever he or she is going to be is going to have a lot of input on how the vote is going to be conducted.

QUESTION: My Question is - native men have always been allowed to bring their non-native wives on Six Nations; they inherit the farm the home and they can stay here until they die. I want know what are the problems that this has caused and why native women are being discriminated against (for doing) the same thing that native men have be doing all of these years.

RICHARD: C-31 was the Bill that became law in 1985, which essentially changed the Indian Act. The Indian Act up to the point said that if an Indian man married a non-Indian woman she gained (Indian) status and if an Indian woman married a non-Indian man she and their descendants lost their status. It was a federal piece of legislation that amended the Indian Act, that attempted to correct the legislation and at the time they also said that money would be available for all those people that were coming back to acquire land and houses (on reserves), which never came through. It is another example of them imposing a law, it was a Federal Law not a First Nations Law and it was an amendment to the Indian Act.

The Indian Act is theirs in the first place; they made that discriminatory practice of allowing non-Indian woman to gain status in the first place and they tried to attempt to correct it. But they had a cut off date; they had a third and second generation cut off for children who married non-Indians, they lost their status and their on-going children lost status. My view is that the problem was not created by us, it was created by them. It is partly our fault for following it, we follow the Indian Act and we have allowed it to impact our community. Six Nations wants to develop our own MRP law that is not based on the Federal Government law or on the Indian Act. It is based on our jurisdiction and it is based on setting out the way that we do things, on this area. It is an attempt to correct some of that and we want to use some of our customs and traditions in that. We want to work with the Confederacy, the people who are knowledgeable about how things were done before the Indian Act, how things were done before the white men, when people (married couples or spouses) broke up. How was property divided, shared or handed down? For this area we are trying to correct that with our law, but we can't really correct the C-31, because it is not our law. What they did when they passed the law, is called grandfathering. All

those people who got onto our membership list, got to keep their registration number, so from that point on from the date of when it was passed in 1985, up to that point everybody who was registered gets to stay an Indian, including those who weren't racially Indians.

There is a connected point, which we talked about in Ottawa with the Iroquois Caucus, because what is being developed for ID Cards for crossing the Boarder. Indian Affairs is working on a secure card that will not only give you your tax exemption, but the card will be recognized as a boarder crossing document. One of the problems is that the United States sets out the criteria and the criteria for the States say that you have to have at least 50% Indian blood. That is a conundrum, because we know that there are non-Indian people who have Status Cards, who have no Indian blood. So, we are trying to correct it with MRP, but I don't know if we can correct it with Bill C-31.

QUESTION: Do we know how many native women form this reserve, that we are talking about what percentage of our women are marrying non-natives.

AVA: It is not only the women marrying non-natives. Since 1985, I think last year it was 80% were marrying people who where not band members.

MELBA: With Bill C-31, from what I heard in the community it certainly has caused problems with funding for example, the government had promised funding to be adequate to the Bill C-31 individuals, but there is a lacking in housing and in schools and all of the other services, so it has never been adequate to really meet the needs of the Community and it takes away from other individuals who are here in the community.

COMMENT: I think this problem would go away if we got rid of all the white people down here, because this is Six Nations, not for half breeds. I don't want to look out my windows and see Chinese kids running around.

RICHARD: MRP deals with what happens when couples break up, so we have Indians married to Indians and the question is what happens to the home and the property. Dealing with white people is one problem, but we are still going to have Indians married to Indians, whose marriages aren't working out and we have to come up with a law that says what happens to their property when they break up. What happens to their property, what happens to their kids? So, there is still that element that we need to deal with.

COMMENT: The property thing, shouldn't that stay in the family name, if it was handed down? Usually the man gets it, if he gets it from his family it should stay in the family.

RICHARD: Some people disagree with that, some people say it should be the man's, some people say it should be the woman's. We primarily use Certificates of Possession for land title here (at Six Nations). Sometimes the CP is in the man's name and some times it is in the woman's name and sometimes it is in both names, in terms of who owns the property. So what we are trying to figure out is, for the law that we are developing what a fair system is, what would be fair in terms of when there is a marriage breaks down on how to divide the property. That is what we are trying to figure out.

LONNY: There is a drastic way to avoid ramifications of this act. We have a residency By-Law in effect here on Six Nations now, but I don't think it is being followed to the letter. It says that only Six Nations Band Members are entitled to live on Six Nations, by at large it is not being enforced. There are spouses who are bringing their non-native spouses to live here and it has

been going on for years and those people are going to enquire rights under this legislation. The drastic way I am saying is, all non-Band members would have to be booted off before this act came into force and we would have to monitor the reserve continually to make sure there is no other non-native spouses and that includes according to our by-law even native people from other reserves, are not allowed to come and live on Six Nations. You only acquire rights if you lived here or either you are married or else you lived common law. I think the Common Law definition is that you have to live with somebody for three years (in Ontario law), in a common-law relationship. That is the drastic way of avoid the ramifications of the legislation. We haven't really focused on it and haven't said much here tonight, but the danger is that non-native people are going to obtain the right to live her on Six Nations, under law and there is nothing that you would be able to do about it, according to the legislation.

QUESTION: Can you expand on, that they are waiting for a Bill C-30 to go through, the Specific Claims. Is that Specific Land Claims?

RICHARD: That has to go through before they can deal with this, because they can only deal with one Bill at a time.

QUESTION: How is that going to affect that once that goes through?

RICHARD: What the Federal Government has is a Lands Claim Policy, what is called Comprehensive Claims, which is areas what they say is there was no Treaties, so it is primarily in British Columbia and North of the 60th Parallel, where no treaties were signed. They also have what they call a Specific Claim Policy that is for areas that there are Treaties and where there has been some misappropriation of land or where land transactions that didn't go through or for example for some of the claims that we have here, where there was leased land along the Haldimand Tract and the leases weren't paid. So, technically that land shouldn't have been able up to buy, but obviously all the land along the tract that isn't part of this reserve has been sold many times over to non-Indians. That would form a Specific Claim for each transactions that we see as invalid.

The process has been totally one sided, essentially the Federal Government has set up the process and we make a Claim against the Federal Government and they get to decide if the claim is valid; they get to decide how much compensation is awarded; and how much money we are provided to research the claims. With this Bill, C-30 they are attempting to correct it, what they are saying is they are going to setup a tribunal, they call it a independent tribunal, six Judges which will be picked from superior courts, but they will be existing superior court judges and they will put time limits in place, because right now there is no time limit. You can file a claim and it can take 8 years or 15 years for them to respond to it and then if they say it is invalid there is no where to go. This new process will say you have 3 years to file a claim; they have 3 years to respond to it. If they don't it goes to this tribunal and there is 3 years to negotiate it and the tribunal will also get involved in determining what the compensation will be. That is their way of making it more fair. We have concerns around the Tribunal, because they are still Canadian Judges. Another element of it is, they have set in place a (funding) cap. For example, it will only deal with all claims fewer than one hundred fifty million dollars (\$150,000,000) ; can be used by this tribunal.

As you know Six Nations has many Claims that are above that amount. Most Iroquoian communities have claims above that amount. There is no process, set out on how those (large claims) are going to be dealt with. The Assembly of First Nations co-wrote this law and we have concerns with that as well. The Assembly of First Nations signed a Political Agreement, which

is called a protocol that says that the issues of the larger claims will be worked out on the side. It is not going to be in the law, there is going to be a special process for the larger claims that are larger than one hundred and fifty million, those are going to affect us. The other concern with AFN being involved with it, again there is a federal duty to consult; this is going to affect our Aboriginal Treaty Rights. Land rights are an Aboriginal and a Treaty right. The Haldimand Grant is a Treaty. They should have consulted with all of the First Nations across Canada and they didn't. They consulted with AFN and AFN didn't consult others, but it wasn't their obligation to consult, so we have concerns about that. With this Bill C-30 they are trying to fix the problems they created, with their Specific Claims Policy. Today was their last hearing and Phil Fountain the National Chief with the Assembly of First Nations was the last witness today. They are going to take a week off and then they are going to start with what is called Clause by Clause, where they look at possible amendments each party can propose. Then they will decide if they are going to impose the amendments and then it will go to the Senate. My guess is that it will take another 3 to 4 weeks before it gets through and then they can start dealing with C-47.

LONNY: Although the legislation says that it doesn't apply to us, unless we voluntarily submit, we have fears that it will have a strong influence on our claims. We don't have a guarantee, that what's going on now with negotiations processes, but somewhere along the line down the road it won't impact on those as well.

COMMENT: I have a wife whose grandmother was non-native and my daughter, she has no clan now. How are we going to correct that if we let these non-native women and men that have no ethics and morals about our traditions and culture? From the sounds of it, in all of our negotiating and everything that we have been through in the last few years, we are at a vulnerable state right now with the Language that was taken away from us back in the 50's through residential schools, that is a mental illness that we have now in our communities. That is why we can't communicate as well and we can't see our seventh generation and I would like to know how you feel about that. And our bloodline, what's happening to our blood and our young ones. I think that they should look closer to our children, who are the leaders now today and we have to make the right choices today, to make it safer in our community for our coming faces that aren't here yet. Our security is our language that supports our culture and traditions.

MELBA: Certainly a non-native in the family has created problems if you want to be a native person and know your culture and language, I think it is a form of assimilation and it is continuing and my understanding is that now 80% of our people marry non-natives. What I understand what the community is doing in many families, is talking about the family law. We are talking about different laws here, but family law, in other words you don't marry outside of native. That is my understanding, but it is unfortunate that it has happened, but we have to do the teaching that is necessary in our homes, or we will probably be extinct some day, just like some of the animals.

HELEN: We are really in a bind here, because at the same time we are trying to protect our collective rights, we have to protect women and men who are kicked out of the matrimonial home, whenever they break up. We know in our community and I am sure that the women shelter can attest to it that the majority is women and children are the ones that are kicked out of the Matrimonial Home, when a marriage or a common-law relationship breaks up. We have to look at the rights of the children, maybe the non-native spouse isn't able to own a house here, but what if they have children. We have to think about the children, they have rights. They have the right to own the place; they have the right to live here. We have to try and do a law that is going to take all those things into consideration and it is going to be very difficult. It is a family thing as well, if your family marries a non-native they shouldn't be living here. Plan and simply,

because of our residency by-law says that. Families are allowing this to happen in our community. But this law is going to supersede our residency by-law, if it goes through the way that Stephen Harper wants it to. It is an issue for the spouses, we can't just say women because our men suffer too when there is a marriage break down, sometimes they get kicked out. For the comment about keeping it in the family name, there are situations where the woman or the man is the main contributor to that home, maybe the wife worked and the man was lazy and didn't want to work. So the wife went to work and she paid for the house and she paid everything and vice versa the man could have paid for everything. It is not a matter of just keeping it in the family home; people that pay all of these things have rights too. It is a difficult situation that we have to work with, but if we allow Stephen Harper to do what he wants to do, he wants to get rid of reserves and he is using this law as means of doing that. He is trying to get rid the collective ownership, by allowing non-Band Members rights to the house and the land. Underneath this Matrimonial Real Property, that is the goal of the government to get rid of reserves. They are using this legislation, if it goes through, as one way of starting to do that. So it is very, very dangerous.

COMMENT: There was supposed to be a place set aside for mixed marriages, near Cainsville. Our Treaties are not with Canada, how come they are making all of the laws on us?

RICHARD: Why is Canada imposing their laws? It was an issue that was raised this week (in Parliament) by the Iroquois Caucus and by Six Nations. The presentations were very strong on C-30, but a consistent theme in the presentations on this Bill C-30, was that we have among the Iroquoian Communities a Guswhenta Two-Row Treaty, people talked about the description of that, but essentially it said we remain separate and we don't impose on each other. Bill C-30 and Bill C-47 is a violation of that Treaty. The essential question in my mind, is why are they doing this - it is because they can. One point people talked about in the presentations, was that our Treaties are based on peace and friendship; they were not land session treaties. Once they didn't need us anymore as allies, essentially they became more populated then our populations and they began to impose (their laws on us); the Indian Act is the best example.

The Indian Act predates confederation; the earliest Indian Acts go back to 1856. We haven't resisted, we follow the Indian Act, we follow Certificates of Possession, we follow a lot of these things that we do, we follow the rules, we get licenses and we get insurance. What we are trying to do with this MRP Law, is to start passing our own laws based on our own history and traditions, and MRP is only one area (of jurisdiction). We have got to start doing it with everything; we have to start passing our own education law, our own health laws and expanding this and essentially asserting our jurisdiction. There was a report from ten years ago called the Royal Commission on Aboriginal Peoples (RCAP). It was the largest study ever, of aboriginal issues. It had 444 recommendations with 6 volumes, but one of the key recommendations in that report was that First Nations have (their own) jurisdictions. First Nations sovereignty was not lost by (negotiating) the treaties, it continues and one of the strongest jurisdictions that exist is in the area of Social and Family Law. The RCAP essentially said that First Nations Governments can enact laws without the authority or the permission of the Federal or provincial governments and (we should) should do so. This is an example of us trying to do that in this one area, but we need to start expanding it and exercising our jurisdiction.

QUESTION: How come there are people who have no Indian Blood, have a gas card and a status card? At one point everybody that came down here to fill their gas tank up, had to have a gas card, but now they don't have to. They just get some friends to go in there and fill up their gas tank. I think they should do something about the status cards, because everyone can have

them. I work with people that have status cards and they are not even native. Their grandparents aren't even native and they laugh because they have status cards. How did they get that? I only got one because my mother and grandmother and so on were all natives. On both sides my mother and father were both native and their parents and their parents were all native. When I went to get my status card, I had to report all of that. This people that are getting status cards and I don't know if they are lying or something, but they have status cards and gas cards.

COMMENT: We have many problems on Six Nations and one of the main problems is women that have been reinstated 1985. Now we have some of their husbands that have built buildings on Six Nations and have gone into business and if you say anything they cry discrimination. How do we start controlling our concerns? Ottawa looks at that and they would love nothing better than to make all Indian Reserves wiped out. We have got to be very strong and oppose, we have to stand up.

QUESTION: How will the Elected Council counter and respond if the Bill passes? What I do know is that when a Bill becomes precedent, we are going to have the courts acting on that precedent once it is set. What is the strategy to implement the Six Nations Matrimonial Law, so that we can expedite it? So that we can get our precedence set, regardless of the time frame that they are pushing for, obviously it is on a fast track. Maybe we would be able to come in and amend that Six Nations Law after we had a little more time to take a look at it. At least we have some ground work laid out to say we are taking jurisdiction, we are sovereign and we are exercising our First Nation rights. I didn't really hear enough about the approach or what the committee is thinking about as another counter strategy. Two layers going at the same time with your lobbying efforts there and our grassroots efforts here. I was just wondering if I could learn a little bit more about that.

RICHARD: When we started this, and keep in mind that 2006 was when the Federal government announced that they were going to start developing their law. They hired a Ministerial Rep and she took a year to consult AFN and NWAC and others and she issued her report last year. Council heard of it and they hired me and said you need to start working on this and find out what is going on in Ottawa. We got on top of it relatively early and then Council decided to start working on a Six Nations MRP Law. It was intentionally to start out as basically a community driven process, we didn't want to come and simply write something up and say here it is we drafted something for you. There are other examples out there of MRP Laws. First Nations Land Management Act Bands - these are bands that have taken Section 60 Land Management powers under the Indian Act and they are required when they enter that, to pass a MRP code within a year. Self Governing Bands - Bands who have their own Self-Government Legislation.

To my knowledge, the only one that has done a law under their own authority is Aundeck Omni Kaning. They enacted their own MRP Law under their own inherent jurisdiction and they have not asked for Ministerial permission and it is not a Band By-Law, they just went and did it. That is sort of the model we are looking at, but we didn't take any of those laws and just bring them and say here is the law, what we did was we simply started out with the headings, here are the components that needs to be part of a law. That is what we are calling the rolling draft, so that is what we started with in the community meetings. Since we are intentionally making it a community driven process, it can only go as fast as the community wants it to go. I am hearing from your comments that you want it to go faster and you want us to begin putting more meat to the bones, so that we can actually have a law drafted in a faster timeframe. The next stage is to get out to the community in terms of focus groups, smaller groups (and Clubs) that are already meeting. We developed a Consultation document that asks some of the key questions. For

example, when a couple breaks up, which spouse gets to stay in the home and what are some of the factors that we should consider for who stays in the home. Somebody is going to have to stay in the home; somebody wants to stay in the home. Is it the spouse with the children, should they get to stay in the home? These are fundamental questions. If there is domestic violence, how does that affect who gets to stay in the home? Do we want to remove the person who is violent? These are fundamental questions that we will be putting into a consultation document. Which we want to start taking to the community and saying how do you want to respond to it. We know how others do it at other First Nations, we know what is done off the reserve with Ontario Provincial Law and we have examples of other provinces on how they deal with it, but we want to ask the questions for this community. We want to speed this up too; we want to get a law developed as quickly as possible. We don't want to rush it and draft something for you and say here it is. We are kind of pushing us as fast as we can, but at the same time we don't want to get ahead of ourselves and we need more people involved. We are trying to reach out in these different forms and get ours developed as quickly as possible.

COMMENT: I don't know about some of the younger people, but to me this is something that our people knew. Every time I see this and hear things about membership and Matrimonial Real Property Law, it reminds me of what my grandparents talked about, how there is going to come a day when we are going to be defining who we are and this is what is happening. It is pretty scary knowing what they told us and you see it coming. The problem seems to be that it is the potential to break up the land, the property itself and divide it, with the ownership going to non-natives. This issue is non-native people are living on our reserve and enjoying the fruits of status rights and it has been going on for generations and the only difference now is that they are going to be able to sell it (land). We have a lot of non-native women and children that own land on this reserve. The only difference now is that they can sell it to whomever they want now. The changes are there, but the experience has always been there and that is what I see the problem is, the exploitation and the erosion of the territory.

I agree with needing our own Matrimonial Law to protect our children, our rights and the land. The division of property to a non-native could require fair financial compensation and something like pre-nuptial agreements. A process of who is a rightful band member based on blood quantum and life leases that have clear defined rules and signed and understood agreements and also to avoid the pitfalls. If Indian Affairs wants to put their hand in there they can and they can take it (responsibility) if there is a dispute. The Indian Act can take it and say neither one gets it, we get it. Bill C-31 created the current situation, because prior to Bill C-31 any non-native woman who marries a native man acquired full status rights, so did their children and that is how we have non-native women and children owning Six Nations land now. I know in 1870, there was a huge Grand Council with all aboriginal, all Ogwehoweh leaders when they came to Grand River and rejected the Indian Act piece by piece. They are just going to impose it, but yes we have to stand up, say no and resist it. Hopefully in this day and age that "NO" will be heard and understood and enforced. Traditional law in the Great Law of Peace the woman gets everything and the man goes back to his family.

RICHARD: When you talked about the Non-Indians being able to sell it, certainly with us developing our own law that will not happen. There is no alienation of reserve land. It is clearly not in the Federal Law, it simply says that Non-Indians will not be able to own the land and sell it to non-Indians; they will have a "life estate". They will be able to occupy the home and live in the home under certain circumstances till they die. That is not the intention of their law and it is certainly not the intention of our law. I cannot comment on the 1870 meeting, I have done some research, but I am not aware of that meeting. In terms of what is in the Great Law, there are

people here who are certainly experts on the Great Law and maybe be able to talk about what is in the Great Law.

HELEN: In an ideal world the house should be left to the woman and children and the man leaves. In an ideal world that would be nice, but that isn't how it always happens, unfortunately.

COMMENT: There is no Confederacy at the Committee table to put in that information, which is really important vital information to the committee in making these rules and decision for our community. There is no Confederacy rep at the committee to offer that wisdom and that knowledge that our community needs.

AVA: We have extended an invitation, a written invitation to the Confederacy to have a rep, but I don't think they have had time to address it yet at Council. We have also had Hubert Skye attend some of our meetings and he has said he would make himself available whenever he can. We are reaching out to get as much knowledge and the expertise in the community that we can.

HELEN: If you look at page 8 of this Rolling Draft 3 - it talks about Alternative Dispute Resolutions or mediation. What we are looking at is including maybe some kind of mediation process, for people to come to an agreement on property or whatever, with out having to go to the courts. A peaceful solution, if possible and the Alternative Dispute Resolution is one way of doing that where the two parties would sit down with a mediator. The only reason I mention it is, because of the as the Chair of the Social Services Committee, we are currently looking at developing an Alternative Dispute Resolution for custody issue and if we can develop this then we are hoping this can apply to this Matrimonial Real Property Law, as well and probably a lot of other issues. I just want everybody to know that on April 23, starting at 7:00 p.m. the Justice Unit of our Social Services department is having an information session on Alternative Dispute Resolutions and I am sure she would be really glad to get suggestions, on how it would work. It is just a way of keeping people out of the courts and keeping people to try and come to a peaceful solution with everything whether it is the house, the Children, Custody or whatever. o'clock.

MELBA: It is obvious that everyone is very concerned and I believe the community wants us to come together. It is clear that we have outside laws that are governing us, which is not working. What is happening here is possibly one of the laws that are going to change, with the help of the people.

AVA: The Rolling Draft is a community driven process and our initial approach was to not to draft something up and come out here and give it to you, because then people will say we never asked them. So we thought we would do it the other way and ask you. If you look at the Rolling Draft, there are a number of comments in there and we have gone through it once at the other community meetings and we put comments under each section. We can continue to go through that process or the other option is that you tell us that to draft something up first and then bring it to you and you can tear it apart. There are two ways that we can look at it, whatever way we feel is going to speed up the process, that is something we can take back as a committee and discuss if that is what you want us to. Also for your information there is going to be a rally in Toronto at Queens Park on April 23 and we are looking at getting some buses and people from here to go up and support what we are calling the KI 6, who are in jail for protecting there land. We all know we have some of our people out on the ground doing the same thing and we don't know when somebody else might get arrested. We are going to protest and bring pressure on the government to live up to their duty to consult, which they have to do, thought the Supreme Court of Canada and also to support the KI 6.

COMMENT: The government didn't push Bill C-31 on us; the native women across Canada went to Ottawa to object to losing their status. I was in Ottawa at the time and there was thousands and thousands of Native women who had lost their status and they could not inherit property on their reserve or they couldn't even be brought back to be buried. Because the government couldn't fulfill its duty of funding their reserves, I don't want anyone to blame them for regaining their status. Whatever Bill we put forth at this time, let us be equal and men be treated the same as women. In the past we all know that native men have brought their non-native wives to live on Six Nations and they are still here today and if you just try to make native women lose their status again, it is just not going to work. You have to treat everyone fair and the same.

HELEN: I agree Bill C-31 shouldn't have happened, because Native women shouldn't have lost their status in the first place.