

# “ONCE A CREE ALWAYS A CREE”

Report on the Draft Report from the Commission Created for the examination of the interpretation of sub-section 3.2.7 of the James Bay Northern Quebec Agreement

GCC(EI)/CNG Annual General Assembly

# MANDATE AND COMPOSITION

## Mandate:

Undertake consultations and research and generate a report that would allow the Cree leadership to adopt a unified interpretation of subsection 3.2.7 of the James Bay and Northern Quebec Agreement better known as the “Ten Year Clause”.

## Cree Nation Government

- Bill Namagoose
- Paul John Murdoch

## Cree School Board

- Kathleen Wooton
- Abraham Jolly

## Cree Board of Health

- Nora Bobbish
- Helen Atkins

# PROCESS AND REPORT

**Public meetings:** MoCreebec

**Invitations to present:**

- Local Register Officers
- Joanne Willis
- Me James O'Reilly
- Cree School Board Review Panel

**Research:**

- Legal Research on Comparable Treaties Across Canada
- Research on comparable post-secondary or First Nations Government Programs across Canada

**Report:**

- Currently in Draft Form
- Will be finalized for November Education Assembly

**Three Sections:**

- Introduction
- Defining Cree Citizenship
- Management of Rights and Benefits

**Finding:** Facts relevant to the mandate.

**Recommendations:** Recommendations from the Commission.

# INTRODUCTION

In the fulfillment of the mandate the Commission has determined that the issue is not simply a question of a unified interpretation of the “ten year clause” which is actually a mislabeling of the sub-section 3.2.7 to begin with. There are many complex issues that were unearthed and that need to be addressed:

- Cree Identity and Citizenship
- Responsibility and the Management of the list of Crees
  - Inter community issues
  - Inter Governmental administration
- The management of Cree government resources
  - Prioritization
  - Communication and Administration

## SUB-SECTION 3.2.7

In the event a person mentioned in paragraphs 3.2.1 to 3.2.6 inclusive of this Sub-Section is absent from the Territory during ten continuous years and is domiciled outside the Territory, such person shall not be entitled to exercise his rights or receive benefits under the Agreement. Upon such person re-establishing his domicile in the Territory, the right of such person to exercise his rights or to receive benefits under the Agreement shall revive.

# STRUCTURE OF THE CHAPTER 3 OF THE JBNQA

Section 3.2.7 is much more than about who gets access to programs or exercise rights under the JBNQA. It must be read with the whole of the Chapter. It is about “citizenship” and “identity”.

- Is this managed by the appropriate authority?
- Considering what is at stake are the lists reliable?
- How can we ensure that our people understand how important it is to be registered?

# HISTORY OF SUB-SECTION 3.2.7

The clause was negotiated in 1974.

Canada:

- The Federal Government had a consistent policy of extinguishing Aboriginal Rights always wanting to defined who was Indian as narrowly as possible.
- The Highest Court of the land provided that the Government had the authority to unilaterally extinguish Aboriginal Rights under certain conditions.
- There were specific families that the Federal Government did not want recognized as Aboriginal or Cree, McLeod, Iserhoff, Louttit and Spencer families to name a few.

Quebec:

- If you are not in the community or the moment you leave the community you are no longer Cree and therefore rights and benefits are a non-issue.

"ONCE A CREE, ALWAYS A CREE." - DR.  
BILLY DIAMOND

Sub-section 3.2.7 needs to be read in the broadest and most generous interpretation possible to ensure that it is enshrined as the victory it was in 1974:

- Rights are not extinguished they are only suspended;
- Depending on the circumstances they can even be portable;
- Even a Cree born outside the territory can spend a lifetime outside the territory and still come home and establish themselves (This was the real target for the "Ten Year Clause").



# MANAGEMENT OF RIGHTS AND BENEFITS

To say that because you are Cree, you are entitled or qualify for every program administered by entities under the JBNQA is wrong. The reverse is also wrong, just because someone who does not "qualify" for a program under the JBNQA doesn't mean they are not Cree: Hence, "Once a Cree, Always a Cree."

It is a fact that there are not unlimited land resources, wildlife resources, financial resources or administrative resources. For example, one day communities will reach the limits of Category I lands and many important and difficult choices will need to be made.

The Governments of our communities and the Cree Nation Government are confronting everyday the challenge of making difficult decisions that result in some Cree benefiting but maybe not all:

How many houses to build? Who to make them available to? Who to give business, home ownership, entrepreneurial, energy or other subsidies to? Who can be recorded as a tallyman for a trapline? Who will get income security funds? Who will get post-secondary funds? Will the streets be paved? Will there be youth or community center this year?

# ACCESS TO CREE BENEFITS OR THE ABILITY TO EXERCISE CREE RIGHTS IS NOT ABSOLUTE

The James Bay Northern Quebec Agreement contains many examples where Cree rights can be limited or access to benefits qualified.

- Access to income security program
- Access to health services
- Access to education services
- The right to hunt
- The use of and access to firearms

As the Cree Nation assumes more and more the responsibility for the obligations of the Federal and Provincial Governments under the Treaty the limitation and qualifications are choices Cree Governments need to make.

# EXAMPLE OF THE CREE SCHOOL BOARD POST-SECONDARY PROGRAM

- Sub-sections 16.0.22 to 16.0.24 contain provisions referring to the preservation of the Post-Secondary Program for the Cree.
- Sub-Section 16.0.25 provides: The services and programs referred to in paragraph 16.0.24 may be provided through agreements to be entered into between Québec and Canada and the Cree School Board acting in accordance with the needs of the communities involved.

The Cree School Board has negotiated budgetary funding rules which allow it to administer a Post-Secondary Program that responds to the needs of the communities in Eeyou Istchee. Improvements have been made to the program and priorities established that favor an individual that has gone through the school system in a Cree community. The priorities may have the undesirable affect of discriminating against certain persons, however in the spirit of sub-section 3.2.7 the Cree School Board provides a mechanism by which an individual can overcome this discrimination. Unfortunately, people have referred to this opportunity as "doing time" or "fulfilling a sentence" in the community for whose needs the program is administered as per the James Bay Northern Quebec Agreement.

# FACTS

- It is clear through interventions and public statements that there is a misconception on the purpose of Annual General Assembly Proceedings and Resolutions.
- Due to the nature and context of past debates surrounding subsection 3.2.7 – the “Ten Year Clause” – the Cree population is unaware or misinformed as to the “positive” and restorative nature of the “Ten Year Clause”. It needs to be seen for the victory that it
- Through no fault of Clerks/Local Registry Officers there is no uniformity of how the lists are managed and therefore the lists are unreliable and to exacerbate matters lists are unreliable in the negative sense. Individuals are reported as affected by the 10 year clause when this may in fact not be the case.
- Clerks/Local Registry Officers are improperly supported with a lack of clear, uniform, rules and guidelines.
- The Cree population in general is unaware of the importance being registered or registering children.
- The current Post-Secondary Program of the Cree School Board is a clear improvement and addresses the needs of the Cree communities to the greatest extent possible as per subsection 16.0.25.

# RECOMMENDATIONS

- **There needs to be a Public Campaign for the importance of registering on beneficiary lists.**
- **Clarification of the meaning of “beneficiary” status in the context of Cree citizenship.**
- **Opening Discussions with Government authorities for the cross referencing of information to ensure proper recording of Cree citizens.**
- **Development and implementation of a “Cree Citizenship” (beneficiary) card.**

# RECOMMENDATIONS

- **The Cree School Board needs to demonstrate that the “residency” or “community connection” requirement is a natural eligibility requirement under the Post-Secondary Program similar to the grade point requirements or institutional certification requirements and the Post-Secondary Program as it exists today is an improvement of the Program as first administered in 1974 which evolves to meet the needs of the communities as per subsection 16.0.25 of the James Bay Northern Quebec Agreement.**
- **The Cree population needs to be made aware of the unique features and the regular features of their health coverage in particular how that coverage varies as they travel throughout the province and country.**
- **Discussion should be initiated with Department of Indian Affairs to avoid inadvertently designating a Cree Beneficiary as affected by subsection 3.2.7 due to an administrative error in the management of health care benefits of non-Beneficiary Federal Status Indians.**
- **There needs to be joint statements by the Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government, Cree School Board and the Cree Board of Health and Social Services on how Cree Rights are enhanced through collective representation.**

# CONCLUSION

We should not equate being Cree with the exercise of Cree Rights.

Our Government institutions need to state clearly what the qualifications are for accessing the programs and benefits that they administer for our people.