She concluded with the statement, "There is in law and history a definite basis for self-determination and self-government." (Sub 13:6)

The critical importance of the Royal Proclamation has been affirmed by the courts. As Mr. Justice Hall stated in the case of *Calder* v. *Attorney General of British Columbia* (1973):

> This Proclamation was an Executive Order having the force and effect of an Act of Parliament and was described. . .as the "Indian Bill of Rights". Its force as a statute is analogous to the status of Magna Carta which has always been considered to be the law throughout the Empire. . . .The Proclamation must be regarded as a fundamental document upon which any just determination of original rights rests.

The Indian Association of Alberta submitted a legal opinion by Professor E.P. Mendes entitled "Are There Constitutional and Inherent Rights of Indian Self-Government?". It noted that "the Assembly of First Nations and the Indian Association of Alberta believe that their right to Indian self-government is first and foremost protected by the Royal Proclamation." It went on to interpret Lord Denning's judgement in the following terms:

> Lord Denning. . .seemed to infer that the colonising British authorities seemed to have recognized this inherent right of self-government by traditional and customary laws of the native peoples even at the time of the passing of the Royal Proclamation of 1763, and that the Royal Proclamation recognized the right of the native peoples of British North America to govern themselves by their own traditions and customary laws. (Sub 11A:6)

The opinion concluded with this assessment: "The native peoples of Canada could put a persuasive case forward that there is an inherent right of native self-government on Indian lands". (Sub 11A:15)

The *Constitution Act, 1982* clearly represented a forward step by recognizing and affirming existing aboriginal and treaty rights. But it did not define those rights. Lord Denning recognized the value of constitutional entrenchment but also noted the importance of holding the Constitutional Conference provided for in section 37 of the Act, as this was a process through which aboriginal and treaty rights could be defined more clearly. It might well be argued that it is not the rights of Indian people that are ill-defined, but the recognition of these rights in Canadian law that has been ill-defined.

The definition of these rights has already been the subject of one Constitutional Conference (Ottawa, March 15-16, 1983). In the 1983 Constitutional Accord on Aboriginal Rights, the product of that Conference, the participants agreed to hold further conferences to discuss constitutional matters directly affecting the aboriginal peoples of Canada, *including self-government.*

2. The Committee recommends that the right of Indian peoples to self-government be explicitly stated and entrenched in the Constitution of Canada. The surest way to achieve permanent and fundamental change in the relationship between Indian peoples and the federal government is by means of a constitutional amendment. Indian First Nation governments would form a distinct order of government in Canada, with their jurisdiction defined.

A constitutional amendment would, however, require the approval of the federal government and seven provinces constituting 50 per cent of the population. Since the constitutional