

Financing Reconciliation:
Solutions for Local Communities
Next Steps
UBCM 2018 Resolutions B150, OF1

Chair Samuel Schooner, Area E
Courtney Kirk, CAO
Central Coast Regional District

Presentation for Chairs & CAOs Forum
March 2019

Prepared in collaboration with Doug Holmes, CAO, Alberni Clayoquot Regional District

Resolution OF1

Building Understanding of
B150

*Financing Reconciliation:
Solutions for Local
Communities*

Alberni-Clayoquot RD – OF1

Therefore be it resolved, that UBCM work with the Central Coast Regional District and Alberni-Clayoquot Regional District to host a provincial Community to Community Forum on Resolution B150 Financing Reconciliation: Solutions for Local Communities, with local governments and appropriate First Nations governing bodies;

And be it further resolved that UBCM hold a three hour workshop on Resolutions B150 Financing Reconciliation: Solutions for Local Communities at the 2019 Annual Convention.

On motion, was Endorsed

UBCM 2018 Resolutions Book - B150

WHEREAS local governments and First Nations have inherited a problematic public service delivery regime that poorly finances on and off reserve local government service delivery;

AND WHEREAS local governments experience revenue deficits that impact shared and overlapping public service delivery to the entire local population, including First Nation populations, that are not fairly addressed through property tax requisition;

AND WHEREAS the federal government is constitutionally committed to providing "essential public services of reasonable quality to all Canadians" (*Constitution Act, 1982 s.36*), implemented in part through federal transfer payments;

THEREFORE BE IT RESOLVED that UBCM request the Province of BC and the Government of Canada work with First Nations and local governments to explore and implement revenue solutions such as federal transfer payments, thereby supporting implementation of the Truth and Reconciliation Calls to Action and the commitments in UNDRIP;

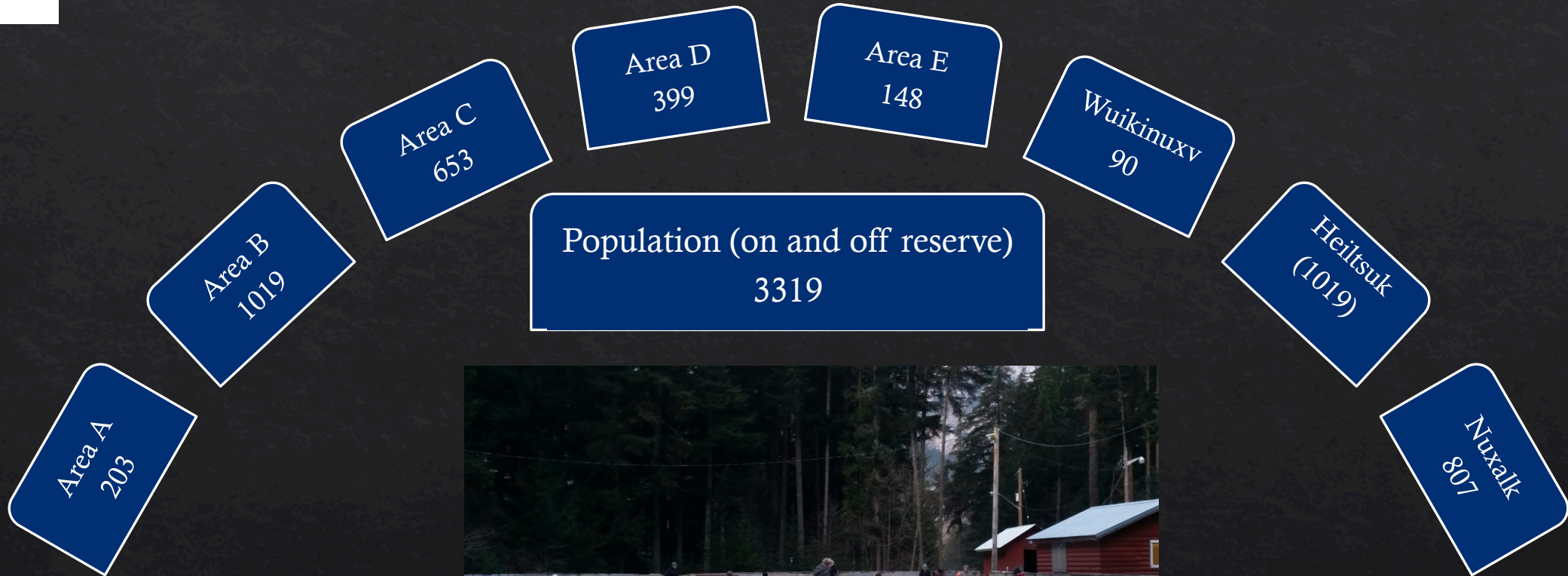
AND BE IT FURTHER RESOLVED that to ensure First Nation participation in the management of said payments, UBCM request British Columbia, in consultation with First Nations, amend the *Local Government Act* accordingly.



B150 summarized

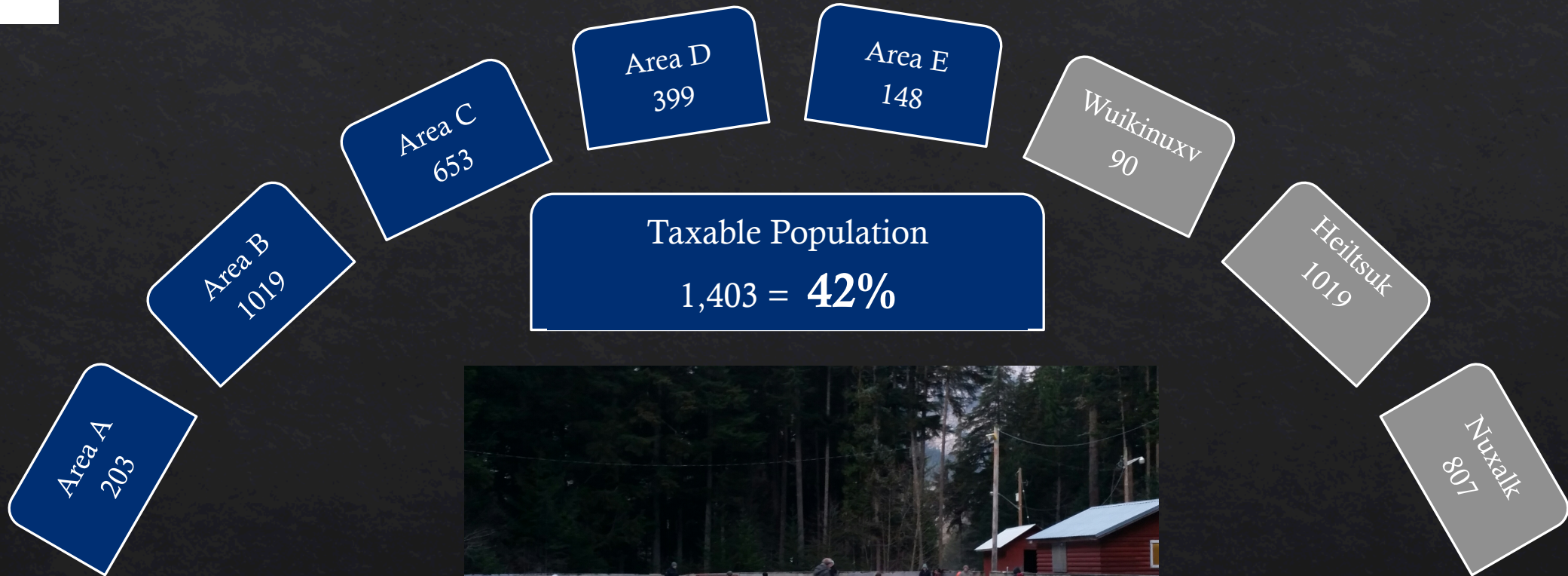


Total Constituents Served





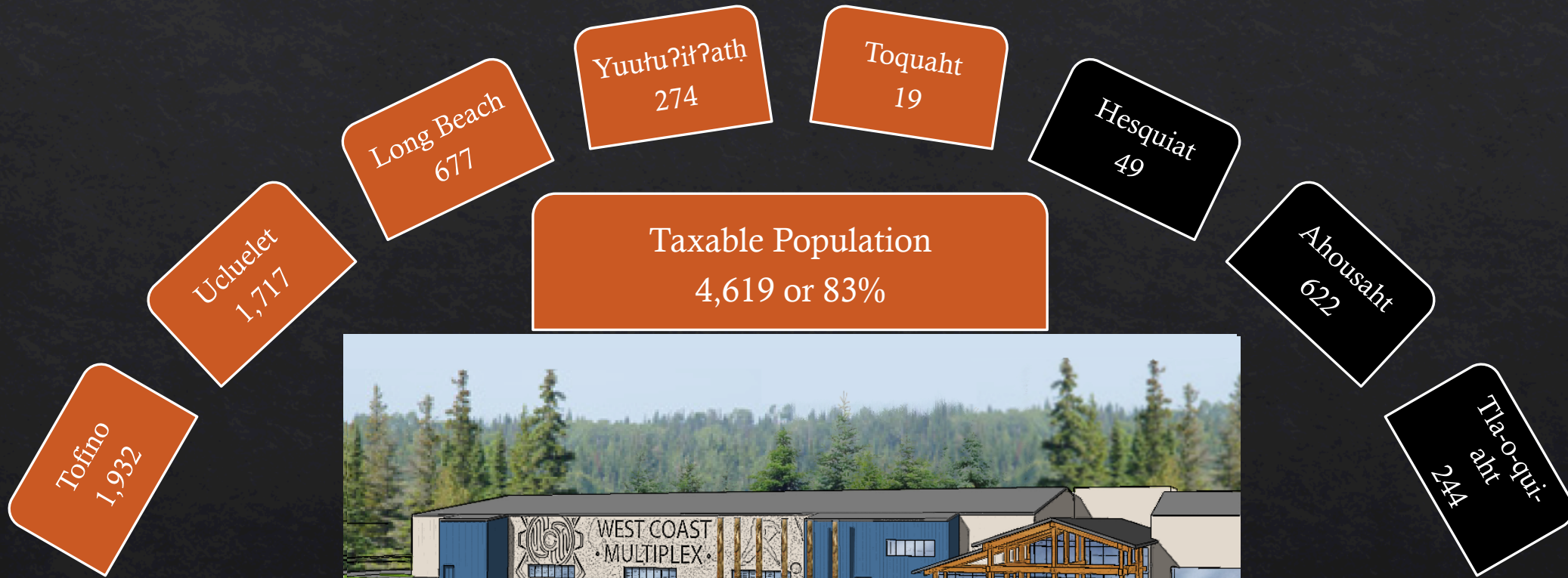
Fiscal representation in year-to-year requisition



Service to benefit the following populations



Taxing mechanisms to following populations



UNION OF BRITISH
COLUMBIA

MUNICIPALITIES

Services for First Nations

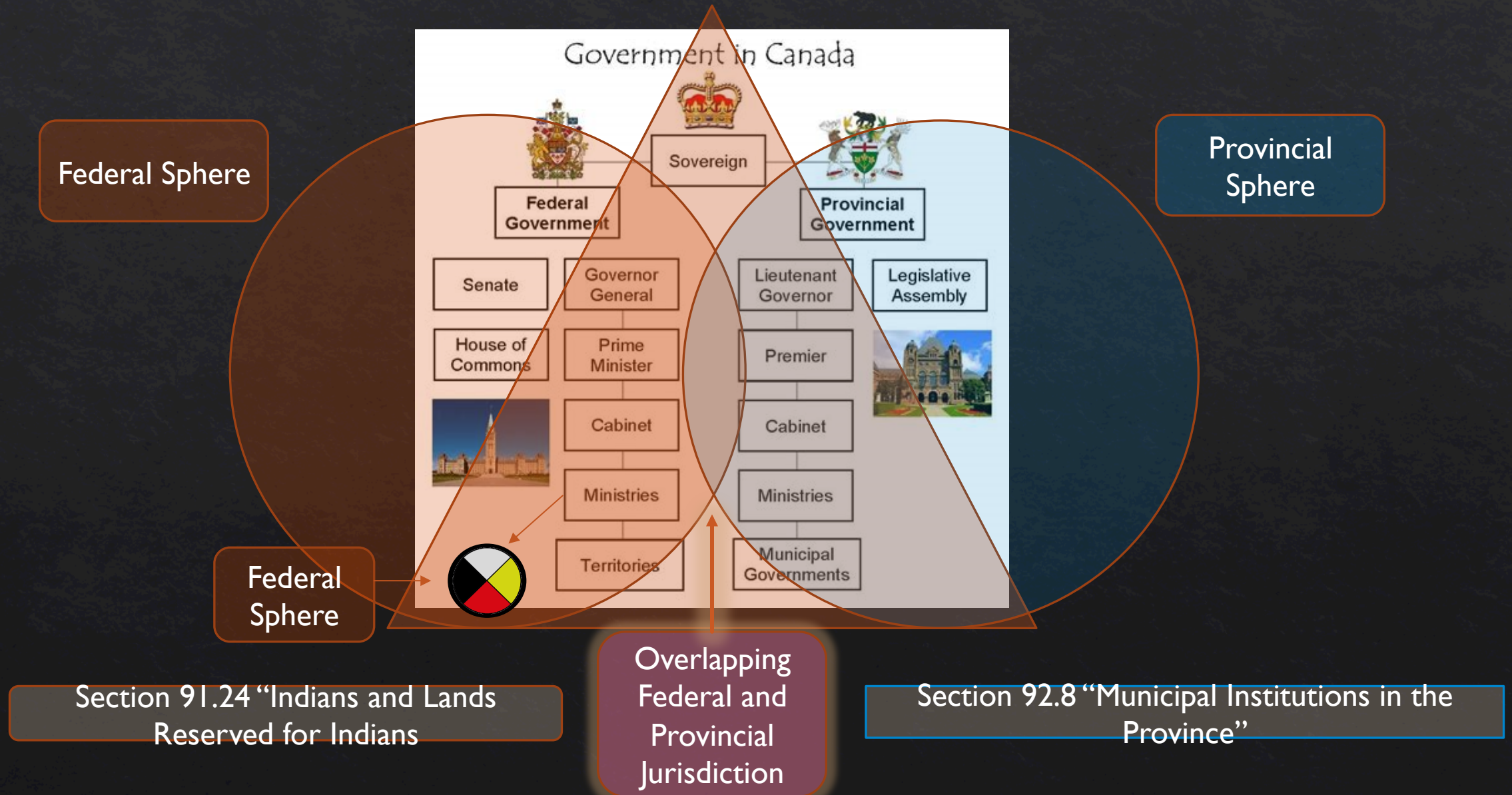
Don Lidstone, Q.C.

Lidstone & Company

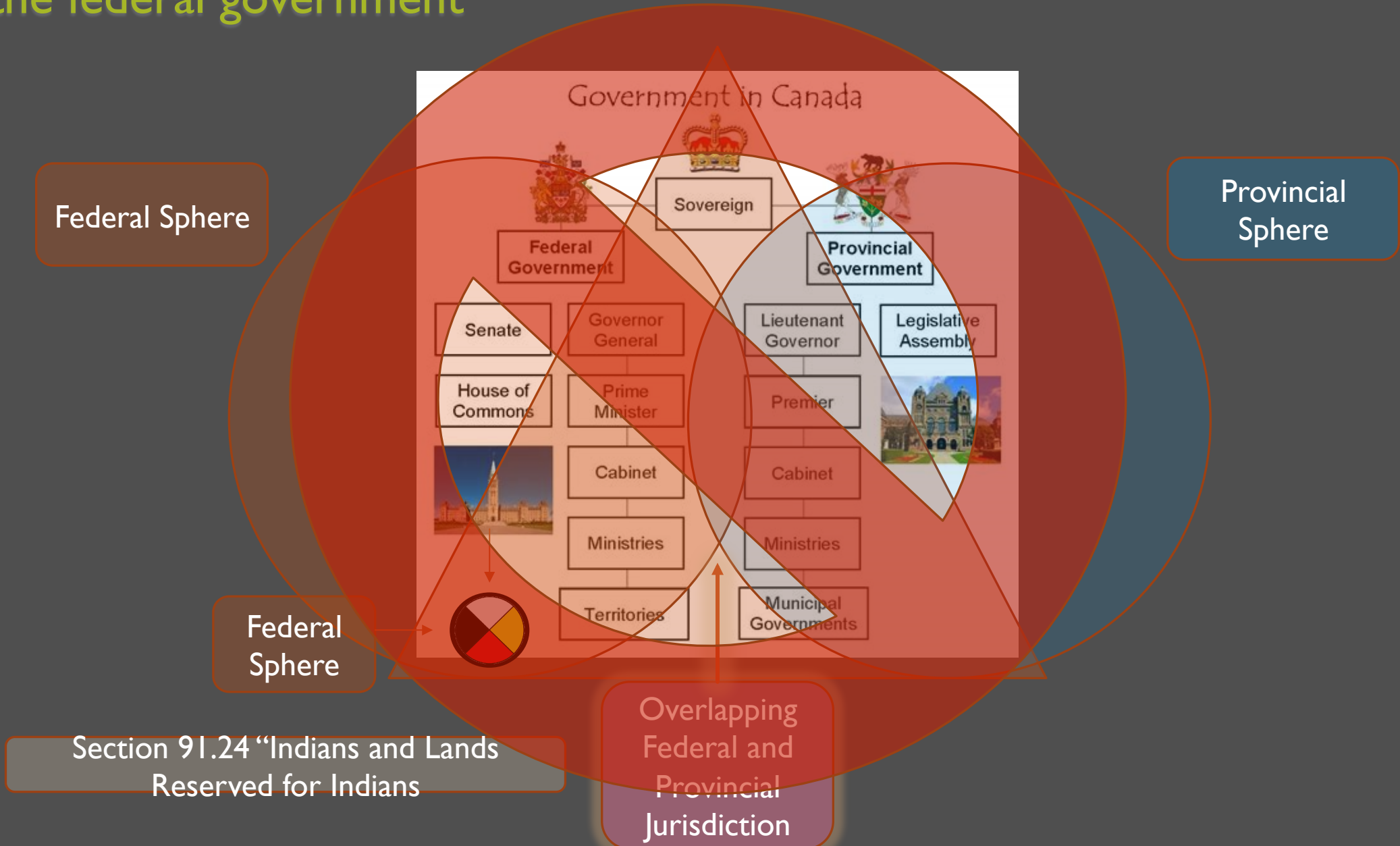
September 11, 2018

Central Coast Regional District / Nuxalk Nation
Joint Emergency Operations Centre

Systemic challenge: Common perception of Canadian Federalism situates First Nations as a Numbered Power of the Federal Government

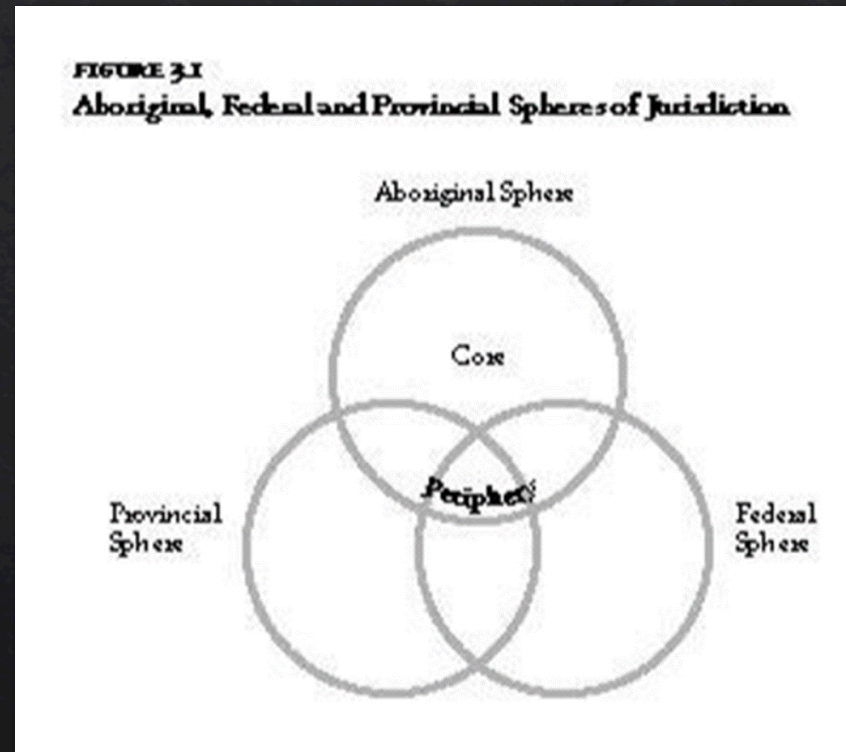


Solutions move away from situating First Nations as a mere numbered power of the federal government



REMEMBERING RCAP

What ever happened to 'the Circles'?



Source: Report of the Royal Commission on Aboriginal Peoples: Volume 2 Restructuring the Relationship Chapter 3 'Governance' at 210
(<http://data2.archives.ca/e/e448/e011188230-02.pdf>)

20 years since Royal Commission on Aboriginal Peoples, still waiting for change

Commission aimed to repair relations between indigenous and non-indigenous people



Martha Troian · CBC News · Posted: Mar 03, 2016 5:00 AM ET | Last Updated: March 3, 2016



Paul Chartrand was one of the original commissioners of the Royal Commission on Aboriginal Peoples. Photo: Still from Home and Native Land, CBC, 1999. (CBC)

4,000 page report, sweeping recommendations

“The commission was meant to “help restore justice to the relationship between aboriginal and non-aboriginal people in Canada, and to propose practical solutions to stubborn problems,” according to the final report.

When the commission released its final five-volume, **4,000-page report**, it contained **recommendations** for dealing with a breadth of issues, including self-governance, treaties, health, housing, the north, economic development and education.

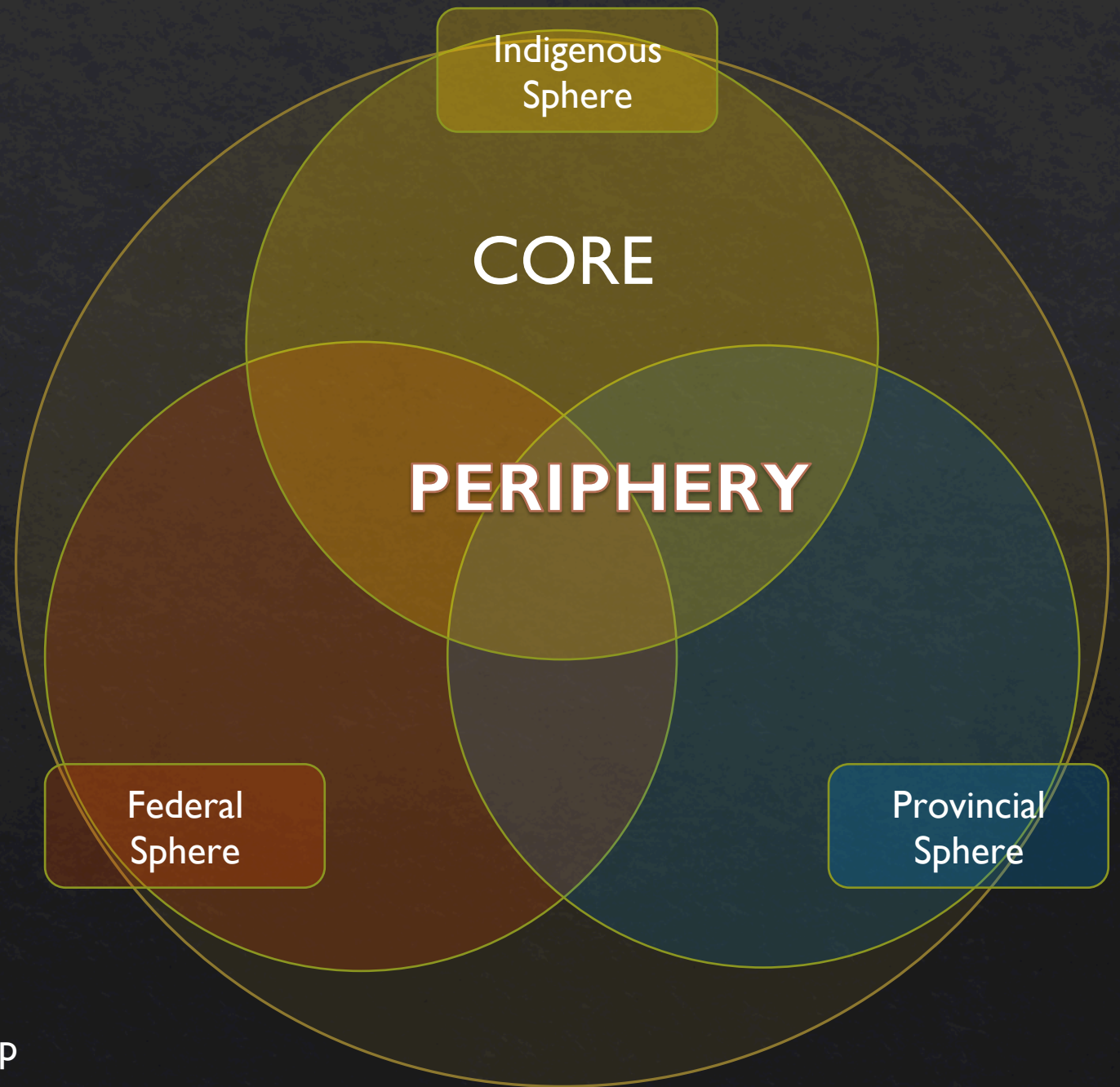
Operating on a reported \$60-million dollar budget, a total of five commissioners had a hand in crafting the report, **visiting 96 First Nation communities and holding 178 days of public hearings.**”

WHAT RCAP SAID...

The Royal Commission on Aboriginal Peoples developed this schematic to help Canadians think differently about federalism.

The tools are there. We need to use them.

Report of the Royal Commission on Aboriginal Peoples: Volume 2 Restructuring the Relationship
Chapter 3 'Governance' at 210



Like municipalities, treaty First Nation representation on regional district boards is permitted under the *Local Government Act* (What about non-treaty Nations?)

250 (1) If a final agreement provides for the membership of the treaty first nation in a regional district,

(a) this Act, as modified by this Part, applies to the treaty first nation as a member as if the treaty first nation were a municipality in the regional district, and

(b) the treaty first nation director has the same functions, powers, duties and obligations, as modified by this Part, as a municipal director.

(2) For certainty, to the extent that the *Community Charter* applies to a regional district of which a treaty first nation is a member or to a director as a member of the board, the *Community Charter* applies to the treaty first nation as a member of the regional district and to the treaty first nation director as a member of the board.

(Local Government Act)

CANADIAN FISCAL FEDERALISM

In 3 Minutes

INTERGOVERNMENTAL \$\$\$ TRANSFERS MAKE CANADIAN FEDERALISM WORK

Division of Powers (*Constitution Act, 1867*)



Section 91 (Federal Powers)



Section 92 (Provincial Powers)



Federal
Spending Power

Inter-governmental
Transfers



Provincial
Public
Services

Federal Support to Provinces and Territories

\$75,400,000,000
2018-19

In 2018-19, provinces and territories will receive \$75.4 billion through major transfers.

Federal Support to Provinces and Territories (millions of dollars)

	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
Major Transfers¹										
Canada Health Transfer ²	24,476	25,672	26,952	28,569	30,283	32,113	34,026	36,068	37,150	38,584
Canada Social Transfer ³	10,857	11,179	11,514	11,859	12,215	12,582	12,959	13,348	13,748	14,161
Equalization ⁴	14,185	14,372	14,659	15,423	16,105	16,669	17,341	17,880	18,254	18,958
Offshore Offsets ⁵	645	869	787	443	350	196	125	44	36	-95
Territorial Formula Financing ⁶	2,498	2,664	2,876	3,111	3,288	3,469	3,561	3,603	3,682	3,785
Total Transfer Protection ⁷		525	952	680	56					
Additional payment ⁸	74									
Total - Federal Support	52,736	55,281	57,739	60,085	62,297	65,029	68,013	70,943	72,870	75,393
<i>Per Capita Allocation (dollars)</i>	<i>1,570</i>	<i>1,628</i>	<i>1,683</i>	<i>1,731</i>	<i>1,774</i>	<i>1,832</i>	<i>1,900</i>	<i>1,959</i>	<i>1,988</i>	<i>2,031</i>

And as it turns out parity in essential public services is such an entrenched Canadian value it is actually reflected in our written constitution at Section 36 right after our affirmation of Aboriginal rights in Section 35.

Equalization and Regional Disparities

s. 36 (1) ... **Parliament and the legislatures... are committed to ... (c) providing essential public services of reasonable quality to all Canadians.**

Commitment respecting public services

(2) Parliament and the government of Canada are committed to the principle of **making equalization payments** to ensure that provincial governments have sufficient revenues to **provide reasonably comparable levels of public services at reasonably comparable levels of taxation.**

s.36(2) *Constitution Act, 1982*

The Constitutional Equalization Provisions and Municipal Finance in the Context of Municipally Based Indigenous Populations

Dwight Newman

Professor of Law & Canada Research Chair in Indigenous Rights in
Constitutional and International Law, University of Saskatchewan

Unrealized Potential of Section 36 in Guiding Conversations About Municipal Funding

- Very little judicial interpretation. Uncertain if it's justiciable.
- Apart from that, though, s 36 reflects constitutional aspirations and commitments.
- Even where they are not justiciable, constitutional aspirations and commitments are a serious matter that can guide conversations.
- Values in 36(1) overlap with equality principles of Constitution, and our understanding of them should also take account of reconciliation principles.

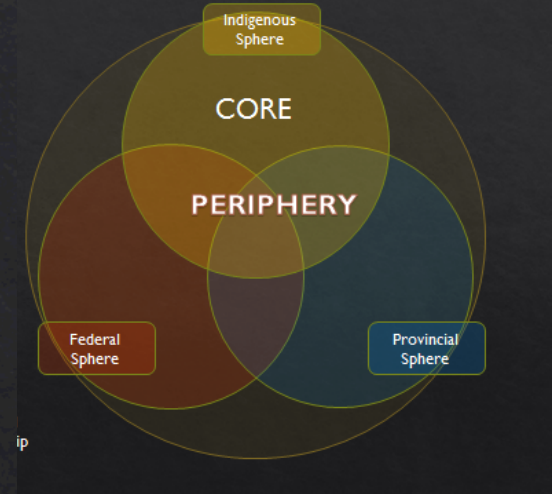
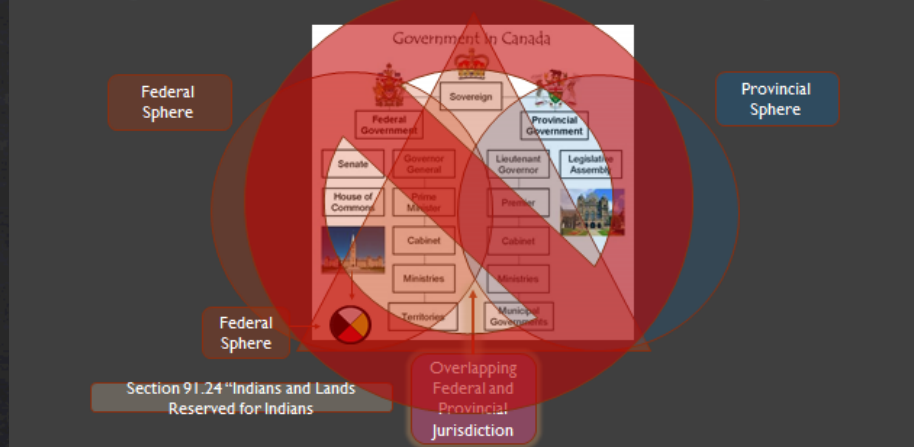
The two main issues underlying B150 and the focus for OF1 UBCM 2019 preconvention Monday:

1. Morning: C2C - Governance

First Nation/local government decision-making relationships over shared essential public service delivery (water, waste management, regional economic development, emergency management, fire suppression service, recreation etc.)

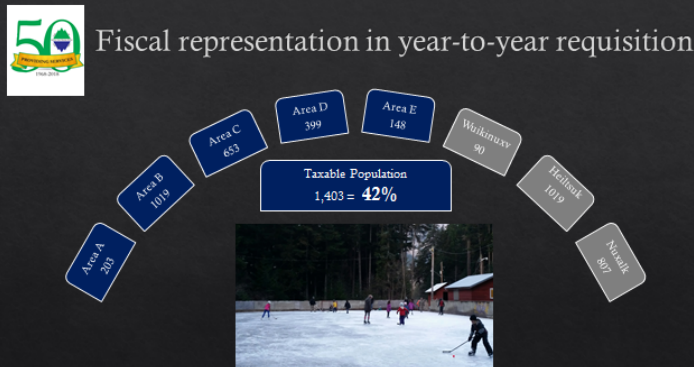
What's working, what isn't, what structural solutions can we align on in our advocacy efforts toward change

Solutions move away from this understanding of Canadian federalism and reject situating First Nations as a mere numbered power of the federal government

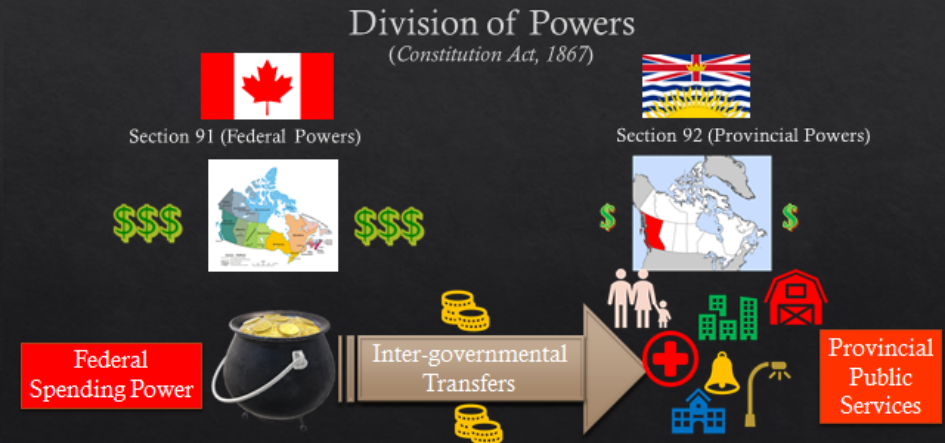


2. Afternoon: Workshop – Finance

Technical presentations/discussions on how we can better finance the existing model as well as finance restructured relationships that better include and respect First Nations as decision-makers over shared services



INTERGOVERNMENTAL \$\$\$ TRANSFERS MAKE CANADIAN FEDERALISM WORK



Seeking advice and support from our colleagues

- ◇ The issues we are tackling are complex
- ◇ Solutions require the understanding, effort and collaboration of many
- ◇ We would like to make the most of the opportunity to have meaningful conversations that inspire and instruct during the preconvention Monday at UBCM 2019
- ◇ We welcome your input and advice, particularly at this juncture while we are at the initial stages of planning for the full day of sessions
- ◇ Thank you!