

LEGISLATIVE ASSEMBLY OF THE
NORTHWEST TERRITORIES
7TH COUNCIL, 50TH SESSION

TABLED DOCUMENT NO. 13-50

TABLED ON OCTOBER 16, 1973

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER of an Application by
Chief Francois Paulette et al to
lodge a certain Caveat with the
Registrar of Titles of the Land
Titles Office for the Northwest
Territories.

BEFORE THE HONOURABLE) COURT HOUSE, IN THE CITY OF YELLOWKNIFE,
MR. JUSTICE W. G. MORROW) IN THE NORTHWEST TERRITORIES, ON THURSDAY
IN COURT) THE 6TH DAY OF SEPTEMBER, A.D. 1973.

J U D G M E N T

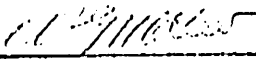
UPON this Reference coming on for hearing on April 3, 1973, and
it being adjourned to the 15th and 16th days of May, 1973 for hearing,
and it being further adjourned to July 9, 1973 for the hearing of evidence,
which terminated August 24, 1973, followed by argument on August 30 and 31,
1973; AND UPON Judgment on certain issues being delivered on June 14, 1973;
AND UPON Counsel for the Attorney General of Canada withdrawing from these
proceedings on July 9, 1973 and the appointment of an Amicus Curiae as of
the same date; AND UPON Hearing Read a certain Caveat dated March 24, 1973,
lodged with the Registrar of Land Titles for the Northwest Territories, a
certain Reference dated the 3rd day of April, 1973, written briefs of
Counsel for the Caveators and Counsel for the Attorney General of Canada,
filed; AND UPON Hearing the evidence herein, Counsel for the Caveators,
Counsel for the Commissioner of the Northwest Territories and Amicus Curiae;
AND IT PLEASING this Honourable Court to deliver Judgment on the issues
reserved in the Judgment of June 14, 1973 as hereinafter set forth on
September 6, 1973;

IT IS ORDERED AND ADJUDGED:

1. THAT those who signed the Caveat are present day descendants of those distinct Indian groups who, organized in societies and using the land as their fore-fathers had done for centuries, have since time immemorial used the land embraced by the Caveat as theirs.

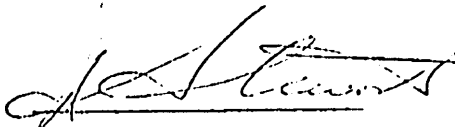
2. THAT those same indigenous people as mentioned in (1) above are prima facie owners of the lands covered by the caveat -- that they have what is known as aboriginal rights.
3. THAT there exists a clear constitutional obligation on the part of the Canadian Government to protect the legal rights of the indigenous peoples in the area covered by the caveat.
4. THAT notwithstanding the language of Treaties 8 and 11 there is sufficient doubt on the facts that aboriginal Title was extinguished and therefore such claim for title should be permitted to be put forward by the Caveators.
5. THAT the above purported claim for aboriginal rights constitutes an interest in land which can be protected by caveat under the Land Titles Act.
6. THAT the provisions of the Land Titles Act permit the filing or registering of a Caveat such as is presented here even in the case of unpatented land.
7. THAT in answer to the Reference to this Honourable Court by the Registrar of Land Titles, it is the opinion of this Honourable Court that he has a duty to lodge the caveat presented to him and enter the same in the day book.
8. THAT the Government of Canada pay the costs of the Caveators to be taxed on one and one-half Column 5, to include second Counsel fee, and a special fee of \$500 to cover written argument.
9. THAT the Government of Canada be required to pay the costs of D. Brand, Amicus Curiae, on a solicitor and client basis.
10. THAT following the final appeal of this Judgment, if any, all tapes taken of the evidence by the Court reporters be turned over to the Public Archives of Canada.
11. THAT the restraint on registration ordered by this Honourable Court on April 3, 1973 shall be removed and vacated as of September 6, 1973, but all monies deposited or bonds posted for possible damages shall be retained pending final appeal, with the right to any

11. person affected to apply to this Honourable Court for relief or further directions as that person may be advised.
12. THAT subject to whatever a higher court may say until all appeals from this Judgment have been completed or the time for launching same has expired, the Registrar shall be stayed from filing or registering the caveat and the Registrar until that time shall issue titles and in all respects conduct the offices of the Land Titles Office as if the Caveat herein had never been presented for filing; but the Registrar will be required to keep and record all transactions that may be registered or otherwise recorded in his office and in respect to unpatented Crown land both Federal and Territorial, during the period of this stay, so as to provide the Caveators with a record of what they may claim against the Federal and Territorial Governments as the case may be for damages they may have suffered during the stay, a certified copy of this record to be turned over to them in the event this Judgment is sustained.



Judge of the Supreme Court

ENTERED this 2 day of
October, A.D. 1973.



Clerk of the Court

No. 2247

A.D. 1973

SUPREME COURT OF THE
NORTHWEST TERRITORIES

IN RE
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OF an application
of Louis Paulette et al
to obtain Caveat with the
titles of the Land
for the Northwest

D E C R E E

