

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

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INTERIM REPORT
OF THE
PROVINCIAL-TYPE RESPONSIBILITIES COMMITTEE
TO THE
50TH SESSION OF THE COUNCIL OF THE NORTHWEST TERRITORIES

OCTOBER, 1973

CONFIDENTIAL

REPORT
PROVINCIAL-TYPE RESPONSIBILITIES COMMITTEE OF COUNCIL

Preamble

In response to Motion 5-47 passed at the 47th Session of the Council of the Northwest Territories, the Commissioner appointed a Committee of Council to identify Provincial-type Responsibilities that are presently not being performed by the Territorial Government but are in fact being administered by a Federal Department or Agency. The Committee, Chaired by David Searle and having as Members: Councillor Air Marshal Hugh Campbell, Councillor Bryan Pearson, Councillor Lyle Trimble and Councillor Louis-Edmond Hamelin; has held meetings, studied reports and information papers as well as discussions with all Members of the Territories Council. In identifying programs for transfer, the Committee has also noted the significant difference in the nature and extent of the authority and responsibility assigned to a Province for its programs and the limited authority granted the Territorial Council under the Northwest Territories Act.

The Committee tables the following Interim Report dealing with its study under three headings: A. Constitutional, B. Financial and C. Administrative.

A. Constitutional

1. Basic Policy

There are two basic philosophical policy positions of the Government of Canada enunciated by the Minister on the 10th of November, 1969 in his White Paper statement on the Development of Government in the Northwest Territories which are totally unacceptable to the Committee, and which reads as follows:

- " (1) In the first place, I firmly believe that at this time and for the foreseeable future, the granting of provincial status to either Territory is not a realistic alternative.
- (2) I further believe that the Federal Government should continue to manage and develop the natural resources of the North for the benefit of both northern residents and all Canadians."

The foregoing two basic policy positions leave no doubt about the position of the Government of Canada as to what we in the Northwest Territories may expect for the foreseeable future. Your Committee suggests that everything possible must be done to cause these policies to be changed for without that, our northern colonial government will continue.

2. Executive Council

Your Committee does not yet have a recommendation for a complete program for constitutional development in the Northwest Territories but will continue study to try to complete one. Though we have grave reservations respecting the practicality of an Executive of Council, we do believe, however, that a first step is a closer melding of the Executive and Legislative arms of Government with the Executive becoming more responsible to the

Legislative Council. We do not believe that the Executive Council now operating in the Yukon provides this kind of development and reject that form of an Executive Committee. Your Committee recommends that the Northwest Territories Act be amended to provide for:

An Executive of the Council under the following terms:

- a) The Commissioner to be the Chairman;
- b) Members of the Executive to be appointed by the Commissioner-in-Council, thereby becoming not only members of the Executive of Council but also members of Council;
- c) A minimum of 50% of the Members to be elected Members with other nominees coming from the administration or even from outside Government;
- d) To be responsible to sit with and be part of the Legislative Council;
- e) To be responsible for co-ordinating finance and for preparation of the budget;
- f) Prepare legislation in principle;
- g) Each Member of the Executive to be in charge of the Administration of one or more Departments.

The reason your Committee expresses reservations with respect to an Executive of Council, and these reservations apply whatever the form of that Executive of Council, is because the Commissioner must chair such a committee and is responsible to his Minister, not necessarily to the Council and to the people. As a result any elected member on such an Executive would undoubtedly be subject to the instructions of the Minister through the Commissioner, a difficult position for any member to find himself in.

3. Commissioner and Deputy Commissioner's Salaries

The salaries of the Commissioner and the Deputy Commissioner to be paid out of Territorial Government funds voted by Council.

4. Size of Council

Subject to the Minister's acceptance of the type of an Executive of Council described in 2 above, we find there to be a general consensus among Members of Council that at the time of the next General Election of the Council (approximately January of 1975) there should be effected by an amendment to the Northwest Territories Act, a Council of not less than fourteen elected members. Furthermore, assuming our suggestion in 2 above is acceptable, Council should have authority to add to its Members those persons who become part of the Executive of Council who are not elected Members.

5. Deputy Commissioner

If the recommendation made above as no. 2 is accepted, then presumably the Deputy Commissioner would be a Member of the Executive of the Council and would be one of those persons added by the Commissioner-in-Council pursuant to no. 4 above. However, if recommendation no. 2 is not accepted, then this committee of Council suggests that the Deputy Commissioner remain as the sole appointed Member after the next General Election.

6. Speaker

When the Northwest Territories Act is opened up the Committee suggests that provision should be made to provide that the Council may appoint a Speaker, either from within or from outside its Membership as it sees fit at the time.

7. Position of Commissioner

The Committee recommends that the Commissioner continue to be part of the Council and sit with the Council as Chief Executive Officer with voting privileges.

B. Financial

The present financial arrangements for funding Territorial Government Programs make it impossible for the elected representatives to have any substantive input into budgeting. By the time Council sees spending estimates the funds are locked into programs. By Section 21 of the Northwest Territories Act it is unlawful for Council to adopt or pass any vote, resolution or bill appropriating money. There is little incentive to Council to reduce spending. On the other hand we now have a well established base for the amount of money required to operate the programs in the Northwest Territories on which our annual subsidy is based.

This Committee, therefore, recommends two amendments to the Northwest Territories Act.

1. Repeal Section 21 of the Act and make an Executive of the Council, as hereinbefore described, responsible for advancing expenditure and revenue proposals to the Legislative Council.
2. Repeal Section 22 and provide for an annual unconditional grant, which should not appear as part of any Federal departmental budget, but an unconditional grant such as that received by any of the provinces, with complete sovereignty in the Council of the Northwest Territories with respect to spending that sum of money. The present series of Territorial-Federal financial negotiations would then disappear.

C. Administrative

Your Committee has identified nine programs designated as Provincial responsibilities under the Canadian Constitution that are still controlled by the Federal Government. For three of these programs: Housing, Highways and Health Services for Indians and Eskimos, the Northwest Territories Act has given the Commissioner-in-Council power to enact legislation but funding and administrative control still rests with a Federal Government Department.

The other six programs that have remained completely under Federal control are: Inland Fisheries, Forestry, Hydro-Electric Power, Land and Inland Water (Surface Rights), Land and Inland Water (Sub-Surface Rights), and Attorney General. Your Committee believes that all of these programs should "transfer" to the Territorial Government and attached as Schedule 1 is a summary of the proposed timing for transfer as well as an estimate of present Federal spending and manpower requirements for these programs.

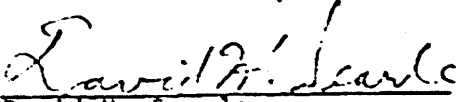
The Committee very guardedly uses the word "transfer" when we suggest that the programs identified in Schedule 1 should go from direct Federal to Territorial control. In fact, there really is no shifting of any control should such "transfers" take place because by making the Commissioner responsible for those additional provincial-type programs is merely shifting the accountability to the Minister from one Deputy Minister to another Deputy Minister, the latter Deputy Minister being our own Commissioner. In other words, the Minister's control remains as direct and as strong regardless of whether the programs in Schedule 1 are administered by the Department of Indian and Northern Affairs directly through the Deputy Minister of that department or directly through the Commissioner of the Northwest Territories who is just as responsible to the Minister as is the departmental Deputy Minister.

These so-called administrative "transfers", therefore, though important in terms of housekeeping, are not matters of substance when we speak of additional power and responsibility to the Council. They are important only in that they are the remaining areas of provincial-type responsibility which must be transferred administratively before any substantial move towards provincial status may be made.

Action Required

The Committee recommends that the foregoing recommendations should be debated either at this Session or the January, 1974 Session and that to achieve that end this report should be put on the Order Paper for Committee of the Whole discussion, either at this Session or in January. In other words, before the Committee goes any further, the thoughts and direction of Council are required.

Dated at Inuvik the 18th day of October, 1973.


David H. Searle
Chairman.

SCHEDULE 1

Program	Proposed Date of Transfer	Legislation to be Repealed, Amended, Enacted	Admin Procedures and/or Regulations Required	Estimated		Estimated No of Federal Employees Presently Engaged in these Services	
				Federal Expenditure on Present-Program	No. of Fed Staff	Headquarters	Field
Housing	April 1, 1974	NWT Housing Corp.	Both	\$ 5,000,000	3	3	-
Highways - Maintenance Construction	April 1, 1974 April 1, 1973	Nil	Terminate Engineering Services agreement with Federal Government and fund Highways Program under Financial Agreement	2,500,000 5-10,000,000	3	7	25
Forestry	Oct. 1, 1974	Nil	Transfer Surface Rights to N.W.T. land to Territorial Gov't under Sec. 46 N.W.T. Act or by statute	3,000,000	135	10	120
Fisheries (Inland Waters)	Oct. 1, 1974	Department of Environment Act	Both	50,000	2		2
Health Services for Indians & Eskimos	April 1, 1975	Nil	Both	6,000,000	500	60	450
Public Health	April 1, 1975	Nil	Transfer of Public Health Staff from Federal to Territorial Government	150,000	4	1	
N.C.P.C.	April 1, 1975	Federal Act Repealed, Territorial Ordinance Enacted	Transfer of Surface Rights of N.W.T. Land	6,900,000		50	200
Land & Inland Water Surface Rights	April 1, 1976	Territorial Lands Act Inland Waters Act	Both	12,500,000	40	170	45
Land & Inland Water Sub-Surface Rights	April 1, 1976	Territorial Lands Act	Both	1,300,000	45	170	45
Attorney General	April 1, 1976	Criminal Code	Both	70,000	3	3	

N.B. - The figures for Program Costs and Staff are rough estimates and will require further study to determine full significance of transfers.



September 17, 1973.

Mr. S.M. Hodgson,
Commissioner of the N.W.T.,
P.O. Box 1320,
Yellowknife, N.W.T.

Dear Mr. Hodgson;

You will wish to know that in a meeting earlier this month between officials of Imperial Oil Ltd. (including Mr. Jack Armstrong, President), and the Minister and his officials, it was noted that the Company proposes to meet with Territorial authorities prior to the next Council Session so as to explain the price increases of Norman Wells products announced late last Spring.

In previous consultations last April, the Minister was successful in convincing Imperial Oil to reduce their requested price increases significantly. In summary, it was agreed that:

- (a) the price to domestic, commercial, small business users, the Government of Canada, and the Territorial Government for Norman Wells products would be increased by no more than two cents per gallon, even when sold by intermediaries.
- (b) all the remaining output of Norman Wells is to be made available to the NCPD at very limited increases in price which are still being negotiated. These increases are to be spread over a three year period.
- (c) the volume of Norman refinery products made available annually for domestic and commercial end use shall not be reduced below the historically highest average annual volume.

- (d) the larger increases for products delivered from Edmonton for industrial users will be spread over three years. Since these increases will affect the mining and oil companies only, there will be no increases to the domestic and small business users of the Northwest Territories.

On July 28th, the Minister received an enquiry from Mr. Tom Butters concerning discussions before the N.W.T. Council in June relating to these matters, and it is proposed he reply to the query essentially in line with the information above, partly flowing from the Minister's recent meeting with Imperial.

Yours sincerely,

H.B. Robinson

H.B. Robinson,
Deputy Minister.