

LEGISLATIVE ASSEMBLY OF THE  
NORTHWEST TERRITORIES  
8<sup>TH</sup> ASSEMBLY, 65<sup>TH</sup> SESSION

TABLED DOCUMENT NO. 7-65

TABLED ON May 9, 1978

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Yellowknife.

April 3, 1978

Honourable J. Hugh Faulkner  
Minister of Indian and Northern Affairs  
Room 503, Centre Block  
House of Commons  
K1A 0A7

Dear Hugh:

I am writing you with respect to the Northwest Territories Council submission, entitled "Priorities for the North", adopted by the Council May 18, 1977 and prepared in response to your predecessor, Mr. Allmand's invitation to the Council to participate in the formulation of the Northern policy paper of last summer.

~~Under the heading of Constitutional Development, this document addresses a number of principles, specific recommendations, and subjects for future negotiation, which in my function as Special Representative, I am not yet prepared to comment on or support, outside the progress which the established legislative and administrative authorities in both governments are currently undertaking and which it is not my intention to disrupt. However, I do want to support the Council's proposal to have amended the NWT Act to permit discretionary increase in the Council size between the range of fifteen and twenty-five members.~~

I have discussed this proposal with the Executive Committee and other Council members December 12 - 14, 1977, the week of January 23, 1978, and on several subsequent occasions with Arnold McCallum, Caucus Chairman and Chairman, Special Committee on Constitutional Development.

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The present NWT Act, Article 8.(1) as amended 1974, refers to a Council consisting of fifteen members. The present Yukon Act, Article 9.(1.2), as amended 1974, refers to a basic Council consisting of twelve members. Article 9.1, however, authorizes the Commissioner in Council to make ordinances to adjust the size of the Council between twelve and twenty members. This Yukon legislative provision does not presently apply in the Northwest Territories nor to the NWT Act. Reference in the NWT Council's submission to the similarity to the Yukon Act is thus not with respect to the number of Council members but rather to the discretionary legislative authority to increase within that range.

In addition to supporting the range of fifteen to twenty five, the NWT Council argues in favor of an immediate increase in the present Council to twenty one, an estimated requirement to meet the geographic, community and ethnic interests represented in the NWT. This estimate was developed in the preparation by caucus of a number of proposals for redefining constituency boundaries.

I have suggested to them that there are two distinct issues addressed in the Council's proposal: the more technical question of legislative amendment to the NWT Act through the Canadian parliament; and the consequential and more substantive, constitutional issue of representivity in the Council, as a function not only of size, but rather of the redefined constituency boundaries, the public, independent method by which these new boundaries are determined, and the Territorial participation and representivity reflected in the agency or commission established for this purpose.

I have urged the Council, as the responsible legislative body in the NWT, to engage the people of the NWT in a politically irreproachable exercise, the successful outcome of which can only be achieved through a demonstration of territorial support for the legitimacy of the Council's objectives and the proper exercise by the Council of its constitutional responsibilities. To this end, I have ~~suggested to the Council the preparation of a draft Electoral Boundaries Commission Ordinance and the preparation and adoption by Council at the Spring Session, of selection criteria to expedite the Commission's task.~~

Inasmuch as I ~~believe the major constitutional~~ challenge remains under this approach with the elected Council and the people of the Northwest Territories, which, in the name of evolving responsible government in the North, is ~~where it should be~~, I am recommending the ~~necessary legislative amendment federally in order to remove the legislative restrictions presently impeding the exercise of this responsibility.~~

I support the Council's proposal for increase in its size for three principal reasons. ~~Firstly, as a body representative of the disparate cultural and geographic circumstances in the NWT, and accountable for legislation which is responsive to this diversity, fifteen members are too few. Secondly, as an elected, legislative body, the Council carries a major function of political education, which considering the size and existing transportation and communication facilities in the NWT is a near-impossible task for fifteen individuals. Thirdly, while the optimum number for the Council is not just a function of its legislative load, the present fifteen is too limited a number for increased legislative responsibilities which, in line with devolution, is the direction being pursued. Furthermore, this direction, extended to the executive level and increased responsibilities to the Executive Committee, will require an optimum capability within the Council from which to draw into the Executive.~~

~~The Council size at any time I believe to be the function of the Independent Commission to review, and the Council to determine, in light of the review. Therefore, I have suggested to the Council that their recommendation of twenty one and the boundaries they propose are premature, in advance, as they are, of the review by the Commission.~~

However, the minimum-maximum range of fifteen to twenty five, in view of the reasons I have described above, appear to me to be appropriate and a suitable limit for the Council to give the Commission. The Council, however, may wish to draft the terms of reference of the Electoral Boundaries Commission Ordinance in such a way so as to permit the Commission an interim report, in early summer, should the Commission's deliberations result in a recommendation which exceeds this maximum.

~~I am increasingly persuaded of the merits of a federal as opposed to unitary structure of government within the NWT, and the evolution of regional legislative and administrative governments. However, I do not believe that an amendment to the NWT Act to permit discretionary authority by the NWT Council to increase its size to a maximum of twenty five forecloses the options for subsequent political or functional divisions of the Territories, or a redistribution of jurisdictional responsibilities within the Territories. I do believe that the challenge left to the Council, pursued publically and provoking a widespread participation of the people in the Northwest Territories, will impel collective deliberation on many of the important constitutional issues residents of the North should themselves be resolving.~~

~~I recommend therefore that the amendment to the NWT Act be brought before the House in early fall, or as soon as possible, in order to remove the federal constraints to the Council's own efforts to meet its objectives before the next Territorial election March-May, 1979.~~

I look forward to your early reply to this letter, a copy of which I am sending to Mr. McCallum.

Yours sincerely,

C.M. Drury  
Special Representative for  
Constitutional Development  
in the Northwest Territories