



Northwest  
Territories Minister of Justice

TABLED DOCUMENT NO. 11-87(2)  
TABLED ON

NOV 19 1987

**THE 1987 CONSTITUTIONAL ACCORD**

A presentation by  
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MINISTER OF JUSTICE  
FOR THE NORTHWEST TERRITORIES

To the  
**SENATE TASK FORCE**  
ON THE  
**MEECH LAKE CONSTITUTIONAL ACCORD**

Yellowknife, N.W.T.  
October 27, 1987

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WE THANK YOU FOR MAKING AN EFFORT TO UNDERSTAND THE CONCERNS OF THE PEOPLE OF THE NORTHWEST TERRITORIES BY COMING HERE TODAY. WE HOPE WE CAN CONVINCED YOU THAT OUR CONCERNS ARE LEGITIMATE AND THAT THE APPROPRIATE TIME TO CORRECT THE NEGATIVE IMPLICATIONS OF THE MEECH LAKE ACCORD IS AT THIS STAGE OF THE PROCESS AND NOT AT SOME FUTURE DATE WHEN THE OFFENDING PROVISIONS HAVE BECOME THE SUPREME LAW OF CANADA AND WILL BE VIRTUALLY IMPOSSIBLE TO CHANGE. IF THERE IS ONE THING WE HAVE LEARNED FROM THE MEECH LAKE PROCESS IT IS THAT THE NORTHERN TERRITORIES CAN ATTRACT A GREAT DEAL OF SYMPATHY, BUT FOR REASONS WE CANNOT QUITE CONTEMPLATE, THE SUBSTANTIVE ASPECTS OF OUR MESSAGE ARE IGNORED. SOME OF THIS MISUNDERSTANDING WE ATTRIBUTE TO THE SIMPLE LACK OF EXPOSURE WHICH MOST CANADIANS HAVE HAD TO THE NORTHWEST TERRITORIES. QUITE SIMPLY, MANY CANADIANS DO NOT COMPREHEND WHAT IS NOW HAPPENING IN THE NORTHWEST TERRITORIES EITHER IN TERMS OF CONSTITUTIONAL DEVELOPMENT OR IN THE EXTENT TO WHICH RESPONSIBLE GOVERNMENT HAS EVOLVED IN THE NORTH IN THE LAST 20 YEARS. FOR THESE CANADIANS THE GOVERNMENT OF THE NORTHWEST TERRITORIES HAS THE RESPONSIBILITY FOR MAKING OUR MESSAGE CLEAR AND UNDERSTANDABLE AND DELIVERING IT TO CANADIANS IN A CONCISE AND STRONG MANNER.

ON THE OTHER HAND, THERE ARE THE FEDERAL AND PROVINCIAL GOVERNMENTS, THEIR POLITICIANS AND ADVISORS, WHO SHOULD KNOW SOMETHING OF OUR EFFORTS TO BRING THE NORTHWEST TERRITORIES INTO THE MAIN STREAM OF CANADIAN FEDERALISM. WE MEET WITH THESE PEOPLE ON A REGULAR BASIS. WE DEAL WITH



THEM IN INTERGOVERNMENTAL MEETINGS AND WE DEMONSTRATE TO THEM AT EVERY OPPORTUNITY THE REASONS THAT OUR INVOLVEMENT IN ALL ASPECTS OF THE FEDERATION IS VALUABLE TO THEM AND CRITICAL TO US. AMONG THIS GROUP WE FIND SOME WHO ARE STRONG ADVOCATES FOR TERRITORIAL INVOLVEMENT IN CONSTITUTIONAL MATTERS. ON THE OTHER HAND, WE FIND THOSE WHO KNOW VERY CLEARLY WHAT HAS BEEN DONE TO THE NORTH WITH THE MEECH LAKE ACCORD, AND WHO, BY STRATEGIES OF MISDIRECTION OR DISINFORMATION, ARE TRYING TO CONVINCED CANADIANS THAT EITHER THE NORTH IS BEING FAIRLY TREATED, OR THAT ANY INJUSTICES WILL BE ADDRESSED AT A LATER DATE.

IN OUR PRESENTATION TODAY WE WANT ESPECIALLY TO TRY TO DISLODGE DISINFORMATION WHICH HAS CREATED MISUNDERSTANDING IN THE MINDS OF MANY CANADIANS AS TO THE TRUE EFFECTS OF THE CONSTITUTION AMENDMENT, 1987. THESE AMENDMENTS, THERE CAN BE NO DOUBT, CREATE PROFOUND NEW RELATIONSHIPS BETWEEN THE PROVINCIAL AND FEDERAL LEVELS OF GOVERNMENT IN THIS COUNTRY. IT DOES NOT REQUIRE A CONSTITUTIONAL EXPERT TO SEE THAT THE FEDERAL SYSTEM HAS BEEN DECENTRALIZED AND THAT PROVINCIAL GOVERNMENTS WILL GAIN A NEW INDEPENDENCE NEVER BEFORE SEEN IN CANADIAN HISTORY. WE ARE NOT TODAY QUESTIONING THE WISDOM OF THIS CHANGE IN THE FEDERAL-PROVINCIAL DYNAMIC. BUT YOU CAN APPRECIATE THAT THE PEOPLE OF THE TWO TERRITORIES FEEL ACUTELY STUNG BY THE IRONY OF THIS CHANGE OF COURSE WHEN THEY COMPARE IT TO THE MESSAGE WHICH THE MEECH LAKE ACCORD HOLDS FOR THE PEOPLE OF CANADA. AT A TIME WHEN REGIONAL AND PROVINCIAL INTERESTS HAVE BEEN STRENGTHENED THE TWO TERRITORIES HAVE RECEIVED A SIGNAL THAT THEY ARE NOT WELCOME IN THE CONSTITUTIONAL FAMILY.

THE MESSAGE FROM MEECH LAKE IS CLEAR. ONE DOES NOT HAVE TO GUESS AT THE

MEANING OF THE STATEMENT IN THE JOINT COMMITTEE'S REPORT WHICH SAYS; AND I QUOTE:

"WE WERE TOLD BY SENATOR LOWELL MURRAY THAT AT LEAST SOME OF THE PROVINCES ARE EXTREMELY JEALOUS OF THE "TRAPPINGS OF PROVINCEHOOD", AND OPPOSE EVEN GIVING THE OPPORTUNITY TO TERRITORIAL GOVERNMENTS TO NOMINATE RESIDENTS AS SENATORS OR QUALIFIED RESIDENTS TO FILL A VACANCY ON THE SUPREME COURT OF CANADA."

WE ASK YOU TO PAUSE FOR A MOMENT AND THINK ABOUT THE IMPORT OF THAT STATEMENT. OUR EFFORTS TO ACHIEVE PROVINCEHOOD HAVE BEEN FROZEN IN TIME. WE ARE LIKE AUGUSTE RODIN'S FAMOUS SCULPTURE OF THE TWO LOVERS ABOUT TO KISS. FOREVER IN THE EMBRACE BUT FOREVER DENIED THAT ANTICIPATED MOMENT. INDEED THE MESSAGE IS ALL TOO CLEAR: THE GOVERNMENT OF PRINCE EDWARD ISLAND, SASKATCHEWAN, BRITISH COLUMBIA, QUEBEC AND EVERY OTHER PROVINCE HAS A GREATER SAY IN TERRITORIAL CONSTITUTIONAL DEVELOPMENT THAN DO THE PEOPLE OF THE TWO TERRITORIES.

WE HAVE HEARD MANY SUPPORTERS OF THE ACCORD STATE THAT THE CONSTITUTION AMENDMENT 1987 IS A POLITICAL COMPROMISE WHICH WILL REUNITE THE CANADIAN CONSTITUTIONAL FAMILY. THESE STATEMENTS IGNORE THE FUNDAMENTAL LEGAL NATURE OF THE DOCUMENT. WE HAVE BEEN GIVEN REASSURANCES THAT OUR CONCERNS WILL BE DEALT WITH AT A LATER STAGE AND WE ARE TOLD NOT TO WORRY BECAUSE UNANIMITY IS POSSIBLE. MEECH LAKE WE ARE TOLD, IS THE EXAMPLE. BUT THEN WE ARE TOLD THAT THE ACCORD IS SO DELICATE, THE POLITICAL COMPROMISE IS SO FRAGILE, THAT WE MUST ACCEPT IT IN ITS IMPERFECT TOTALITY OR RISK DESTROYING IT BY ANY CHANGE. WE ARE TOLD THAT THIS TYPE OF UNANIMITY IS

SO RARE THAT WE CANNOT TAKE TIME TO CORRECT EVEN THE MOST OBVIOUS INJUSTICES IN THE ACCORD. WE HAVE NEVER SEEN A PROCESS SO FRAUGHT WITH INCONSISTENCY. THE SPIN-MASTERS ARE AT WORK TELLING US THAT BAD IS GOOD, INJUSTICE IS JUSTICE, DISCRIMINATION IS FAIRNESS. WE HAVE HEARD MANY REASONS WHY THE ACCORD DOES NOT REALLY PREJUDICE THE TWO TERRITORIES. NOT ONE OF THEM IS CONVINCING. ONE MP SUGGESTED THAT THE PEOPLE AND GOVERNMENTS OF THE TWO TERRITORIES DID NOT LOSE ANYTHING AS A RESULT OF THE MEECH LAKE AGREEMENT BECAUSE WE NEVER HAD ANYTHING TO LOSE IN THE FIRST PLACE, AND FURTHER SUGGESTED THAT WE SHOULD TRUST THE GOOD SENSE OF THE EXISTING PROVINCES TO ADMIT US TO THE FEDERATION WHEN THE TIME CAME. AT THE SAME TIME HE OVERLOOKED THE FACT THAT THE CONSTITUTIONAL ARRANGEMENTS IN THE CONSTITUTION AMENDMENT, 1987 ESSENTIALLY PRECLUDE THE ATTAINMENT OF PROVINCEHOOD BY EITHER TERRITORY. WE ASK YOU TO AGAIN THINK ABOUT SENATOR MURRAY'S STATEMENT ABOUT JEALOUS PROVINCES.

WE HEARD FROM ONE FORMER SENIOR FEDERAL BUREAUCRAT, GORDON ROBERTSON, THAT HE HAD CONSIDERABLE EXPERIENCE IN THE NORTH AND AS FAR AS HE WAS CONCERNED THE ACCORD WAS REALLY A POLICY MATTER AND THAT IT WAS NOT SIGNIFICANT THAT THE NORTHWEST TERRITORIES HAD BEEN LEFT OUT. SUCH ARGUMENTS ARE NOT WORTHY OF FURTHER COMMENT. THEY ARE 25 YEARS OUT OF DATE. THIS IS NOT ANOTHER POLICY MATTER, THIS IS THE SUPREME LAW OF THE LAND WE ARE DISCUSSING.

WE HAVE HEARD RECENTLY IN PARLIAMENT AN ARGUMENT FROM ONE MP WHO RATIONALIZED THE DENIAL OF DEMOCRATIC AND LEGAL RIGHTS ON THE BASIS OF POPULATION SIZE. WHAT PROVINCE OF CANADA WOULD TOLERATE SUCH A STATEMENT?

WHEN CAN WE EXPECT PRINCE EDWARD ISLAND TO BE BANISHED FROM THE CONSTITUTIONAL FAMILY? WE HAVE HEARD THAT THE PROCESS AND CONTENT OF THE MEECH LAKE DEAL WERE FAIR, AND IF THEY WERE NOT FAIR IN RESPECT OF THE TERRITORIES, THIS WAS JUSTIFIABLE BECAUSE THE TERRITORIES ARE NOT PROVINCES. WE HAVE HEARD STATEMENTS TO THE EFFECT THAT THE NORTHWEST TERRITORIES CANNOT AFFORD FINANCIALLY TO JOIN THE PROVINCIAL CLUB. WE HAVE HEARD THAT NONE OF OUR RIGHTS HAVE BEEN AFFECTED. WE HAVE HEARD IN THE COURTS ARGUMENTS BY THE FEDERAL GOVERNMENT THAT THE TERRITORIAL GOVERNMENTS DO NOT REALLY HAVE ANY LEGAL STATUS. WE HAVE HEARD THAT WE CAN TRUST THE PROVINCES TO DO THE RIGHT THING WHEN THE TIME COMES FOR US TO JOIN THE FEDERATION.

WE ARE CONSTANTLY BEING TOLD THAT OTHERS KNOW WHAT IS GOOD FOR US. IN THE LAST 6 MONTHS, WITH THE MEECH LAKE DEAL AND THE IMMINENT FREE TRADE AGREEMENT, THE NATURE OF THIS COUNTRY HAS BEEN DRAMATICALLY AND PERHAPS IRREVERSIBLY ALTERED. MOST CANADIANS DO NOT YET APPRECIATE THIS. CANADIANS IN THE NORTHWEST TERRITORIES HAVE BEGUN TO REALIZE THAT THERE MAY BE MORE TO THE OFFENDING PROVISIONS OF THE MEECH LAKE ACCORD THAN MERE OVERSIGHT. WE HAVE BEEN SERVED NOTICE THAT THERE IS NO LONGER ANY PROMISE OF PROVINCEHOOD FOR THE NORTHWEST TERRITORIES OR THE YUKON.

WE HAVE READ THE SENATE AND COMMONS COMMITTEE REPORT AND IT IS LADEN WITH VALUES AND PRINCIPLES THAT THE COMMITTEE FEELS ARE THE FOUNDATION OF THE ACCORD. AS WE READ THE GLOWING ACCOUNT OF THE REUNION OF THE CANADIAN CONSTITUTIONAL FAMILY WE HAD THE IMPRESSION THAT THE AUTHORS MUST HAVE HAD THE TERRITORIES IN MIND. IT ALL SEEMED SO CLEAR. IMAGINE OUR

DISAPPOINTMENT WHEN WE TRIED IN VAIN TO SEE HOW THESE LOFTY VALUES AND PRINCIPLES WERE APPLIED TO OUR CIRCUMSTANCES IN THE NORTHWEST TERRITORIES.

WHEN WE GAZE INTO THE CRYSTAL BALL OF THE CONSTITUTION AMENDMENT, 1987, WE SEE A BLEAK FUTURE FOR THE NORTH. THE AMENDMENT WILL STAND AS A SYMBOL OF OUR CONTINUING REJECTION BY CANADA AND THE PROVINCES. WE KEEP HEARING THAT WE WILL BE CONSIDERED IN A SECOND OR THIRD ROUND BUT TO ME THIS DOES NOT SEEM REASSURING NOR DOES IT SEEM HONEST. WHEN WE LOOK AT THE AMENDMENT WE CANNOT HELP BUT NOTICE THAT THE LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES OR THE YUKON IS NOT MENTIONED IN ANY SECTION RELATING TO THE CREATION OF A NEW PROVINCE OR THE EXTENSION OF THE BOUNDARIES OF EXISTING PROVINCES INTO THE TERRITORIES. WE NOTE THAT THE CONSTITUTIONAL MEETINGS AND CONFERENCES GUARANTEED BY THE AMENDMENT MAKE NO MENTION OF THE GOVERNMENTS OF THE TWO TERRITORIES, AND THIS STANDS IN STARK CONTRAST TO THE PROVISIONS OF THE 1982 CONSTITUTION ACT WHICH AT LEAST PROVIDED THAT WE BE INVITED TO CONFERENCES WHICH DIRECTLY AFFECTED US. THERE IS NO AGENDA ITEM LISTED IN THE PROVISIONS OF THE AMENDMENT WHICH MENTIONS THE NORTHWEST TERRITORIES OR THE YUKON OR THEIR CONSTITUTIONAL CONCERNS.

IF THERE IS A SECOND OR THIRD ROUND CAN WE ANTICIPATE THAT THE PROVINCES AND FEDERAL GOVERNMENT WILL MEET IN SECRET ONCE AGAIN TO DETERMINE OUR FUTURE AS THEY DID AT MEECH LAKE? THE COMMITTEE AND SUPPORTERS OF THE ACCORD HAVE ASSURED US THAT WE CAN EXPECT FAIRNESS FROM THE PROVINCES AND FROM THE FEDERAL GOVERNMENT IN THE FUTURE BECAUSE WE WOULD CERTAINLY BE INVITED TO ANY SUCH CONFERENCE WHICH WOULD OBVIOUSLY BE OF DIRECT CONCERN

TO US. THAT WAS NOT THE CASE WITH THE MEECH LAKE AGREEMENT, EVEN THOUGH IN 1983 THE LEADERS OF THE GOVERNMENTS OF THE NORTHWEST TERRITORIES AND THE YUKON HAD SIGNED A CONSTITUTIONAL ACCORD WITH NINE PREMIERS AND THE PRIME MINISTER AND ABORIGINAL LEADERS THAT ACKNOWLEDGED OUR INTEREST IN MATTERS RELATING TO THE CREATION OF NEW PROVINCES AND THE EXTENSION OF EXISTING PROVINCES INTO THE NORTHWEST TERRITORIES AND YUKON, AND PROMISED A CONSTITUTIONAL CONFERENCE TO SETTLE THIS MATTER.

THE COMMITTEE IN ITS REPORT STRESSED THAT PROMISES HAD BEEN MADE TO QUEBEC IN THE PAST, PROMISES THAT THE PEOPLE OF QUEBEC WOULD GET CONSTITUTIONAL CHANGES AFTER THE REFERENDUM OF 1980. THE REPORT STATES THAT "THE ADOPTION OF THE PATRIATION RESOLUTION BY ALL OF THE GOVERNMENTS IN CANADA, DESPITE THE POSITION TAKEN BY EVERY MEMBER OF THE QUEBEC NATIONAL ASSEMBLY AS EXPRESSED REPEATEDLY AND UNEQUIVOCALLY, WAS TAKEN TO BE A DENIAL ON THE PART OF OTHER GOVERNMENTS IN CANADA OF THE LEGITIMACY OF SUCH A ROLE FOR THE QUEBEC GOVERNMENT." MR. PICKERSGILL IS QUOTED AS SAYING IT LEFT A WOUND AND A GRIEVANCE. IN THE NORTHWEST TERRITORIES WE HAVE HEARD A CENTURY OF PROMISES OF PROVINCEHOOD. WE WERE TOLD THAT THE OBJECTIVE OF THE ACCORD WAS TO BRING QUEBEC INTO THE CONSTITUTIONAL FAMILY, NOT TO BANISH THE TERRITORIES. FIRST WE WERE TOLD THAT OUR EXCLUSION FROM THE MEECH LAKE PROCESS WAS AN OVERSIGHT, BUT THEN WE HEARD MR. LOWELL MURRAY'S COMMENTS ON THE FINAL DAY OF THE COMMITTEE'S HEARINGS AND WE READ IN THE COMMITTEE'S REPORT THIS STATEMENT WHICH WE MUST REPEAT: "WE WERE TOLD BY SENATOR LOWELL MURRAY THAT AT LEAST SOME OF THE PROVINCES ARE EXTREMELY JEALOUS OF THE "TRAPPINGS OF PROVINCEHOOD", AND OPPOSE EVEN GIVING THE OPPORTUNITY TO TERRITORIAL GOVERNMENTS TO NOMINATE



RESIDENTS AS SENATORS OR QUALIFIED RESIDENTS TO FILL A VACANCY ON THE SUPREME COURT OF CANADA". WITH THAT STATEMENT, CAN WE TRUST THE FAIRNESS AND GOOD WILL OF PROVINCES IN THE FUTURE TO TAKE INTO ACCOUNT THE BEST INTERESTS OF THE NORTHWEST TERRITORIES?

W.A.C. BENNETT, FORMER PREMIER OF BRITISH COLUMBIA EXPRESSED ASPIRATIONS TO EXTEND HIS PROVINCE'S BOUNDARIES NORTH TO ENGULF THE YUKON.

HARRY STROM, FORMER PREMIER OF ALBERTA, EXPRESSED SIMILAR SENTIMENTS IN CONNECTION WITH PORTIONS OF THE NORTHWEST TERRITORIES.

BUREAUCRATS WITHIN THE GOVERNMENT OF QUEBEC HAVE EXPRESSED DESIRES OVER THE POTENTIAL WEALTH OF HUDSON AND JAMES BAY.

IF THE MEECH LAKE ACCORD REFLECTS NEW RULES FOR CANADIAN FEDERALISM, RULES WHICH MAKE THE TERRITORIES SUBSERVIENT TO THE WISHES AND DESIRES OF ALL OTHER PROVINCES NOW SAFELY IN THE CLUB, SHOULD WE EXPECT NEW INTERFERENCE IN OUR CONSTITUTIONAL EVOLUTION TOWARDS FULL RESPONSIBLE GOVERNMENT AND ULTIMATE PROVINCEHOOD?

IN THE PAST, WE HAVE BEEN IN A POSITION TO DISCUSS THE PACE OF CONSTITUTIONAL DEVELOPMENT WITH THE FEDERAL GOVERNMENT ALONE, IN THE SAME WAY THAT OUR PREDECESSORS DID IN THE OLD NORTHWEST TERRITORIES BEFORE 1905. WE MAY NOT HAVE BEEN HAPPY WITH THE PACE BUT AT LEAST WE KNEW WHO WE WERE DEALING WITH. BUT DOES THE SUBSTANCE OF OUR CONSTITUTIONAL

DEVELOPMENT TRANSLATE INTO "TRAPPINGS OF PROVINCEHOOD", TO USE SENATOR MURRAY'S PHRASE? IS THERE A HIDDEN AGENDA? DOES, THEREFORE, THE "SPIRIT OF MEECH LAKE" MEAN THAT THE FEDERAL GOVERNMENT WILL NOW CONSULT ALL 10 PROVINCES BEFORE DECIDING WHETHER TO DEVOLVE TO THE TERRITORIES RESPONSIBILITY, FOR EXAMPLE, OVER OIL AND GAS ADMINISTRATION? WILL THIS CONSULTATION BE PRIVATE? WILL OUR DISCUSSIONS OVER FORMULA FINANCING FOR THE TERRITORIES BE FAIR GAME FOR PROVINCIAL INPUT OR CONSULTATION? WHAT PRINCIPLES WILL GUIDE THEM IN THEIR DECISION-MAKING? WILL THE LEGITIMATE CLAIMS OF THE ABORIGINAL PEOPLES OF THE NORTHWEST TERRITORIES BE VETTED BEFORE THE PREMIERS, TO SEE HOW THESE CLAIMS WILL AFFECT THE ASPIRATIONS OR DESIGNS OF THE PROVINCES?

CAN WE ACCEPT THE PROMISES OF A SECOND ROUND WHERE WE MIGHT BE INVITED TO ATTEND AND WHERE WE MIGHT BE INVITED TO PARTICIPATE AND WHERE WE MIGHT HAVE SOME SAY IN DECISIONS THAT AFFECT OUR FUTURE? AS WE HAVE ALREADY SAID, WE HAD THAT SORT OF PROMISE IN 1983, IN WRITING IN A SOLEMN CONSTITUTIONAL ACCORD, BUT IT WAS TOTALLY IGNORED AT MEECH LAKE. THE TIME FOR CORRECTING THE INJUSTICES IN THE CONSTITUTION AMENDMENT, 1987 IS NOW. WE CANNOT WAIT UNTIL THESE PROVISIONS BECOME ENTRENCHED IN THE SUPREME LAW OF CANADA.

WE KEEP HEARING THAT UNANIMITY IS POSSIBLE AGAIN. MAKE THEM PROVE IT NOW BEFORE THE AMENDMENT BECOMES LAW. YOU AS LEGISLATORS MUST SURELY SEE THE INCREDIBLE ILLOGIC OF BEING TOLD TO CORRECT YOUR DRAFT AFTER IT HAS BECOME LAW, NOT BEFORE.

WE HAVE COME TO KNOW THE HARSH REALITIES OF FEDERAL PROVINCIAL POLITICS. WE CANNOT TAKE ON FAITH THE PROMISE OF A SECOND OR THIRD ROUND. IT IS OUR IMPRESSION THAT FOR THE PROVINCES AND THE FEDERAL GOVERNMENT THERE WILL ALWAYS BE ANOTHER ISSUE MORE IMPORTANT THAN THE NORTHWEST TERRITORIES AND THE YUKON, AND FOR THAT REASON THE CHANCES OF HOLDING A CONSTITUTIONAL CONFERENCE ON THIS MATTER, THE CHANCES OF GETTING INVITED TO SUCH A CONSTITUTIONAL CONFERENCE, AND THE CHANCES OF GETTING AN AGREEMENT ACCEPTABLE TO THE TWO TERRITORIES AT SUCH A MEETING ARE VERY SLIM INDEED. SENATOR MURRAY'S WORDS CONTINUE TO RING IN MY EARS AND I QUOTE FOR YOU AGAIN: "AT LEAST SOME OF THE PROVINCES ARE EXTREMELY JEALOUS OF THE TRAPPINGS OF PROVINCEHOOD AND OPPOSE EVEN GIVING THE OPPORTUNITY TO TERRITORIAL GOVERNMENTS TO NOMINATE RESIDENTS AS SENATORS OR QUALIFIED RESIDENTS TO FILL A VACANCY ON THE SUPREME COURT OF CANADA." THE NORTHWEST TERRITORIES AND THE YUKON HAVE BEEN CAUGHT, HELPLESS IN THIS SUPPOSEDLY SEAMLESS WEB SPUN BY THE ELEVEN FIRST MINISTERS. WE ASK THAT YOU PLUCK US FREE BEFORE THE SPIDERS GET BACK TO DEVOUR US.

WE WISH NOW TO SET THE RECORD STRAIGHT RESPECTING THE POSITION WHICH THE NORTHWEST TERRITORIES TOOK ON THE MEECH LAKE ACCORD, IN ITS PRESENTATION BEFORE THE JOINT PARLIAMENTARY COMMITTEE. WE WISH TO ESTABLISH AT THE OUTSET THAT THE GOVERNMENT OF THE NORTHWEST TERRITORIES IS A SEPARATE AND DISTINCT GOVERNMENT FROM THE GOVERNMENT OF THE YUKON. WE STATE THIS BECAUSE THE COMMITTEE'S REPORT OFTEN CONFUSED OUR PRESENTATION WITH THAT OF THE YUKON. FURTHERMORE THERE SEEMS TO BE AN ASSUMPTION THAT THE POSITIONS OF THESE TWO GOVERNMENTS ON ALL ISSUES ARE INTERCHANGEABLE. THAT IS OF COURSE NOT THE CASE. WE DO NOT SPEAK FOR THE YUKON AND THE YUKON DOES NOT SPEAK FOR US, ALTHOUGH WE AGREE ON MOST ISSUES.

SECONDLY WE WISH TO CORRECT STATEMENTS CONTAINED IN THE JOINT COMMITTEE'S REPORT RELATING TO POSITIONS SUPPOSEDLY ADVANCED BY THE GOVERNMENT OF THE NORTHWEST TERRITORIES. IN FACT, OUR CONCERNS WERE CLEARLY PUT FORWARD AND WENT MUCH FURTHER THAN IS REFLECTED IN THE JOINT COMMITTEE'S REPORT.

FOLLOWING ARE A NUMBER OF EXAMPLES:

A. THE JOINT COMMITTEE REPORTED OUR POSITION AS BEING THAT IT WAS UNFAIR TO GIVE EACH OF THE EXISTING PROVINCES A RIGHT OF VETO OVER THE CREATION OF A NEW PROVINCE. IN OUR PRESENTATION TO THE JOINT COMMITTEE WE WENT MUCH FURTHER IN OUR CONDEMNATION OF THIS ASPECT OF THE ACCORD. THE POSITION WE TOOK BEFORE THE JOINT COMMITTEE WAS THAT IT IS UNFAIR TO ALLOW PROVINCES TO PARTICIPATE AT ALL IN THE ESTABLISHMENT OF NEW PROVINCES. NO OTHER PROVINCE HAS HAD TO ENTER THE FEDERATION ON THESE TERMS NOR TO SUFFER THESE SORTS OF LIMITATIONS. WE RECOMMENDED DELETING FROM THE AMENDMENT THOSE PROVISIONS RELATING TO THE ESTABLISHMENT OF NEW PROVINCES. AT THE SAME TIME WE RECOMMENDED REPEALING THE CLAUSES OF THE CONSTITUTION ACT, 1982 WHICH INVOLVED EXISTING PROVINCES IN THE ESTABLISHMENT OF NEW PROVINCES.

B. THE REPORT SUGGESTS THAT IT IS NOT CLEAR WHETHER THE GOVERNOR GENERAL RETAINS THE AUTHORITY TO APPOINT TERRITORIAL SENATORS WITHOUT THE PARTICIPATION OF THE PROVINCES. IN OUR SUBMISSIONS TO THE JOINT COMMITTEE WE RECOMMENDED THAT THE PROVISIONS BE CLARIFIED TO ENSURE THAT THE GOVERNMENTS OF THE TWO TERRITORIES HAVE THE POWER TO NOMINATE THEIR OWN SENATORS FOR APPOINTMENT. OF COURSE THE PROVINCES SHOULD HAVE NO ROLE IN THIS, NOR SHOULD THE FEDERAL GOVERNMENT HAVE THE POWER TO UNILATERALLY NOMINATE SENATORS TO REPRESENT THE

TERRITORIES. THE PRINCIPAL OF EQUALITY OF PROVINCES WHICH IS APPARENTLY A KEY ASPECT OF THE 1987 AMENDMENT SHOULD BE APPLIED TO THE TERRITORIES. IF YOU READ THE CONSTITUTION ACT, 1975 YOU WILL SEE THAT THE WORD "PROVINCE" AS IT IS USED IN THE SECTIONS RELATING TO THE SENATE IS INTENDED TO ALSO INCLUDE THE TERRITORIES.

WE CAN SEE NO REASON IN LAW OR IN POLITICS WHY THE SAME PRINCIPLES SHOULD NOT BE APPLIED FOR THE PURPOSES OF THE PROPOSED SECTION DEALING WITH NOMINATIONS.

- C. THE REPORT INDICATES THAT QUALIFIED RESIDENTS OF THE TERRITORIES SHOULD HAVE THE SAME OPPORTUNITY TO BE CONSIDERED FOR APPOINTMENT TO THE SUPREME COURT OF CANADA WITHOUT HAVING TO BE NOMINATED BY A PROVINCE. IN OUR SUBMISSIONS TO THE JOINT COMMITTEE WE HAD RECOMMENDED THAT THE TERRITORIAL GOVERNMENTS SHOULD BE EMPOWERED TO SUBMIT TO THE MINISTER OF JUSTICE OF CANADA NAMES OF PERSONS FOR CONSIDERATION. THE JOINT COMMITTEE REPORTED THIS AND STATED "THE ONLY PRACTICAL WAY TO HAVE QUALIFIED NORTHERNERS CONSIDERED FOR APPOINTMENTS TO THE SUPREME COURT BENCH IS BY HAVING THEIR NAMES SUBMITTED FOR CONSIDERATION BY THE TERRITORIAL GOVERNMENTS." THE JOINT COMMITTEE WENT ON TO SUGGEST THAT "THE PROPOSED PROCEDURE SHOULD BE AMENDED BY THE FIRST MINISTERS AT THE FIRST OPPORTUNITY." THE JOINT COMMITTEE THEN SUGGESTED THAT THE FIRST MINISTERS MAKE THIS AMENDMENT AT A LATER CONSTITUTIONAL CONFERENCE. HAVING SPOTTED AN OBVIOUS INJUSTICE, AN OBVIOUS EGREGIOUS ERROR, AND A TOTALLY UNJUSTIFIABLE DISCRIMINATION, THE JOINT COMMITTEE LACKED THE

POLITICAL WILL TO STATE THE OBVIOUS: THE TIME FOR CORRECTING THIS TYPE OF PROVISION IS BEFORE IT HAS BECOME A LAW, NOT AFTER. ONE CAN HARDLY FATHOM THE LOGIC OF ENTRENCHING IN A SUPREME LAW OF CANADA A PROVISION WHICH SO CLEARLY REQUIRES AMENDMENT. IT IS ALSO TOTALLY ILLOGICAL TO CITE POLITICAL REASONS FOR ADOPTING THIS TAINTED LEGAL WORDING.

- D. THE REPORT SUGGESTS THAT NORTHERN CANADIANS SHOULD HAVE A SAY IN CONSTITUTIONAL AND OTHER MATTERS WHICH DIRECTLY AFFECT THEM, BY ALLOWING TERRITORIAL GOVERNMENT LEADERS TO PARTICIPATE IN FIRST MINISTERS CONFERENCES. THE POSITION WE TOOK BEFORE THE COMMITTEE WAS THAT THE TERRITORIAL LEADERS SHOULD ATTEND ALL FUTURE CONSTITUTIONAL CONFERENCES AND FIRST MINISTERS MEETINGS. THERE IS VIRTUALLY NO ISSUE DISCUSSED AT THESE MEETINGS AND CONFERENCES WHICH DOES NOT HAVE A DIRECT EFFECT ON THE TERRITORIES.

WE MADE A FURTHER POINT TO THE COMMITTEE WHICH WAS NOT REFLECTED IN ITS REPORT. WE RECOMMENDED THAT THE PROVISIONS OF THE ACCORD DEALING WITH THE EXTENSION OF BOUNDARIES INTO THE TERRITORIES BE AMENDED TO REQUIRE THE CONSENT OF THE LEGISLATURE OF THE TERRITORY AFFECTED.

IN READING THE JOINT COMMITTEE'S REPORT WE SENSED THAT THERE WAS SOME ATTEMPT TO UNDERSTAND THE CONCERNS OF THE NORTHWEST TERRITORIES AND THE YUKON, HOWEVER, THERE WAS NO CONVICTION TO REMEDY THE PROBLEMS AT THIS STAGE OF THE PROCESS. IN THIS RESPECT THE REPORT IS PATRONIZING AND ONE-SIDED. WE BELIEVE THAT IT MISREPRESENTS THE TRUE NATURE OF THE AMENDMENTS

IN THE CONSTITUTION AMENDMENT, 1987, AS THEY RELATE TO THE NORTHWEST TERRITORIES.

THE JOINT COMMITTEE ALSO RAISES SOME POINTS WHICH SEEM IRRELEVANT. FOR EXAMPLE, THE REPORT STATES THAT THE POWERS OF THE TERRITORIAL GOVERNMENT CAN BE MODIFIED OR TAKEN AWAY AT ANY TIME BY AN ORDINARY STATUTE OF PARLIAMENT. WE CAN SEE NO REASON TO RAISE THIS MATTER UNLESS IT IS AN ATTEMPT TO SOMEHOW RATIONALIZE OR JUSTIFY THE HARSH TREATMENT WE HAVE RECEIVED IN THE MEECH LAKE PROCESS. ARE WE TO BELIEVE THAT DEMOCRATIC RIGHTS IN THIS COUNTRY CAN BE TAKEN AWAY OR DENIED IN SUCH AN ARBITRARY FASHION? LET ME REMIND YOU OF THE LOFTY PRINCIPLES WHICH THE AUTHORS OF THE REPORT STRESS AT THE OUTSET.

THE JOINT COMMITTEE REPORT RAISES THE ISSUE OF THE TIMING OF PROVINCEHOOD - THAT THE YUKON GOVERNMENT MADE A STATEMENT AS TO THE LIKELIHOOD OF PROVINCEHOOD IN THE NEAR FUTURE BEING REMOTE. THE GNWT MADE NO SUCH STATEMENT, BECAUSE IT IS IRRELEVANT. WE ARE TALKING ABOUT CONSTITUTIONAL PRINCIPLES THAT ARE FUNDAMENTAL TO CANADA'S HISTORY. MANITOBA, SASKATCHEWAN, ALBERTA, AND NEWFOUNDLAND DECIDED WHEN THE TIME WAS RIGHT FOR THEM AND THEY ACTIVATED THE CONSTITUTIONAL MECHANISMS IN THE 1871 ACT TO BECOME PROVINCES. THE TIMING ISSUE IS ANOTHER PIECE OF MISDIRECTION WHICH IS COMPLETELY IRRELEVANT TO THE SUBSTANTIVE PROVISIONS OF THE AMENDMENT. IT WAS NOT SAID IN 1867 THAT THE ADMISSION OF BRITISH COLUMBIA, PRINCE EDWARD ISLAND AND NEWFOUNDLAND SHOULD BE QUALIFIED OR LIMITED BECAUSE IT MIGHT BE MANY YEARS BEFORE THEY JOINED THE FEDERATION. IT WAS NOT SAID IN 1871 THAT ALL THE EXISTING PROVINCES SHOULD HAVE A VETO OVER THE CREATION OF NEW PROVINCES BECAUSE ALBERTA AND SASKATCHEWAN

MIGHT NOT JOIN FOR 30 YEARS. WE SUGGEST NO INSIDIOUS INTENT ON THE PART OF THE AUTHORS OF THE REPORT WE MERELY STRESS THAT WE HAVE COME TOO FAR TO BE SATISFIED WITH OTHERS MAKING OUR CASE AND MISINTERPRETING OUR OBJECTIVES AND OUR ARGUMENTS. WE ARE TIRED TOO OF HEARING THE BARE, UNCONVINCING ARGUMENTS AGAINST FAIR TREATMENT FOR THE TERRITORIES. THE REPORT STATES THAT THE HISTORICAL FACT IS THAT THE CONSTITUTION ACT, 1982 WAS IMPOSED ON THE GOVERNMENT OF QUEBEC AGAINST THE OPPOSITION OF ITS LEGISLATIVE ASSEMBLY AND THAT QUEBEC HAD SUFFERED A WOUND AS A RESULT. THE JOINT COMMITTEE'S REPORT GOES ON TO SAY "NOTHING HAD BEEN DONE SINCE 1982 TO EFFECTIVELY HEAL QUEBEC'S WOUND".

NOTHING HAS BEEN DONE TO HEAL THE WOUNDS THE PEOPLE OF THE NORTHWEST TERRITORIES SUFFERED IN 1982; INSTEAD THEY HAVE BEEN MADE DEEPER. WE WOULD REMIND THE MEMBERS OF THIS TASK FORCE THAT EVERY MEMBER OF THE LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES TRAVELLED TOGETHER TO OTTAWA IN 1981 TO LOBBY FOR THE INCLUSION OF ABORIGINAL RIGHTS IN THE CONSTITUTION OF CANADA AND TO ATTEMPT TO HAVE DELETED FROM SECTION 42 THE PROVISIONS RELATING TO THE CREATION OF NEW PROVINCES AND THE EXTENSION OF EXISTING PROVINCES INTO THE TERRITORIES. AS A RESULT, WE WERE CLEARLY LED TO BELIEVE THAT REMOVAL OF THE OFFENDING PROVISIONS WOULD BE DEALT WITH AT A CONSTITUTIONAL CONFERENCE CONVENED ACCORDING TO THE TERMS OF THE 1983 ACCORD. YOU WILL RECALL THAT IN MARCH OF 1983, THE PRIME MINISTER, ALL PROVINCIAL PREMIERS EXCEPT QUEBEC'S, THE GOVERNMENT LEADERS OF THE TWO TERRITORIES AND FOUR ABORIGINAL LEADERS SIGNED A CONSTITUTIONAL ACCORD THAT EVENTUALLY RESULTED IN AMENDMENTS BEING MADE TO THE CONSTITUTION ACT, 1982.



THAT ACCORD PROVIDED THAT THERE WOULD BE FUTURE CONFERENCES AT WHICH CERTAIN OUTSTANDING AGENDA ITEMS AND OTHER CONSTITUTIONAL MATTERS SUCH AS THE RIGHTS OF THE ABORIGINAL PEOPLES WOULD BE DISCUSSED AND GIVEN FULL CONSIDERATION. ONE OF THOSE AGENDA ITEMS, WHICH IS LISTED IN THE PREAMBLE OF THE 1984 ACCORD IS, AND I QUOTE: "THE REPEAL OF SECTION 42(1)(E) AND (F)". YOU WILL RECALL THAT SECTION 42(1)(E) AND (F) ARE THOSE PORTIONS OF THE AMENDING FORMULA WHICH NOW PERMIT THE EXTENSION OF EXISTING PROVINCES INTO THE TERRITORIES AND THE ESTABLISHMENT OF NEW PROVINCES. AS WE SAID TO THE JOINT COMMITTEE IN AUGUST, THE GOVERNMENT OF THE NORTHWEST TERRITORIES TOOK THE 1983 ACCORD TO BE A CLEAR INDICATION THAT THESE PROVISIONS OF THE CONSTITUTION DIRECTLY AFFECTED THE NORTHWEST TERRITORIES AND THE YUKON, AND WE TOOK THE 1983 ACCORD TO BE SOLEMN PROMISE TO INCLUDE THE GOVERNMENTS OF THE TWO TERRITORIES IN ANY DISCUSSIONS RELATING TO THOSE PROVISIONS. THE GOVERNMENT OF THE NORTHWEST TERRITORIES STRONGLY SUPPORTED THE INCLUSION OF A DEFINITION OF "ABORIGINAL RIGHTS" IN THE CONSTITUTION OF CANADA AT THE THREE CONFERENCES WHICH UNSUCCESSFULLY DEALT WITH THE SUBJECT. THE CREATION OF PROVINCES AND EXTENSION OF BOUNDARIES ISSUES WERE NOT INCLUDED IN THESE DISCUSSIONS. RATHER, WE WERE SHOCKED TO LEARN THAT THESE PROVISIONS WERE ENSHRINED IN UNANIMITY DURING THE CLOSED DOOR SESSIONS AT MEECH LAKE.

YOU HAVE EARLIER THIS MORNING HEARD FROM REPRESENTATIVES OF THE DENE NATION AND THE METIS ASSOCIATION OF THE NORTHWEST TERRITORIES. WE NEED NOT REPEAT WHAT THEY HAVE SAID. WE ARE NOT OPTIMISTIC THAT ELEVEN FIRST MINISTERS WILL EVER AGREE TO ADVANCE OUR LEGITIMATE DESIRE FOR EVENTUAL PROVINCEHOOD. NOR ARE WE OPTIMISTIC THAT UNANIMOUS AGREEMENT WILL IN

FUTURE BE OBTAINED TO RESOLVE THE LEGITIMATE INTERESTS OF ABORIGINAL PEOPLES.

AS ONE WHO HAS ATTENDED THE CONFERENCES ON ABORIGINAL RIGHTS, THE DIFFICULTY OF REACHING CONSTITUTIONAL AGREEMENT WITH EVEN SEVEN PROVINCES WAS OBVIOUS. THE NEAR IMPOSSIBILITY OF ACHIEVING UNANIMOUS AGREEMENT ON ANY CONSTITUTIONAL ISSUE SURELY MUST NOW BE ACKNOWLEDGED.

THE GOVERNMENT OF THE NORTHWEST TERRITORIES MADE THE FOLLOWING RECOMMENDATIONS FOR AMENDMENT TO THE ACCORD TO THE JOINT PARLIAMENTARY COMMITTEE. OUR VIEWS HAVE NOT CHANGED AS A RESULT OF THE JOINT COMMITTEE'S REPORT. WE WOULD LIKE TO REPEAT OUR RECOMMENDATIONS TO THIS TASK FORCE.

1. DELETE FROM THE AMENDMENT THOSE PROVISIONS RELATING TO THE ESTABLISHMENT OF NEW PROVINCES. AT THE SAME TIME, REPEAL THE CLAUSES OF THE CONSTITUTION ACT, 1982 WHICH INVOLVE EXISTING PROVINCES IN THE ESTABLISHMENT OF NEW PROVINCES.
2. CHANGE THE PROVISIONS OF THE ACCORD DEALING WITH EXTENSION OF PROVINCIAL BOUNDARIES INTO THE TERRITORIES BY PROVIDING THAT ANY EXTENSION OF PROVINCIAL BOUNDARIES MUST REQUIRE THE CONSENT OF THE LEGISLATURES OF THE TERRITORIES.
3. PROVIDE IN PARAGRAPHS 8 AND 13 OF THE AMENDMENT FOR THE ATTENDANCE OF REPRESENTATIVES OF THE TWO TERRITORIES AT ALL FUTURE CONSTITUTIONAL CONFERENCES AND FIRST MINISTERS' MEETINGS.

4. EMPOWER THE TERRITORIAL GOVERNMENTS TO SUBMIT TO THE MINISTER OF JUSTICE OF CANADA THE NAMES OF ANY PERSONS WHOM THEY FEEL SHOULD BE CONSIDERED FOR APPOINTMENT TO THE SUPREME COURT.
  
5. CLARIFY THE PROVISIONS FOR THE APPOINTMENT OF SENATORS AND THE RIGHT OF THE NORTHWEST TERRITORIES AND THE YUKON TO THE APPOINTMENT OF OUR SENATORS. EMPOWER THE TERRITORIAL GOVERNMENTS TO SUBMIT LISTS OF PROPOSED CANDIDATES IN THE SAME WAY THAT THE PROVINCES WILL BE ABLE TO DO.