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Presentation on behalf of the
Legislative Assembly of the Northwest Territories by

The Honourable Stephen Kakfwi
Minister of Aboriginal Rights and Constitutional Development

and

Ted Richard
Member of the Legislative Assembly

before the

Ontario Legislative Assembly
Select Committee on Constitutional Reform

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Toronto, Ontario
February 16, 1988

PRESENTATION ON BEHALF OF THE
LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

by

THE HONOURABLE STEPHEN KAKFWI
MINISTER OF ABORIGINAL RIGHTS AND CONSTITUTIONAL DEVELOPMENT

and

TED RICHARD
MEMBER OF THE LEGISLATIVE ASSEMBLY

before the

ONTARIO LEGISLATIVE ASSEMBLY
SELECT COMMITTEE ON CONSTITUTIONAL REFORM

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PRESENTATION ON BEHALF OF THE NORTHWEST TERRITORIES
BY THE HONOURABLE STEPHEN KAKFWI
AND MR. TED RICHARD, MEMBER OF THE LEGISLATIVE ASSEMBLY

SUMMARY OF RECOMMENDATIONS

EXTENSION OF PROVINCIAL BOUNDARIES INTO THE TERRITORIES:

1. DELETE THE PROPOSED PARAGRAPH 41(h) OF THE CONSTITUTION ACT, 1982 WHICH IS REFERRED TO IN SECTION 9 OF THE CONSTITUTION AMENDMENT, 1987.
2. AMEND SECTION 43 OF THE CONSTITUTION ACT, 1982 TO PROVIDE THAT AN ALTERATION OF TERRITORIAL BOUNDARIES BE MADE ONLY WHERE THE LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES HAS APPROVED THE ALTERATION.

ESTABLISHMENT OF NEW PROVINCES:

1. DELETE THE PROPOSED PARAGRAPH 41(i) OF THE CONSTITUTION ACT, 1982 WHICH IS REFERRED TO IN SECTION 9 OF THE CONSTITUTION AMENDMENT, 1987.
2. ADD A PROVISION AUTHORIZING THE PARLIAMENT OF CANADA TO ESTABLISH NEW PROVINCES IN THE TERRITORIES ON ADDRESSES FROM THE HOUSES OF PARLIAMENT AND THE LEGISLATIVE ASSEMBLY OF THE TERRITORY CONCERNED.

TERRITORIAL PARTICIPATION IN CONSTITUTIONAL CONFERENCES:

1. THE PROPOSED SECTION 148 OF THE CONSTITUTION ACT, 1867 WHICH IS REFERRED TO IN SECTION 9 OF THE CONSTITUTION AMENDMENT, 1987 SHOULD BE AMENDED TO ENSURE THAT THE GOVERNMENT LEADERS FROM THE TWO TERRITORIES ARE INVITED TO PARTICIPATE IN ALL CONFERENCES ON THE ECONOMY AND SUCH OTHER MATTERS AS MAY BE APPROPRIATE.
2. THE PROPOSED SECTION 50 OF THE CONSTITUTION ACT, 1982 WHICH IS REFERRED TO IN SECTION 13 OF THE CONSTITUTION AMENDMENT, 1987 SHOULD BE AMENDED TO ENSURE THAT THE GOVERNMENT LEADERS FROM THE TWO TERRITORIES ARE INVITED TO PARTICIPATE IN THE CONSTITUTIONAL CONFERENCES WHICH WILL BE CONVENED AT LEAST ONCE EACH YEAR COMMENCING IN 1988.

NOMINATIONS FOR SUPREME COURT OF CANADA:

1. THE PROPOSED SUBSECTIONS 101C.(1) AND 101C.(4) OF THE CONSTITUTION ACT, 1867 WHICH ARE REFERRED TO IN SECTION 6 OF THE CONSTITUTION AMENDMENT, 1987 SHOULD BE AMENDED BY INSERTING A REFERENCE TO TERRITORIES TO ENSURE THAT TERRITORIAL GOVERNMENTS ARE EMPOWERED TO SUBMIT TO THE MINISTER OF JUSTICE OF CANADA NAMES OF PERSONS QUALIFIED FOR APPOINTMENT TO THE SUPREME COURT OF CANADA.

NOMINATIONS FOR THE SENATE:

1. THE PROPOSED SECTION 25 OF THE CONSTITUTION ACT, 1867 WHICH IS REFERRED TO IN SECTION 2 OF THE CONSTITUTION AMENDMENT, 1987 SHOULD BE CLARIFIED TO ENSURE THAT SENATORS CAN CONTINUE TO BE APPOINTED FOR THE TWO TERRITORIES, AND TO ENSURE THAT THE TERRITORIAL GOVERNMENTS MAY SUBMIT LISTS OF PROPOSED CANDIDATES.

INTRODUCTION:

LADIES AND GENTLEMEN OF THE COMMITTEE, GOOD MORNING. MY NAME IS STEPHEN KAKFWI. WITH ME IS MR. TED RICHARD. WE ARE HERE TODAY ON BEHALF OF THE LEGISLATIVE ASSEMBLY AND GOVERNMENT OF THE NORTHWEST TERRITORIES.

AS NON-RESIDENTS OF ONTARIO, WE WISH TO THANK YOU FOR PERMITTING US TO ADDRESS YOU TODAY. WE REALIZE THAT THERE MUST BE MANY INDIVIDUALS AND GROUPS IN ONTARIO THAT WILL WANT TO MAKE PRESENTATIONS BEFORE THIS COMMITTEE. WE ESPECIALLY APPRECIATE THE HELPFULNESS WHICH YOUR STAFF HAS EXTENDED TO US. AS YOU MAY KNOW, WE HAVE JUST BEGUN THE WINTER SESSION OF THE NORTHWEST TERRITORIES LEGISLATIVE ASSEMBLY AND YOUR STAFF ASSISTED BY SCHEDULING THIS PRESENTATION AT A TIME WHICH IS CONVENIENT FOR US.

THE MEECH LAKE PROCESS - UNFAIR, UNDEMOCRATIC, AND ANTI-NORTH:

BEFORE WE BEGIN A DETAILED EXAMINATION OF OUR CONCERNS, WE WANT TO TAKE A MOMENT TO EXPLAIN WHAT WE BELIEVE ARE IMPORTANT DIFFERENCES BETWEEN OUR PRESENTATION AND THE OTHER PRESENTATIONS YOU HAVE HEARD SINCE FEBRUARY 1ST. SOME OF THE THINGS WE ARE ABOUT TO SAY MIGHT OFFEND YOU, BUT THEY MUST BE SAID.

WE UNDERSTAND THAT YOU HAVE HAD NO PRESENTATIONS FROM OTHER PROVINCIAL LEGISLATURES OR GOVERNMENTS. YOU WILL BE HEARING FROM THE YUKON LATER THIS AFTERNOON. IT MIGHT STRIKE YOU AS UNUSUAL THAT ELECTED REPRESENTATIVES OF ANOTHER JURISDICTION ARE APPEARING BEFORE YOUR COMMITTEE. IT IS UNUSUAL, AND WITH DUE RESPECT TO EACH OF YOU, IT IS DEGRADING. IT IS DEGRADING FOR MR. RICHARD AND I TO HAVE TO TRAVEL 3000 MILES TO TELL YOU THAT THE PEOPLE OF THE NORTHWEST TERRITORIES HAVE AGAIN BEEN IGNORED BY THE REST OF CANADA.

WE SAY "AGAIN" BECAUSE IN NOVEMBER, 1981 THE ENTIRE LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES TRAVELLED TO OTTAWA TO PROTEST OUR EXCLUSION FROM CONSTITUTIONAL CONFERENCES WHICH HAD ALSO BARGAINED AWAY OUR RIGHTS AS CANADIANS. IT IS DEGRADING FOR US TO HAVE TO TRY TO CONVINCING YOU THAT WE ARE PART OF THIS COUNTRY.

WE ARE NOT ALGONQUIN PARK NORTH. WE JOINED THIS FEDERAL UNION IN 1870. THE NORTHWEST TERRITORIES HAS BEEN CARVED UP TO CREATE MANITOBA, SASKATCHEWAN, ALBERTA, NORTHERN ONTARIO, NORTHERN QUEBEC AND THE YUKON. BUT THE NORTHWEST TERRITORIES STILL DOES EXIST. BELIEVE ME, THERE IS A GOVERNMENT OF THE NORTHWEST TERRITORIES. THERE IS A LEGISLATURE OF TWENTY-FOUR MEMBERS. WE DO NOT REPRESENT SOME SINGLE-INTEREST GROUP. WE ARE HERE

REPRESENTING A PUBLIC GOVERNMENT, NOT A MUNICIPALITY, A PUBLIC GOVERNMENT WITH JURISDICTION OVER A LAND AREA THAT EMBRACES ONE THIRD OF CANADA.

WE FIND IT DEGRADING THAT THE LEGISLATIVE ASSEMBLY AND GOVERNMENT OF THE NORTHWEST TERRITORIES HAVE TO RESORT TO THIS SORT OF FORUM TO RECEIVE A HEARING. WILL IT BE A FAIR HEARING? WE UNDERSTAND THAT PREMIER PETERSON HAS ALREADY ADVISED THAT HE WILL NOT BE CONSIDERING THE CONCERNS OF "WOMEN, NATIVES AND NORTHERNERS" UNTIL THE MEECH LAKE ACCORD HAS BEEN RATIFIED. IN OTHER WORDS, UNTIL IT IS TOO LATE TO MAKE CHANGES.

SO WHY HAVE WE COME HERE TODAY. WE HAVE COME TO TALK ABOUT CANADA AND ABOUT THE MEECH LAKE DEAL. WE URGE YOU TO TAKE A BROAD VIEW OF YOUR MANDATE AND WE ASK THAT YOU RECOMMEND IN YOUR REPORT THE AMENDMENTS TO THE PROPOSED CONSTITUTION AMENDMENT, 1987 WHICH WE WILL SUGGEST IN THIS PRESENTATION.

GRIEVANCES:

THE CONSTITUTION AMENDMENT, 1987 IS UNACCEPTABLE TO THE LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES FOR THE FOLLOWING MAJOR REASONS:

1. THE AMENDING FORMULA IN PART V OF THE CONSTITUTION ACT, 1982 WILL BE CHANGED TO GIVE EVERY PROVINCE POWERS TO INTERFERE ARBITRARILY WITH THE CONSTITUTIONAL DEVELOPMENT OF THE NORTHWEST TERRITORIES AND YUKON. ANY AND EVERY PROVINCE WILL BE ABLE TO PREVENT THE NORTHWEST TERRITORIES AND THE YUKON FROM BECOMING PROVINCES. THIS PROVISION MUST BE REMOVED FROM THE PROPOSED AMENDMENT. IT IS UNFAIR AND INCONSISTENT WITH THE CONSTITUTIONAL HISTORY OF CANADA.

2. THE CONSTITUTIONAL AMENDMENT, 1987 WILL ALSO GIVE ALL PROVINCES A ROLE IN THE EXTENSION OF BOUNDARIES OF EXISTING PROVINCES INTO THE TERRITORIES. THE ONLY GOVERNMENTS WHICH HAVE NO SAY IN THE PROCESS OF CHANGING TERRITORIAL BOUNDARIES ARE THE TERRITORIAL GOVERNMENTS WHICH ARE DIRECTLY AFFECTED. A CHANGE TO TERRITORIAL BOUNDARIES SHOULD BE A MATTER FOR THE LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES, THE PARLIAMENT OF CANADA AND THE LEGISLATURE OF THE PROVINCE OR PROVINCES DIRECTLY AFFECTED.

3. WE ARE EXTREMELY CONCERNED ABOUT THE NEW PROVISIONS IN THE CONSTITUTION AMENDMENT, 1987 THAT WILL EXCLUDE THE ELECTED REPRESENTATIVES OF THE TWO TERRITORIES FROM THE FUNDAMENTAL AND OBVIOUSLY CRITICAL PROCESSES OF EXECUTIVE FEDERALISM WHICH HAVE COME TO DOMINATE POLITICAL DECISION

MAKING IN THIS COUNTRY. ELECTED REPRESENTATIVES OF THE TWO TERRITORIES MUST BE INVITED TO THE ANNUAL CONSTITUTIONAL CONFERENCES ON THE ECONOMY, AND ON SENATE REFORM AND OTHER MATTERS. THE PEOPLE OF THE NORTHWEST TERRITORIES AND THEIR GOVERNMENTS ARE OBVIOUSLY AFFECTED BY THESE MATTERS AS MUCH AS ANY PROVINCE.

4. THE CONSTITUTION ACT, 1867 WILL BE AMENDED TO INCLUDE NEW PROVISIONS RELATING TO THE SUPREME COURT OF CANADA. TERRITORIAL GOVERNMENTS HAVE BEEN GIVEN NO ROLE IN NOMINATING CANDIDATES FOR APPOINTMENT TO THE SUPREME COURT OF CANADA AND THERE ARE DOUBTS AS TO WHETHER A RESIDENT OF THE TERRITORIES WOULD, IN PRACTICE, EVER BE NOMINATED BY A PROVINCE. THE APPOINTMENT OF JUDGES HAS BEEN POLITICIZED. IT HAS ALSO BECOME DISCRIMINATORY.

5. FINALLY, SOME FEDERAL GOVERNMENT SOURCES HAVE INDICATED THAT THE PROVISIONS RELATING TO THE SENATE MIGHT BE INTERPRETED UNFAVOURABLY IN THE CONTEXT OF THE NORTHWEST TERRITORIES AND THE YUKON. IT MAY BE TECHNICALLY POSSIBLE FOR THE TERRITORIES TO NOMINATE SENATORS, HOWEVER, IT IS FAR FROM CLEAR AS THE PROPOSAL NOW STANDS. IT MUST BE CLARIFIED.

LEGISLATORS MUST BE ACTIVELY INVOLVED:

YOU, AS MEMBERS OF THE LEGISLATURE OF ONTARIO AND WE, AS MEMBERS OF THE NORTHWEST TERRITORIES LEGISLATIVE ASSEMBLY, HAVE A LOT IN COMMON. LIKE YOU, WE WERE ELECTED TO REPRESENT THE INTERESTS OF OUR CONSTITUENTS. LIKE YOU, WE ARE CONCERNED ABOUT THE FUTURE OF OUR COMMUNITIES, THE TERRITORY IN WHICH WE HAVE RAISED OUR CHILDREN, AND THE COUNTRY THAT ALL OF US ARE PART OF. LIKE THE ELECTED REPRESENTATIVES ON THIS COMMITTEE, WE HAVE BEEN TOLD THAT THE ELECTED REPRESENTATIVES OF THE PEOPLE OF THE NORTHWEST TERRITORIES HAVE NOTHING TO OFFER WHERE THE CONSTITUTIONAL FUTURE OF CANADA IS CONCERNED. LIKE YOU, WE HAVE BEEN TOLD THAT ELEVEN MEN, WORKING THROUGHOUT THE NIGHT AT THE LANGEVIN BLOCK, HAVE CREATED THE PERFECT "SEAMLESS WEB" AND THAT THE IMAGINATIONS AND ENERGIES OF THE REMAINING TWENTY-FIVE MILLION CANADIANS COULD NOT POSSIBLY IMPROVE THEIR CREATION.

THE ELECTED REPRESENTATIVES OF THE NORTHWEST TERRITORIES HAVE BEEN TOLD THAT THE MEECH LAKE ACCORD IS ONLY DESIGNED TO MEET QUEBEC'S CONCERNS AND THAT WE WILL HAVE TO WAIT UNTIL SOME SECOND OR THIRD ROUND. THE PEOPLE OF OUR TERRITORY MUST WAIT UNTIL FIRST MINISTERS HAVE EXHAUSTED THEMSELVES IN DISCUSSIONS ABOUT SUCH THINGS AS FISHERIES. DISCUSSIONS ON FISHERIES ARE ENTRENCHED IN THE CONSTITUTION. THE RIGHTS OF THE PEOPLE OF THE NORTHWEST TERRITORIES TO PARTICIPATE IN THE POLITICAL AND ECONOMIC LIFE OF THIS NATION ARE NOT.

THE NEW FEDERALISM IS THE DICTATE OF ELEVEN:

IF THE 1987 CONSTITUTIONAL ACCORD REPRESENTS A NEW COOPERATIVE FEDERALISM WHY IS IT THAT NOT EVEN A SINGLE ELECTED REPRESENTATIVE OF THE NORTHWEST TERRITORIES WAS IN ATTENDANCE WHEN THESE ELEVEN MEN STRUCK THEIR DEAL AT MEECH LAKE AND THE LANGEVIN BLOCK. UNLIKE YOU, THE ELECTED REPRESENTATIVES OF THE NORTHWEST TERRITORIES HAVE TO TRAVEL TO WINNIPEG, TORONTO OR FREDERICTON TO PLEAD FOR A HEARING ON ISSUES WHICH STRIKE AT THE VERY HEART OF OUR RIGHTS AS CANADIAN CITIZENS. CAN YOU POSSIBLY IMAGINE THE FRUSTRATION THAT WE FEEL WITH THIS PROCESS?

WHEN IT WAS REPORTED IN THE PRESS THAT MR. PETERSON TOLD WOMEN, NATIVES AND NORTHERNERS WHO OPPOSE THE MEECH LAKE ACCORD THAT THEY MUST WAIT UNTIL IT IS RATIFIED BEFORE ONTARIO WILL CONSIDER THEIR COMPLAINTS, DID YOU THINK THAT THAT WAS FAIR?

WHEN MR. PETERSON TOLD YOU AS A COMMITTEE THAT YOU WOULD NOT MAKE ANY RECOMMENDATIONS FOR AMENDMENTS DID YOU WONDER ABOUT OUR SYSTEM OF GOVERNMENT IN CANADA? DID YOU HAVE A SENSE THAT THIS COUNTRY HAS PUT ASIDE ITS PARLIAMENTARY AND DEMOCRATIC SYSTEM TO ACCOMMODATE THE DICTATORSHIP OF ELEVEN MEN? ARE YOU NO LONGER REPRESENTATIVES OF YOUR CONSTITUENTS? IF MR. PETERSON HAD BEEN TOLD BY NINE OTHER PREMIERS THAT HIS ATTENDANCE AT

MEECH LAKE WAS NOT WELCOME BECAUSE THEY HAD DETERMINED THAT CANADA COULD GET BY WITHOUT ONTARIO, WOULD YOU AS RESIDENTS OF ONTARIO HAVE FELT THAT THE REST OF CANADA HAD PASSED YOU BY?

IF THE PROPOSED CONSTITUTION INCLUDED A SET OF RULES WHEREBY ONTARIO'S PROVINCIAL BOUNDARIES COULD BE ENCROACHED UPON BY ANOTHER PROVINCE WITHOUT ONTARIO HAVING ANY SAY IN THE MATTER, WOULD YOU FEEL THAT THAT WAS FAIR?

IT HAS ALWAYS BEEN OUR IMPRESSION THAT CANADA IS A COUNTRY WHERE OPPORTUNITIES MAY VARY FROM PROVINCE TO PROVINCE BUT FUNDAMENTAL RIGHTS OF INDIVIDUALS DO NOT. THE RESIDENTS OF ONTARIO ARE PROBABLY CONFIDENT THAT THEIR VOTES ARE WORTH SOMETHING AND WHETHER THEY AGREE WITH THE PARTY IN POWER OR NOT THERE IS SOMEONE SPEAKING OUT FOR THEIR PROVINCE IN FEDERAL-PROVINCIAL RELATIONS.

A CONSTITUTION MUST TRANSCEND SECRET DEALS:

THE PROPOSED CONSTITUTIONAL AMENDMENT, 1987 SHOULD EMBODY PRINCIPLES AND VALUES THAT TRANSCEND PETTY PORK-BARREL POLITICKING. IN THE NORTHWEST TERRITORIES WE ARE LOSING CONFIDENCE IN OUR FUTURE. THE VESTED INTERESTS IN OTTAWA AND THE PROVINCES ARE DENYING US THE BASIC RIGHT TO CONTROL OUR

FUTURE, OR EVEN TO HAVE A SAY IN OUR FUTURE. THE ELEVEN MEN THAT NEGOTIATED THE MEECH LAKE DEAL SENT A MESSAGE TO ALL CANADIANS. THE MESSAGE TO YOU WAS DIFFERENT THAN THE MESSAGE TO US. TO YOU THEY SAID: IF YOU WANT TO HAVE SOME INFLUENCE IN MATTERS THAT DIRECTLY AFFECT YOU, DON'T LIVE IN THE NORTHWEST TERRITORIES OR THE YUKON. TO US THEY SAID: CANADA IS COMPLETE. THE NORTH IS A COLONY. IF YOU WANT TO JOIN THE PARTY LEAVE THE NORTH BEHIND.

LADIES AND GENTLEMEN OF THE COMMITTEE WE ARE NOT PREPARED TO ACCEPT THAT MESSAGE, NOR DO WE BELIEVE THAT YOU SHOULD BE. I CAN ONLY HOPE THAT YOU HAVE BEGUN TO SEE THE BITTER INJUSTICE THAT HAS RESULTED FROM THE UNBRIDLED POLITICAL PRAGMATISM OF THE ELEVEN FIRST MINISTERS WHO CREATED THE 1987 CONSTITUTIONAL ACCORD.

QUEBEC'S NEEDS AND THE NORTHWEST TERRITORIES FUTURE

LEST YOU THINK THAT WE ARE IGNORING THE IMPORTANCE OF BRINGING QUEBEC BACK INTO THE CONSTITUTIONAL FAMILY, WE WOULD SIMPLY LIKE TO STATE THAT THE CONCERNS THAT WE HAVE DO NOT AFFECT QUEBEC'S CONSTITUTIONAL AGENDA. WHEN QUEBEC REFUSED TO SIGN THE FEDERAL-PROVINCIAL AGREEMENT ON NOVEMBER 5TH, 1981, THEY DID SO BECAUSE THE PEOPLE OF THAT PROVINCE FELT ALIENATED AND

BETRAYED. THEIR ASSEMBLY PROMPTLY ENACTED THE OVERRIDE CLAUSE IN SECTION 33 OF THE CHARTER TO PREVENT THE APPLICATION OF THE CHARTER TO QUEBEC LEGISLATION. QUEBEC EVENTUALLY PRESENTED A LIST OF DEMANDS THAT HAD TO BE MET IF THEY WERE TO REJOIN THE CONSTITUTIONAL COUNCILS OF THE COUNTRY. SINCE 1982, AND EVEN BEFORE 1982, QUEBEC'S ROLE IN THE FEDERATION HAS BEEN A MAJOR PREOCCUPATION OF FEDERAL-PROVINCIAL POLITICS. THE 1987 CONSTITUTIONAL ACCORD MEETS THEIR DEMANDS. THE NORTHWEST TERRITORIES AND YUKON HAVE PAID AN UNFAIR AND DISPROPORTIONATE SHARE OF THE PRICE.

WE ARE NOT THE ONLY ONES WHO PERCEIVE THIS CONSTITUTIONAL ACCORD TO BE A HARSH DENIAL OF THE RIGHTS OF PEOPLE IN THE TWO TERRITORIES. PROFESSOR SCHWARTZ OF THE UNIVERSITY OF MANITOBA LAW SCHOOL WROTE THIS IN HIS RECENTLY PUBLISHED ANALYSIS OF THE ACCORD:

"It has been said that a society should be judged by how it treats the least of its members. Canadian politicians have just been exceptionally generous to one of the "most" of its members. There is no need and no justice in asking the north to pay part of that price. Quebec is already "in" Confederation, as a province with fully equal rights. The northern territories already face unprecedented barriers to joining the club. To get the "in" even more "in," shall we make the "out" even more "out?"

Some have argued that the Langevin Block text is a "seamless" web. If one thread is pulled, the whole thing might unravel. Strangely, some of these same people were saying exactly the same thing about the Meech Lake text. Yet it was substantially improved

at the Langevin Block meeting. If the 1987 Constitutional Accord is of such a fabric that the removal of one poisonous thread would leave it in tatters - then by all means, we ought to pull it."

WE WOULD LIKE TO DISCUSS THIS "POISONOUS THREAD" WHICH IN OUR VIEW CAN BE PULLED OUT WITHOUT LEAVING THE FABRIC IN TATTERS.

THE HISTORY OF THE ISSUES:

IN ORDER FOR YOU TO UNDERSTAND OUR SENSE OF BETRAYAL AND ALIENATION YOU SHOULD KNOW SOMETHING OF THE HISTORY OF THIS ISSUE. LET ME BEGIN IN 1981.

WHILE THE ENTIRE COUNTRY WAS HOT WITH THE POSSIBILITY OF PATRIATING THE CONSTITUTION, THE GOVERNMENTS OF THE YUKON AND THE NORTHWEST TERRITORIES WERE FROZEN OUT OF THE PROCESS. TWO ISSUES EMERGED, HOWEVER, WHICH DIRECTLY AFFECTED THE NORTHWEST TERRITORIES IN PROFOUND AND UNIQUE WAYS. THE FIRST WAS A CLAUSE IN THE CONSTITUTIONAL PACKAGE WHICH WOULD RECOGNIZE ABORIGINAL RIGHTS. AS YOU WILL RECALL, SUCH A CLAUSE HAD BEEN DROPPED FROM THE CONSTITUTIONAL PACKAGE AT THE REQUEST OF CERTAIN PROVINCES.

THE OTHER ISSUE RELATED TO A LITTLE-NOTICED PROVISION IN THE AMENDING FORMULA THAT SUDDENLY ALLOWED MOST OF THE PROVINCES TO

BECOME INVOLVED IN THE CREATION OF NEW PROVINCES AND IN THE EXTENSION OF THE BOUNDARIES OF THE EXISTING PROVINCES INTO THE TERRITORIES. THESE LATTER PROVISIONS WENT VIRTUALLY UNNOTICED BY THE PUBLIC BECAUSE, QUITE FRANKLY, THEY WERE UNAFFECTED BY THEM. THE GOVERNMENT OF THE NORTHWEST TERRITORIES AND THE YUKON, HOWEVER, WERE IMMEDIATELY CONCERNED.

PRIOR TO THE APPEARANCE OF THESE PROVISIONS IN THE AMENDING FORMULA THE GOVERNMENT OF THE NORTHWEST TERRITORIES HAD HEARD NO TALK OF AN EXPANDING PROVINCIAL ROLE IN THESE MATTERS. THE PROVISIONS TOOK US COMPLETELY BY SURPRISE. AS ANY STUDENT OF CANADIAN HISTORY KNOWS, PARLIAMENT ALONE HAS HAD SINCE 1867 THE POWER TO CREATE NEW PROVINCES.

THESE PROVISIONS WHICH GAVE PROVINCES A DIRECT ROLE IN MATTERS RELATING TO THE CONSTITUTIONAL DEVELOPMENT OF THE TERRITORIES WERE ALL THE MORE SINISTER BY REASON THAT THEY CAME AS A COMPLETE SURPRISE TO THE TWO TERRITORIAL GOVERNMENTS. IN NOVEMBER 1981 THE ENTIRE LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES TRAVELLED TO OTTAWA TO DEMAND A REINSTATEMENT OF THE ABORIGINAL RIGHTS CLAUSE AND THE DELETION OF CLAUSES WHICH GAVE PROVINCES A ROLE IN THE CONSTITUTIONAL AFFAIRS OF THE TWO NORTHERN TERRITORIES. WHILE THE ABORIGINAL RIGHTS CLAUSE WAS REINSTATED, THE PROVINCES WOULD NOT PERMIT THE DELETION OF THE NEW POWERS IN RELATION TO THE TERRITORIES WHICH HAD BEEN GIVEN TO THEM.

THE 1983 CONSTITUTIONAL ACCORD - THE FIRST BETRAYAL

THAT, HOWEVER, WAS NOT THE END OF THE MATTER. THE NEW CONSTITUTION REQUIRED A CONSTITUTIONAL CONFERENCE BY APRIL 17, 1983 TO DISCUSS THE IDENTIFICATION AND DEFINITION OF ABORIGINAL RIGHTS. SECTION 37 OF THE CONSTITUTION FURTHER REQUIRED THAT ELECTED REPRESENTATIVES OF THE TERRITORIES BE INVITED TO THE CONSTITUTIONAL CONFERENCE IF MATTERS DISCUSSED DIRECTLY AFFECTED THEM.

WE WERE INVITED. IN FACT ON THE AGENDA AT THAT FIRST MINISTERS' CONFERENCE, HELD ON MARCH 15TH AND 16TH, 1983, AGREEMENT HAD BEEN REACHED AMONG THE PARTICIPANTS TO INCLUDE AN ITEM RELATING TO THE REPEAL OF THOSE SECTIONS OF THE AMENDING FORMULA THAT ALLOWED PROVINCIAL PARTICIPATION IN THE CREATION OF NEW PROVINCES AND THE EXTENSION OF THE BOUNDARIES OF EXISTING PROVINCES INTO THE TERRITORIES.

UNFORTUNATELY, THIS WAS ONE OF SIX MAJOR ITEMS THAT THE FIRST MINISTERS WERE NOT ABLE TO DEAL WITH ADEQUATELY AT THAT CONFERENCE AND SO ALL FIRST MINISTERS (EXCEPT QUEBEC), TOGETHER WITH THE ELECTED LEADERS OF THE NORTHWEST TERRITORIES AND YUKON, AND FOUR ABORIGINAL LEADERS, SIGNED A CONSTITUTIONAL ACCORD ON MARCH 16TH, 1983. IN THIS CONSTITUTIONAL ACCORD, WE AGREED TO RETURN TO THIS AGENDA ITEM AT ONE OF THREE FUTURE CONSTITUTIONAL CONFERENCES.

WE NEVER DID COME BACK TO IT. THAT IS, NOT UNTIL APRIL 30TH, 1987, AT MEECH LAKE. BY THAT TIME SECTION 37.1 OF THE CONSTITUTION, WHICH GUARANTEED THAT REPRESENTATIVES OF THE GOVERNMENT OF THE NORTHWEST TERRITORIES AND THE YUKON WOULD BE INVITED TO PARTICIPATE IN THESE CONSTITUTIONAL DISCUSSIONS, HAD EXPIRED, AND HAD BEEN REPEALED BY THE OPERATION OF LAW. THIS EXPIRY AND REPEAL OCCURRED ONLY 12 DAYS BEFORE THE FIRST MINISTERS MET AT MEECH LAKE. OBVIOUSLY WHEN WE READ THE MEECH LAKE ACCORD WE FELT BETRAYED.

HIDDEN AGENDAS?

THE INITIAL STATEMENTS FROM THE PRIME MINISTER AND THE PREMIERS AFTER MEECH LAKE INDICATED THAT THE PROVISIONS WHICH HAD NEGATIVE IMPLICATIONS FOR THE NORTHWEST TERRITORIES AND THE YUKON WERE NOT INTENTIONAL. YOUR PREMIER HAS SAID THAT WE WERE MERELY CASUALTIES OF THE PROCESS. SENATOR LOWELL MURRAY ON THE OTHER HAND ADVISED THE SENATE AND COMMONS COMMITTEE IN AUGUST, 1987, 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."

WHAT CONCLUSIONS CAN WE DRAW FROM THE PROCESS TO DATE? IN 1981 OUR PROTESTS WERE DISMISSED AS UNIMPORTANT. IN 1983 WE RECEIVED IN A CONSTITUTIONAL ACCORD A PROMISE AND AN UNDERTAKING THAT THE PRIME MINISTER AND THE PREMIERS WOULD ADDRESS OUR CONCERNS ABOUT THE NEW RULES WHICH GAVE PROVINCES A DIRECT ROLE IN THE CONSTITUTIONAL AFFAIRS OF THE NORTHWEST TERRITORIES. THREE FIRST MINISTERS' CONFERENCES CAME AND WENT AND THERE WERE NO DISCUSSIONS ON THIS ITEM. TWELVE DAYS AFTER OUR CONSTITUTIONAL GUARANTEE OF PARTICIPATION IN FIRST MINISTERS' CONFERENCES EXPIRED, THE PRIME MINISTER AND PREMIERS MET IN SECRET AND THEY DEALT SPECIFICALLY WITH THE MATTER RELATING TO THE CREATION OF NEW PROVINCES AND THE EXTENSION OF PROVINCIAL BOUNDARIES INTO THE TERRITORIES, AMONG OTHERS. ON JUNE 3RD THE PRIME MINISTER AND PREMIERS AGREED TO A LEGAL TEXT WHICH IMPOSED HARSH NEW REQUIREMENTS ON THE NORTHWEST TERRITORIES AND YUKON.

WHOSE IDEA WAS THIS? WHICH PROVINCE OR PROVINCES DECIDED THAT THIS SHOULD BE PART OF THE PRICE TAG FOR QUEBEC'S RETURN TO THE CONSTITUTIONAL FAMILY? WE DO NOT KNOW. CAN WE CONCLUDE THAT THE HARSH TREATMENT OF THE NORTHWEST TERRITORIES AND YUKON WAS A MERE OVERSIGHT BY THE FIRST MINISTERS? CAN WE CONCLUDE THAT THIS ILL TREATMENT WAS BY DESIGN? WE DO NOT KNOW FOR CERTAIN, BUT WE BELIEVE IT WAS. THE STORIES EMERGING FROM THOSE ASSOCIATED CLOSELY WITH THE PROCESS ARE CONTRADICTIONARY.

MR. RICHARD IS NOW GOING TO ADDRESS SOME OF OUR CONCERNS IN MORE
DETAIL.

THE CONSTITUTION AMENDMENT, 1987 - A SECOND BETRAYAL:

AS YOU NOW KNOW, OUR CONCERNS ARE OF TWO SORTS:

1. WE ARE CONCERNED ABOUT THE PROCESS. WE FEEL UPSET AND BETRAYED BY THE SLEIGHT OF HAND THAT GAVE PROVINCES A ROLE IN THE CREATION OF NEW PROVINCES IN 1981 AND THE BAD FAITH IN WHICH THE FIRST MINISTERS HAVE DEALT WITH THIS ISSUE EVER SINCE.

2. WE ARE CONCERNED ABOUT THE TEXT OF THE PROPOSED CONSTITUTION AMENDMENT, 1987. FOR CONVENIENCE WE WILL DISCUSS THEM IN THE ORDER IN WHICH THEY APPEAR IN THE TEXT OF THE AMENDMENT. IN PARTICULAR, WE DRAW YOUR ATTENTION TO THE FOLLOWING PROVISIONS:
 - A) SECTION 2 OF THE CONSTITUTION AMENDMENT, 1987 WILL ADD TO THE CONSTITUTION ACT, 1867 A NEW SECTION 25. THE NEW SECTION PERMITS PROVINCIAL GOVERNMENTS TO NOMINATE SENATORS. WE WANT THE WORDING OF THIS SECTION TO BE CLARIFIED TO ENSURE THAT TERRITORIAL GOVERNMENTS HAVE THE SAME RIGHT.

 - B) SECTION 3 OF THE CONSTITUTION AMENDMENT, 1987 WILL ADD TO THE CONSTITUTION ACT, 1867 NEW PROVISIONS RESPECTING AGREEMENTS

ON IMMIGRATIONS AND ALIENS. THE NEW SECTIONS 95A TO 95E, PERMIT A PROVINCE TO INITIATE AN IMMIGRATION AGREEMENT APPROPRIATE TO THE NEEDS AND CIRCUMSTANCES OF THAT PROVINCE. WE CAN SEE NO REASON THAT A SIMILAR OPPORTUNITY SHOULD NOT BE EXTENDED TO THE TWO TERRITORIES.

- C) SECTION 6 OF THE CONSTITUTION AMENDMENT, 1987 WILL ADD TO THE CONSTITUTION ACT, 1867 NEW PROVISIONS RESPECTING THE SUPREME COURT OF CANADA. ONE OF THE NEW PROVISIONS, SUBSECTION 101B.(1), STATES THAT A JUDGE OR LAWYER FROM THE NORTHWEST TERRITORIES OR YUKON MAY BE ELIGIBLE FOR APPOINTMENT TO THE SUPREME COURT. HOWEVER, A JUDGE OR LAWYER MUST BE APPOINTED FROM A PROVINCIAL LIST. THIS IS A PROBLEM FOR JUDGES OR LAWYERS IN THE TERRITORIES BECAUSE SUBSECTION 101C.(1) SPECIFIES THAT PROVINCIAL LISTS CAN ONLY CONTAIN THE NAMES OF PERSONS ADMITTED TO THE BAR OF THAT PROVINCE. IN OTHER WORDS, A JUDGE OR LAWYER FROM THE TERRITORIES MUST NOT ONLY BE NOMINATED BY A PROVINCE, THEY MUST ALSO BE CALLED TO THE BAR OF THE NOMINATING PROVINCE. THIS COMPLICATED AND UNFAIR PROCEDURE MAKES IT VIRTUALLY IMPOSSIBLE FOR PERSONS FROM THE TERRITORIES TO REACH THE SUPREME COURT OF CANADA.

RECENTLY, A REPORT OF THE CANADIAN BAR ASSOCIATION ON THE SUPREME COURT OF

CANADA WAS SUBMITTED TO THE MEMBERS OF THE SUPREME COURT FOR REVIEW AND COMMENT. ONE RECOMMENDATION IN THE REPORT STATED:

15. The Supreme Court Act and any constitutional text ought to make clear that members of the bench and bar of the territories are eligible for appointment to the Court.

THE MEMBERS OF THE SUPREME COURT OF CANADA ENDORSED THIS RECOMMENDATION BY WRITING THE WORDS "WE AGREE" BESIDE PARAGRAPH 15. ON AUGUST 23, 1987, THE CANADIAN BAR ASSOCIATION ALSO PASSED A RESOLUTION WHICH READS, IN PART:

Whereas under the Meech Lake Accord no qualified lawyer who practices in the Yukon or Northwest Territories could ever be appointed to the Supreme Court of Canada unless he or she has been a member of a provincial bar for at least ten (10) years and has his or her name submitted by a provincial Premier, ...

Be it resolved that the Canadian Bar Association urge the federal and provincial governments to immediately reconsider the process of selection of judges for appointment to the Supreme Court of Canada as provided in the Meech Lake Accord and adopt forthwith the Canadian Bar Association recommendations on the appointment of judges in Canada.

- D) SECTION 8 OF THE CONSTITUTION AMENDMENT, 1987 ADDS TO THE CONSTITUTION ACT, 1867 SECTION 148 WHICH PROVIDES FOR AN ANNUAL FIRST MINISTERS' CONFERENCE ON THE ECONOMY AND OTHER MATTERS. SUCH CONFERENCES CLEARLY AFFECT THE GOVERNMENTS OF THE TERRITORIES. WE URGE THAT THE TEXT BE AMENDED TO ENSURE THAT ELECTED REPRESENTATIVES FROM THE TERRITORIES ARE INVITED TO PARTICIPATE IN THESE MEETINGS.
- E) SECTION 9 OF THE CONSTITUTION AMENDMENT, 1987 CHANGES THE AMENDING FORMULA IN PART V OF THE CONSTITUTION ACT, 1982. PART V, SECTION 41 WILL NOW REQUIRE UNANIMOUS CONSENT OF THE PROVINCES, THE SENATE AND THE HOUSE OF COMMONS WHEN THE CONSTITUTION OF CANADA IS AMENDED TO EXTEND EXISTING PROVINCES INTO THE TERRITORIES. SECTION 41 IS SILENT ON THE NEED TO CONSULT WITH OR OBTAIN THE CONSENT OF THE LEGISLATIVE ASSEMBLIES OF THE TWO TERRITORIES. ANY CHANGES TO TERRITORIAL BOUNDARIES MUST ONLY BE MADE WITH THE CONSENT OF THE LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES.
- F) IN ADDITION SECTION 9 OF THE CONSTITUTION AMENDMENT, 1987 WOULD CREATE IN THE AMENDING FORMULA IN THE CONSTITUTION ACT, 1982 A REQUIREMENT FOR UNANIMOUS CONSENT OF THE PROVINCES, THE SENATE AND THE HOUSE OF COMMONS TO ESTABLISH NEW PROVINCES. THE AMENDMENT FORMULA ALSO PROVIDES THAT ONLY THE PROVINCES, THE SENATE OR THE HOUSE OF COMMONS CAN INITIATE THE ESTABLISHMENT OF NEW PROVINCES. THIS PROCESS IS REPUGNANT TO THE PEOPLE OF THE NORTHWEST TERRITORIES. THE ESTABLISHMENT OF NEW PROVINCES SHOULD BE A MATTER LEFT TO PARLIAMENT AND THE CONCERNED TERRITORY ALONE, AS IT HAS BEEN THROUGHOUT CANADIAN HISTORY.

- G) SECTION 13 OF THE CONSTITUTION AMENDMENT, 1987 ADDS A PROVISION TO THE CONSTITUTION ACT, 1982 WHICH REQUIRES A FIRST MINISTERS' CONFERENCE AT LEAST ONCE EACH YEAR COMMENCING IN 1988. WE URGE THAT THIS NEW PROVISION, S.50, BE AMENDED TO ENSURE THAT ELECTED REPRESENTATIVES FROM THE TERRITORIES BE INVITED TO PARTICIPATE IN THESE MEETINGS. IF THE CONSTITUTIONAL STATUS OF THE NORTHWEST TERRITORIES OR SOME OTHER MATTER DIRECTLY AFFECTING THE TERRITORIES WERE DISCUSSED AT SUCH A CONFERENCE, THERE IS NOTHING IN THE PROPOSED CONSTITUTION AMENDMENT, 1987 TO PREVENT FIRST MINISTERS FROM AGAIN BARGAINING AWAY THE RIGHTS OF NORTHERN RESIDENTS IN A SECRETIVE PROCESS WHICH EXCLUDES TERRITORIAL GOVERNMENTS.

OTHER MATTERS:

WE ARE CERTAINLY NOT CONCEDING THAT OTHER MATTERS IN THE ACCORD DO NOT AFFECT THE NORTHWEST TERRITORIES. WE PARTICULARLY IDENTIFY WITH THE WOMEN AND ABORIGINAL PEOPLES OF CANADA WHO HAVE BEEN TOLD TO WAIT IN LINE BEHIND SENATE REFORM AND FISHERIES ISSUES. THE ABORIGINAL PEOPLES OF CANADA CERTAINLY CONSTITUTE TRULY "DISTINCT SOCIETIES". THEIR RIGHTS HAVE BEEN RECOGNIZED AND AFFIRMED BY SECTION 35 OF THE CONSTITUTION AND YET THE YUKON AND THE NORTHWEST TERRITORIES CONTINUE TO BE TREATED LIKE COLONIES AND THE PEOPLE OF THE TERRITORIES ARE TREATED LIKE SECOND-CLASS CITIZENS. THE MEECH LAKE DEAL GIVES THE PROVINCIAL GOVERNMENTS MORE POWER OVER THE CONSTITUTIONAL

FUTURE OF THE TWO TERRITORIES THAN HAS BEEN AFFORDED TO THE TERRITORIAL GOVERNMENTS. THE ECONOMIC FUTURE OF CANADA CERTAINLY INVOLVES THE TERRITORIES. THE PEOPLE LIVING IN THE TERRITORIES ARE DIRECTLY AFFECTED BY FREE TRADE, BY THE SPENDING POWER, AND BY RESOURCE INDUSTRIES, BUT THE GOVERNMENTS OF THE TERRITORIES WILL NOT BE INVITED TO ECONOMIC CONFERENCES UNDER THIS APPARENTLY RENEWED COOPERATIVE FEDERALISM.

ACTION, NOT SYMPATHY:

WE COULD GO ON BUT WE THINK WE HAVE MADE OUR POINT. WE CAME HERE TODAY TO TRY TO CONVINCED YOU THAT OUR CONCERNS ARE LEGITIMATE AND THAT THE APPROPRIATE TIME TO DEAL WITH THE INJUSTICES IN THE CONSTITUTION AMENDMENT, 1987 IS AT THIS STAGE OF THE PROCESS, NOT AT SOME FUTURE DATE WHEN THE OFFENDING PROVISIONS HAVE BECOME THE SUPREME LAW OF CANADA.

WE HAVE HAD A GREAT DEAL OF SYMPATHY FROM POLITICIANS AND SENATORS WHEN WE HAVE RAISED THESE ISSUES BUT WE NEED MORE THAN SYMPATHY, WE NEED ACTION. WE NEED REPRESENTATIVES SUCH AS YOURSELVES TO TAKE COURAGEOUS STEPS TO BRING THE NORTHWEST TERRITORIES AND THE YUKON WITHIN THE VISION OF SOUTHERN

CANADIANS. WE NEED YOU TO RISE ABOVE THE HARSH CONFINES OF PARTY DISCIPLINE TO TEST THE VALUES AND PRINCIPLES UPON WHICH THIS COUNTRY WAS FOUNDED.

QUEBEC'S DEMANDS NEED NOT BE DISTURBED:

THE TEXT OF THE CONSTITUTION AMENDMENT, 1987 NEVER RECEIVED ADEQUATE REFLECTION OR CONSULTATION BEFORE THE FIRST MINISTERS COMMITTED THEMSELVES AND THEIR GOVERNMENTS TO IT. THE ITEMS WE HAVE DISCUSSED TODAY CERTAINLY WERE NOT EVER IDENTIFIED BY QUEBEC AS BEING PART OF THEIR CONSTITUTIONAL AGENDA. OUR RECOMMENDATIONS, IF IMPLEMENTED, WOULD IN NO WAY AFFECT QUEBEC'S CONSTITUTIONAL AGENDA. AS PROFESSOR SCHWARTZ HAS POINTED OUT:

"One province has no direct authority over the people of any other province. True, a new province does have a vote over constitutional amendments. But an extra vote, no matter how "hostile" creates no real risk of imposition on an existing province. The latter can, according to other aspects of the 1987 Accord, "opt-out" with compensation from any amendment that diminishes its authority; and it can veto any changes to federal institutions. Even under the existing amending formulae, the addition of a new partner in Confederation poses essentially no "risk" to the existing authority and rights of any provincial government, let alone that of Quebec."

THE "SEAMLESS WEB" SHOULD BE CHANGED:

WE URGE THIS COMMITTEE TO RECOMMEND AMENDMENTS TO THE MEECH LAKE ACCORD. THERE IS CERTAINLY PRECEDENT FOR SUCH AMENDMENTS. THE FEDERAL-PROVINCIAL AGREEMENT OF NOVEMBER 5, 1981 WAS CHANGED FOUR TIMES BEFORE IT BECAME THE CONSTITUTION ACT, 1982.

WE WANT TO REMIND YOU - MEMBERS OF A POWERFUL LEGISLATIVE ASSEMBLY - THAT IT WOULD SUBVERT THE FUNDAMENTAL PRINCIPLES OF OUR DEMOCRATIC SYSTEM IF YOU COULD NOT AMEND THE ACCORD. TO CONCLUDE OTHERWISE WOULD, IN THE WORDS OF FORMER SENATOR EUGENE FORSEY,

"... Establish a new, supreme, sovereign, omniscient, inerrant, infallible power before which the function of Parliament and the legislatures would be simply to say roma locuta est: the First Ministers have spoken, let all the earth keep silence before them."

THE MEECH LAKE ACCORD WAS STRUCK BECAUSE QUEBEC HAD BEEN PROMISED A FAIR DEAL WHEN THEY DECIDED TO CHOOSE CANADA OVER INDEPENDENCE. WE DO NOT WANT TO DIMINISH QUEBEC'S ROLE IN CANADA, NOR DO WE WISH TO MINIMIZE THE PROMISES MADE AND BROKEN IN RELATION TO QUEBEC OVER THE YEARS. AT THE SAME TIME WE CANNOT IGNORE, NOR CAN YOU IGNORE, THE PROMISES MADE TO THE PEOPLE OF THE NORTHWEST TERRITORIES AS THEY HAVE STRUGGLED TO PARTICIPATE IN THE POLITICAL AND ECONOMIC LIFE OF THIS NATION.

PRINCIPLES AND PROMISES:

WITH SIMPLE ELOQUENCE MR. JOHN PARKER, OUR PRESENT COMMISSIONER, AND PROFESSOR JEAN BEETZ, NOW ON THE SUPREME COURT OF CANADA, EXPLAINED IN THEIR ADDRESS TO THE INUIT OF BAFFIN ISLAND IN 1966 WHAT IT MEANT TO BE CITIZENS OF CANADA. HERE IS WHAT THEY SAID:

"In larger towns and in larger cities in other parts of Canada it is important to have organizations or organized government in order that people can live within certain laws and know the way they are going

In the higher echelon of government we find elected persons whom we elect That is why you and I are free people. We are not the ones who take orders or who are servants, we are the ones that give orders by voting for somebody"

IT WAS WITH THAT MESSAGE THAT THE GOVERNMENT OF THE NORTHWEST TERRITORIES MOVED FROM OTTAWA TO YELLOWKNIFE IN 1967. WE HAVE BEEN BUILDING GOVERNMENT IN THE NORTHWEST TERRITORIES ON THAT PRINCIPLE AND ON THAT PROMISE. WE ARE NOW FACED WITH "JEALOUS" PROVINCIAL GOVERNMENTS MAKING SECRET DEALS TO PREVENT THE TWO TERRITORIES FROM BECOMING PROVINCES. THE PROVINCES, WITH THE PRIME MINISTER'S ACQUIESCENCE, HAVE ALSO GIVEN THEMSELVES POWERS TO DISPLACE THE LEGISLATURES AND DEMOCRATIC INSTITUTIONS IN THE TERRITORIES. THOSE POWERS MAY ALLOW PROVINCIAL BOUNDARIES TO BE EXTENDED INTO THE TERRITORIES WITHOUT CONSULTING OR OBTAINING THE CONSENT OF TERRITORIAL LEGISLATURES. THIS ARBITRARY POWER IS TOTALLY UNACCEPTABLE.

PROVINCIAL EXPANSIONISM?

FOR THOSE MEMBERS OF THE COMMITTEE WHO MIGHT THINK THAT THIS TERRITORIAL EXPANSION WOULD NOT BE CONSIDERED BY ANY PROVINCIAL GOVERNMENT, WE REMIND YOU THAT AT LEAST ONE PREMIER MADE SUCH A SUGGESTION AT A CONSTITUTIONAL CONFERENCE OF FEDERAL AND PROVINCIAL PREMIERS IN FEBRUARY, 1969.

EVEN MORE RECENTLY, IN NOVEMBER , 1986, WE WERE ALARMED TO READ THE FOLLOWING STORY IN A LEADING CANADIAN NEWSPAPER:

"Hudson and James Bays should be divided up before there is a big battle over potential oil and gas resources there, says a Quebec government official.

Only an agreement between Ottawa, Quebec, Ontario and Manitoba on the bays can avoid a crisis, said [the Quebec official]

Both bodies of water and the islands in them are now part of the Northwest Territories.

This extension of natural provincial boundaries should be done before the division of the Northwest Territories takes place"

THE STORY GOES ON TO QUOTE THE QUEBEC OFFICIAL AS SAYING:

"It is easy to foresee all sorts of political and social difficulties if one day Quebec, Manitoba and Ontario have to go to Frobisher Bay, the capital maybe of this new province, and beg for the resources that are there in Hudson Bay and James Bay.

We don't know yet what the resources are but my point of view is based on politics and geopolitical facts we cannot ignore."

PERHAPS, NOW YOU WILL BEGIN TO APPRECIATE OUR CONCERNS WITH THE MEECH LAKE DEAL. SINCE 1905 THE YUKON AND NORTHWEST TERRITORIES HAVE BEEN ADVANCING TOWARDS PROVINCIAL STATUS. NOW WE FIND OUR WAY BARRED BY A DEAL MADE BY FIRST MINISTERS IN A SECRETIVE AND EXCLUSIVE PROCESS. SENATOR LOWELL MURRAY TOLD THE SPECIAL JOINT COMMITTEE OF THE SENATE AND HOUSE OF COMMONS 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 HOPE THIS COMMITTEE WILL GIVE CONSIDERATION TO OUR RECOMMENDATIONS FOR AMENDMENTS AT THIS STAGE OF THE PROCESS AND THAT YOU WILL TAKE THE COURAGEOUS STEP OF RECOMMENDING THESE AMENDMENTS TO YOUR LEGISLATURE.

TO CLOSE THIS MORNING WE WOULD LIKE TO READ TO YOU PART OF A SPEECH THAT WAS DELIVERED BY PAT CARNEY IN THE HOUSE OF COMMONS ON NOVEMBER 27, 1981. MS. CARNEY WAS SPEAKING TO AN AMENDMENT TO THE CONSTITUTION RESOLUTION WHICH EVENTUALLY LED TO THE CONSTITUTION ACT, 1982. THE AMENDMENT HAD BEEN PROPOSED BY THE CONSERVATIVE PARTY AND HAD BEEN SUPPORTED BY THE NEW DEMOCRATIC PARTY. THE AMENDMENT CALLED FOR THE DELETION OF THOSE SECTIONS OF THE RESOLUTION WHICH GAVE PROVINCES A ROLE IN THE ESTABLISHMENT OF NEW PROVINCES AND THE EXTENSION OF PROVINCIAL BOUNDARIES INTO THE TERRITORIES. UNFORTUNATELY THE PROPOSED

AMENDMENT WAS DEFEATED BY THE LIBERAL GOVERNMENT. HERE IS WHAT SHE SAID:

"Mr. Speaker we are debating an amendment which would remove an insulting and degrading inequity in the resolution before this House which seeks to provide us with a "made in Canada" Constitution.

That inequity is inherent in the provisions of the amending formula for the proposed Constitution which would allow the extension of existing provinces into the two northern territories without their consent.

It is degrading because it would enshrine in the constitution of our country the revolting concept of a perpetual colonial status for the North.

It is insulting because it would entrench in the Constitution the repugnant idea that there could be two different classes of Canadians with different political rights, depending on whether they live in Canada North or Canada South. These two offensive clauses represent the threat of a possible grab by some of the provinces for northern resources which more properly belong to the northerners and to Canadians as a whole."

MS. CARNEY'S STATEMENT CONTINUES:

"If retained in our Constitution, they virtually eliminate any hope that the two northern territories could evolve as a province as did the rest of the country. Thus, this resolution, in its present form, is offensive; it is repugnant; and it is also ludicrous.

The resolution suggests that one Prime Minister and nine southern Premiers could carve up the North in their so evident self-interest. It would create a Constitution drafted by southern Canadians which gives them rights denied to northern Canadians. I hope the Premier of my province, can see the unfairness of this resolution.

Imagine the anger and the fury and the rage of those Canadians who live north of 60, who by an act of this Parliament would be condemned to perpetual serfdom and to perpetual colonial status unless these offensive clauses are withdrawn. I can relate

to this anger because I experienced it while I was a resident of the Northwest Territories. I can relate to it because it is an anger similar to that felt in the West when the provisions of the original resolution laid before this House would have created different classes of provinces.

.....

We are talking about Canadians. If members of this House are prepared to declare that these Canadians are to be enshrined as second class citizens under our Constitution, we should be ashamed of ourselves."

IN CONFRONTING THE "SEAMLESS WEB" ILLUSION THAT WAS ALSO BEING PERPETRATED IN 1981, SHE SAID:

"I would suggest that if we sell out the North we will sell out our self respect as Canadians. We should never be a party to a document which would permit the extension of the provinces into the Yukon or the Northwest Territories without territorial consent. Some may argue that amending the resolution at this stage might threaten the spirit of the Accord reached by the Prime Minister and the Premiers.

We can only ask ourselves why the Prime Minister and the nine provincial Premiers would feel that discriminatory measures that were so unacceptable to them would be acceptable to people in the North.

.....

If we pass a resolution which gives certain rights to some Canadians and denies them to others, then we will have destroyed the very foundation of this Parliament, this federal institution of a country which stretches from sea to sea to northern sea. If we pass this resolution unamended as an act of Parliament, it will be an act of contempt towards Canadians north of 60.

I urge you to right this wrong, remove this self-serving insult and ensure our self respect as Canadians. I implore you to support our position that these degrading clauses must be removed."

LADIES AND GENTLEMEN OF THE COMMITTEE, WE AGAIN URGE YOU TO
RECOMMEND TO YOUR LEGISLATURE THE AMENDMENTS WHICH WE SEEK.

THANK YOU.