

**July 31, 1998**

**NORTHWEST TERRITORIES  
JUDICIAL REMUNERATION COMMISSION  
REPORT TO  
THE MINISTER OF JUSTICE**



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**JUDICIAL REVIEW COMMISSION**

**COMMISSION MEMBERS**

John E. Hill	Chairperson
Pierre R. Alvarez	Member
Gerald F. Avery, F.C.G.A.	Member



## 1. BACKGROUND

The Northwest Territories Judicial Review Commission ("**the Commission**") was appointed July 21, 1998, to conduct an inquiry with respect to the salaries to be paid to territorial judges and the pension, vacation leave, sick leave and other benefits to be provided territorial judges.

As a result of the Supreme Court of Canada ("**Supreme Court**") decisions rendered September 18, 1997, the Northwest Territories ("**NWT**") as well as the Yukon and several provinces were required to bring forward legislation in order to constitute a Commission and to enable it to report to the Legislative Assembly in a timely fashion in order to avoid potential court challenges to the independence of the judiciary. Bill 17 introduced in the fifth session of the 13th Legislative Assembly, being an act to amend the *Territorial Court Act* ("**the Act**"), was proclaimed in force on June 3, 1998.

Section 12. 8(a) prescribes that the Commission shall submit a report within 60 days after the coming into force of the Act, that is, by August 3, 1998.

As well, the Supreme Court imposed a one year moratorium on its decision such that a report must be tabled by September 18, 1998 or Territorial Courts may not be able to sit.

NWT judges consider the Attorney General and Deputy Attorney General of the NWT to be advocates on their behalf before the Executive Branch of the Government of the Northwest Territories ("**GNWT**"). As a consequence the Department of Justice was directed not to represent GNWT in proceedings





before the Commission. Such representations are to be made by the Financial Management Board Secretariat under the guidance of Mr. Lew Voytilla, Secretary to the Financial Management Board ("FMB").

Chief Judge Robert Halifax represents the Territorial Court Judges.

## **2. INQUIRY**

The Commission met July 23, 1998 in Yellowknife.

The Commission concluded that in view of the time needed to conduct an inquiry that an appropriate interim step for this fiscal year is to maintain the 'status quo', and that letters should be written to the Chief Judge and to the Secretary to the FMB, requesting their view with respect to the matter.

Also, the Commission felt that the next appropriate step should be a request by the Minister of Justice or the Chief Judge, subsequent to the Commission's first report, that the Commission reconvenes and inquire into and make recommendations with respect to the salaries and benefits of territorial judges, such that the Commission is able to conduct an inquiry and make a report with recommendations to be put into effect April 1, 1999.

The Commission wrote to Chief Judge and the Secretary to the FMB on July 24, 1998 and requesting a written response.

The Chief Judge responded July 29, 1998. He advised that all other territorial judges are on annual leave and not able to be contacted.



The Chief Judge was, however, able to confirm that the territorial judges' position considering the time restraints, is to continue with the agreement set out in a letter dated January 17, 1997 from the then Minister of Justice to the Chief Judge, a copy of which was provided to the Commission.

The territorial judges' position, to continue with the agreement set out in the letter of January 17, 1997, being made on the clear understanding that the Chief Judge or Minister of Justice will be requesting the Commission to reconvene this fall to carry out a complete inquiry into the salaries and benefits for territorial judges.

The Chief Judge objected to the setting of a time frame as to the present agreement or that any future recommendations only become effective April 1, 1999. He went on to observe that the setting of such time frames is completely inappropriate especially as interested parties have not had an opportunity to make submissions.

The Commission accepts that the setting of a time frame now is not appropriate.

The Secretary to the FMB responded by letter dated July 28, 1998 concurring with the recommendation that the existing arrangements between the GNWT and the territorial judges continue unchanged on an interim basis.

He further stated that his support for the recommendation to maintain the 'status quo' is based on an expectation that the Commission will undertake a thorough review within the next few months and make recommendations with



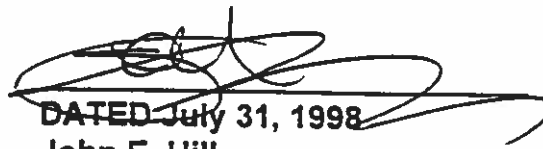
respect to the salaries and benefits of territorial judges.



**3. COMMISSION RECOMMENDATIONS**

1. The 'status quo' with respect to salaries, pension, vacation leave, sick leave and other benefits provided territorial judges, be maintained on an interim basis, until the Commission has completed a thorough review.
2. That the Minister of Justice or the Chief Judge request that the Commission reconvene and inquire into and make recommendations with respect to salaries and benefits of territorial judges.

**ON BEHALF OF THE  
THE NORTHWEST TERRITORIES  
JUDICIAL REMUNERATION COMMISSION**

  
**DATED July 31, 1998**  
**John E. Hill**  
**Chairperson**

