

**Report of the Special Committee on
Constitutional Reform**

**on its Initial Review of the Report of the
Special Joint Committee on a Renewed Canada**

**Hon. Stephen Kakfwi, M.L.A.,
Chairman.**

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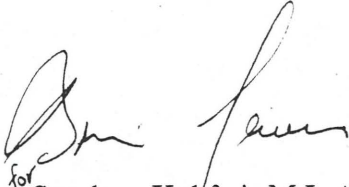
RECYCLED PAPER

March 2, 1992

THE HONOURABLE MICHAEL BALLANTYNE, M.L.A.,
SPEAKER OF THE LEGISLATIVE ASSEMBLY.

I am pleased to submit this Report of the Special Committee on Constitutional Reform on its initial review of the Report of the Special Joint Committee on a Renewed Canada.

Respectfully submitted,


for
Stephen Kakfwi, M.L.A.,
Chairman.

Special Committee on Constitutional Reform

Members

Hon. Stephen Kakfwi
M.L.A., Sahtu
Chairperson

Mr. Ernie Bernhardt
M.L.A., Kitikmeot

Mr. Sam Gargan
M.L.A., Deh Cho

Mr. Brian Lewis
M.L.A., Yellowknife Centre

Hon. Dennis Patterson
M.L.A., Iqaluit

Staff

Mr. Douglas Schauerte
Committee Clerk

Mr. Geoffery Bickert
Legal Counsel

Mr. Bernard Funston
Legal Counsel

PRELIMINARY REPORT TO THE LEGISLATIVE ASSEMBLY CONCERNING THE REPORT OF THE SPECIAL JOINT COMMITTEE ON A RENEWED CANADA.

MR. SPEAKER, ON BEHALF OF THE CHAIRMAN AND MEMBERS OF OUR LEGISLATURE'S SPECIAL COMMITTEE ON CONSTITUTIONAL REFORM, I WOULD LIKE TO PROVIDE TO THE HOUSE OUR PRELIMINARY REVIEW OF THE REPORT RELEASED ON SUNDAY AFTERNOON BY THE JOINT PARLIAMENTARY COMMITTEE WHICH IS MORE COMMONLY CALLED THE BEAUDOIN-DOBBIE COMMITTEE.

THE BEAUDOIN-DOBBIE REPORT IS 130 PAGES LONG AND CONTAINS RECOMMENDATIONS ON THE BROADEST PACKAGE OF CONSTITUTIONAL REFORMS IN CANADA'S HISTORY. FOR THIS REASON, OUR COMMITTEE'S COMMENTS TODAY WILL BE BRIEF, SAVING FOR ANOTHER DAY A MORE DETAILED ANALYSIS.

THE PARLIAMENTARY COMMITTEE RECOMMENDS, AMONG OTHER THINGS, AN AMENDMENT TO THE CONSTITUTION OF CANADA WHICH RECOGNIZES THE INHERENT RIGHT OF ABORIGINAL PEOPLES TO SELF-GOVERNMENT WITHIN CANADA. THIS IS OF ENORMOUS IMPORTANCE AND WOULD REPRESENT A KEY ACHIEVEMENT IN AN AREA WHERE THE ABORIGINAL RIGHTS CONFERENCES BETWEEN 1983 AND 1987 FAILED.

INCLUDED IN THE PROPOSAL IS A COMMITMENT BY FEDERAL, PROVINCIAL

AND TERRITORIAL GOVERNMENTS TO NEGOTIATE TREATIES, AGREEMENTS OR OTHER ARRANGEMENTS BY WHICH SELF-GOVERNMENT MAY BE REALIZED. IMPLEMENTATION OF SELF-GOVERNMENT WILL BE THROUGH AMENDMENTS TO THE CONSTITUTION OF CANADA, THROUGH LAWS OF CANADA, THE PROVINCES OR TERRITORIES, WITH CONSTITUTIONAL ENTRENCHMENT CLEARLY CONTEMPLATED. THESE PROPOSALS APPEAR TO BE HEADED IN THE RIGHT DIRECTION, BUT WE OBVIOUSLY WILL WANT TO HEAR THE RESPONSES OF THE NATIONAL ABORIGINAL ORGANIZATIONS AS WELL AS SPOKESPERSONS FOR PARALLEL PROCESSES SUCH AS THE ROYAL COMMISSION ON ABORIGINAL AFFAIRS. ONE ASPECT OF SELF-GOVERNMENT WHICH IS NOT ADDRESSED IN THE RECOMMENDED AMENDMENTS TO THE CONSTITUTION RELATES TO THE RESOURCE NEEDS OF SELF-GOVERNMENTS, WHETHER THROUGH A LAND BASE, POWERS OF TAXATION, EQUALIZATION AND SO FORTH.

MR. SPEAKER, ANOTHER CONSTITUTIONAL MATTER OF FUNDAMENTAL IMPORTANCE TO THE TERRITORIES IS THE AMENDING FORMULA AS IT RELATES TO THE ESTABLISHMENT OF NEW PROVINCES FROM EXISTING TERRITORIES. AS YOU KNOW, PRIOR TO 1982 THIS WAS A MATTER FOR PARLIAMENT AND THE TERRITORY CONCERNED. AMENDMENTS WERE MADE IN 1982 DESPITE STRONG OBJECTIONS FROM THE TERRITORIES AND AN AMENDING FORMULA WAS ENTRENCHED WHICH REQUIRED THE APPROVAL

OF TWO-THIRDS OF THE PROVINCES AND 50 PER CENT OF THE POPULATION BEFORE NEW PROVINCES COULD BE FORMED.

THE BEAUDOIN-DOBBIE REPORT DISCUSSES THE AMENDING FORMULA IN RELATION TO THE DESIRE OF QUEBEC TO HAVE A VETO OVER FUNDAMENTAL CHANGES TO THE CONSTITUTION. THE COMMITTEE PROPOSES 5 DIFFERENT APPROACHES, NONE OF WHICH IS ENTIRELY SATISFACTORY TO THE TERRITORIES. IT ALSO REFERS TO REMARKS MADE BY PREMIER PENIKETT OF THE YUKON ON HOW HE IS PREPARED TO CONTEMPLATE THE CREATION OF NEW PROVINCES WHICH ARE NOT INITIALLY PART OF WHAT HE CALLS "THE AMENDING FORMULA CLUB".

MR. SPEAKER, AS MEMBERS WILL KNOW, THERE ARE SIX DIFFERENT EXISTING AMENDING FORMULAS. SOME PROVINCES WANT TO BE ABLE TO CONTROL THE CREATION OF NEW PROVINCES, AS THEY BELIEVE INCREASING THE NUMBERS OF PROVINCES WILL AFFECT THE VOTING PATTERNS IN THE SO-CALLED "SEVEN AND FIFTY" FORMULA. ALSO, SOME PROVINCES WOULD BE CONCERNED IF A NEW, SPARSELY-POPULATED PROVINCE IN THE NORTH COULD VETO FUTURE CONSTITUTIONAL AMENDMENTS IN THE RANGE OF MATTERS CURRENTLY COVERED BY THE UNANIMITY FORMULA.

WE BELIEVE THERE ARE PARTS OF THE EXISTING AMENDING FORMULAS

THAT A NEW PROVINCE SHOULD BE ABLE TO EXERCISE BECAUSE THEY DO NOT AFFECT EXISTING PROVINCIAL CONSTITUTIONAL RIGHTS OR POWERS, FOR EXAMPLE, WHERE AN AMENDMENT ONLY AFFECTS A NEW NORTHERN PROVINCE. THERE ARE ALTERNATIVES TO ADDRESS ANY LEGITIMATE CONCERNS IN THOSE OTHER PARTS OF THE AMENDING FORMULA WHERE PROVINCES SHOW THAT THEIR RIGHTS OR POWERS WOULD BE AFFECTED BY THE CREATION OF NEW PROVINCES. OUR SPECIAL COMMITTEE WILL BE DEVELOPING SOME OF THESE ALTERNATIVES FOR OUR GOVERNMENT TO PURSUE.

A THIRD MAJOR AREA WORTH NOTING IN THE PARLIAMENTARY COMMITTEE'S REPORT CONCERNS PARTICIPATION OF TERRITORIES IN WHAT I MIGHT CALL THE PROCESSES OF CONFEDERATION. WE ARE PLEASED TO NOTE THE CONSISTENT INCLUSION OF TERRITORIES IN THE RECOMMENDATIONS RESPECTING THE SOCIAL COVENANT AND THE ECONOMIC UNION, THE COMMON MARKET CLAUSES AND THE NOMINATION OF CANDIDATES FOR APPOINTMENT TO THE SUPREME COURT OF CANADA.

WITH THAT IN MIND, WE MUST NOTE THE FACT THAT THE BEAUDOIN-DOBBIE COMMITTEE PROPOSAL FOR YEARLY FIRST MINISTERS CONFERENCES ON THE ECONOMY AND SOCIAL MATTERS DOES NOT EXPRESSLY PROVIDE FOR TERRITORIAL PARTICIPATION. WE BELIEVE OUR CASE FOR BEING THERE IS

A GOOD ONE, SO YOUR SPECIAL COMMITTEE AND THE GOVERNMENT LEADER AND MINISTERS WILL CONTINUE PUSHING FOR FULL TERRITORIAL PARTICIPATION IN THE PROCESS IN THE WEEKS AND MONTHS AHEAD.

IN RECENT MONTHS, OUR GOVERNMENT LEADER AND MINISTER OF FINANCE HAVE CONSISTENTLY BEEN INVITED TO PARTICIPATE IN FIRST MINISTERS' MEETINGS AND CONFERENCES ON THE ECONOMY. LAST WEEK THE PRIME MINISTER WROTE TO MS. COURNOYEA ASKING HER TO NAME A DELEGATION TO MEET IN OTTAWA ON MARCH 11TH AND 12TH WITH THE HONOURABLE JOE CLARK AND PROVINCIAL MINISTERS, TO DISCUSS THE NEXT STEPS IN THE "RENEWED CANADA" PROCESS. AS MEMBERS WELL-KNOW, THE BEAUDOIN-DOBBIE REPORT IS JUST ONE SUCH STEP AMONG MANY AHEAD OF US.

IN SUMMARY, THEN, MR. SPEAKER, OUR PRELIMINARY REVIEW OF THE REPORT AND RECOMMENDATIONS OF THE JOINT PARLIAMENTARY COMMITTEE MAKES US GENERALLY OPTIMISTIC THAT THEY ARE ON THE RIGHT TRACK IN SOME KEY AREAS, AND THAT WE NEED TO WORK THROUGH THE REPORT MORE COMPREHENSIVELY AS IT TOUCHES ON OTHER MATTERS OF ENORMOUS IMPACT ON THOSE REGIONS OF THE COUNTRY, SUCH AS OURS, WHICH BENEFIT FROM A STRONG CENTRAL GOVERNMENT ABLE TO PROVIDE EQUALIZATION OR TRANSFER PAYMENTS TO ENSURE WE CAN MEET THE BASIC NEEDS OF ALL OUR CITIZENS. THANK YOU.

SPECIAL COMMITTEE ON CONSTITUTIONAL REFORM

TERMS OF REFERENCE

The Special Committee on Constitutional Reform may on its own authority:

1. Review proposals for constitutional and institutional reform as outlined in the Government of Canada's document entitled "Shaping Canada's Future Together" and any additional national, federal, provincial, territorial and non-governmental materials and any other related matters.
2. Undertake or request any legal or economic analysis necessary to assist this Committee in the development of recommendations for the Legislative Assembly on matters relating to the substance and processes for constitutional and institutional reform.
3. Undertake such consultations, discussions or meetings that are necessary with national aboriginal organizations that have responsibility to consider national constitutional and institutional reform in Canada.
4. Undertake such consultations, discussions or meetings that are necessary with such national, federal, provincial or territorial bodies that have responsibility to consider constitutional and institutional reform in Canada.
5. Make presentations on behalf of the Legislative Assembly and Government of the Northwest Territories to such bodies as the Committee agrees appropriate.
6. Prepare reports at times to be decided by the Committee and as appropriate to the progress of the national unity debate.
7. Review and recommend on any related matter referred to it by the Legislative Assembly.
8. Establish a quorum to be three Members, including the Chair.

