

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

**FRIENDS OF DEMOCRACY, MAYOR DAVID R. LOVELL,
ROBERT A.G. SLAVEN, J.E. FRASER WEIR, WILLIAM A.
ENGE and SANDY A.M. HOLMES**

Applicants

- and -

**THE COMMISSIONER OF THE NORTHWEST
TERRITORIES as represented by THE ATTORNEY
GENERAL OF THE NORTHWEST TERRITORIES**

Respondent

- and -

**METIS NATION-NORTHWEST TERRITORIES, DENE
NATION, NORTH SLAVE METIS ALLIANCE, SAHTU
SECRETARIAT INCORPORATED and LUTSEL K'E DENE
BAND**

Intervenors

MEMORANDUM

[1] As arranged by telephone conference on Friday, March 26, 1999, counsel both for the applicants: Friends of Democracy, Mayor David R. Lovell, Robert A.G. Slaven, J.E. Fraser Weir, William A. Enge and Sandy A.M. Holmes; and for the respondent The Commissioner of the Northwest Territories as represented by the Attorney General of these Territories; the respondent's motion to vary the period of the suspension order made on March 5th, 1999 was heard this morning (March 31st 1999) in open Chambers at Yellowknife in the presence of counsel for all the parties, including the intervenors: Metis Nation-Northwest Territories, Dene Nation, North Slave Metis Alliance, Sahtu Secretariat Incorporated and Lutsel K'e Dene Band, at which time the motion was granted by substituting September 1st, 1999 for April 1st 1999 in the suspension order, in the absence of any opposition or objection on the part of the applicants and intervenors above mentioned, all without costs.

[2] On behalf of the intervenors I was asked to amend my reasons for judgment filed on March 5th 1999 by inserting the words "with others" immediately after the word "together" in the fourth line of paragraph (4) of those reasons to show that The

Aboriginal Summit constitutes others besides the intervenors. That amendment is hereby made with my apologies to those concerned for any inconvenience or misunderstanding which may have been caused by my misapprehension of the situation (as I had earlier understood it from the submissions made by the intervenors through their counsel on March 2nd 1999).

[3] It emerges from the materials filed, as well as from the submissions made by counsel in Chambers this morning, that the respective roles of the Court and of the Legislative Assembly in relation to the issues decided in the present proceedings might require a word of explanation. The role of the Court has been to declare the law as it is given in the Constitution of Canada; whereas the role of the Legislature has been, and remains, to discharge its legislative responsibilities in a manner that is consistent with that law, while carrying out its political functions. That these roles are complementary and can be discharged in a co-operative spirit is well demonstrated in the present proceedings and in the materials filed on this morning's motion for variation of the suspension order.

[4] By agreement of all counsel, the suspension order was amended today, not only as mentioned above by extending the period of the suspension to September 1st 1999, but by deleting the last two lines of paragraph 43 of my above mentioned reasons for judgment and substituting the following:

enabling the orderly conduct of the affairs of the Legislative Assembly, including the replacement or amendment of the invalid provisions to comply with Section 3 of the Charter, but not for the purpose of allowing an election to be conducted under the *Elections Act*.

[5] It is noteworthy that the declaration made by the Court on March 5th 1999 is silent as to the legal status of the Legislative Assembly and Executive Council, no submissions in that regard having been made to the Court. The contemporaneous suspension order then made expressly recognized the authority of the Legislative Assembly to enact remedial legislation to cure the invalid provisions mentioned in the declaration, which clearly affirms the continued status in law of the Assembly and its Executive Council, negating any contrary interpretation. The declaration extends only to the duly qualified Canadian citizen's right to vote in elections to the Assembly; it does not extend to the validity of the present Assembly itself.

M.M. de Weerd,
Deputy Judge

Dated at Yellowknife, Northwest Territories
this 31st day of March 1999

Counsel for the Applicants: Brian J. Wallace, Q.C.
Ron A. Skolrood

Counsel for the Respondent: Earl D. Johnson, Q.C.

Counsel for the Intervenors: Charles F. McGee

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DENE NATION, NORTH SLAVE METIS
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**MEMORANDUM OF THE
HONOURABLE JUSTICE M.M. de WEERDT**
