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Final Report Of The Special Committee On
Constitutional Reform

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FINAL REPORT OF THE SPECIAL COMMITTEE ON CONSTITUTIONAL REFORM Sector: Reference Material 9-5-417 Policy Material/Related Activity
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**Final Report
of the
Special Committee on Constitutional Reform**

**on the Charlottetown Accord and the
October 26, 1992 National Referendum
on Constitutional Reform**

JAN 16 1996
YELLOWKNIFE, N.W.T.

**Hon. Stephen Kakfwi, M.L.A.,
Chairperson
November, 1992**

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November 30, 1992

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

I am pleased to submit the Final Report of the Special Committee on Constitutional Reform respecting the **Charlottetown** Accord and the October 26, 1992 National Referendum on Constitutional Reform.

Respectfully submitted,



Stephen **Kakfwi**, M.L.A.,
Chairperson.

Special Committee on Constitutional Reform

Members

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

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

Mr. Samuel **Gargan**
M.L.A., **Deh Cho**

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

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

Alternate Members

Mr. Silas **Arngna'naaq**
M.L.A., **Kivallivik**

Ms. Jeannie **Marie-Jewell**
M.L.A., **Thebacha**

Staff

Mr. David **Hamilton**
Committee Clerk

Mr. Geoffrey **Bickert**
Legal Counsel

Mr. Bernard **Funston**
Legal Counsel

Mr. George **Braden**
Intergovernmental Affairs

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 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.

**REPORT TO THE LEGISLATIVE ASSEMBLY
OF THE NORTHWEST TERRITORIES
BY THE
SPECIAL COMMITTEE ON CONSTITUTIONAL REFORM**

I. **INTRODUCTION**

On October 26, 1992 a majority of residents of the Northwest Territories voted "Yes" in the national referendum on constitutional reform. However, a majority of residents in six provinces voted against the constitutional reforms proposed by the Charlottetown Accord (Aug. 28, 1992). This "No" vote registered by the majority of Canadians brought to an end the latest round of constitutional negotiations which had been launched on March 12, 1992 in a meeting between federal, provincial, territorial and aboriginal representatives.

The Charlottetown Accord had proposed the most extensive package of amendments to the Constitution of Canada since 1867. As a result of the October 26th national referendum none of these proposed constitutional amendments will be proceeded with at this time.

In the Report of the Special Committee tabled April 01, 1992, [Committee Report No. 09-12(2)], the Committee had recommended that five major issues should be closely monitored in the current round of multilateral consultations. The five areas of particular importance to the Northwest Territories were:

1. Territorial participation in public and private meetings and conferences on constitutional, economic and aboriginal matters;
2. Constitutional recognition of an inherent right to aboriginal self-government;
3. The effects of the constitutional amending formula on future political and constitutional development of the Northwest Territories;
4. **The** implications for the territories of the Canadian economic union proposals and the mechanisms for decentralization of the federation;
5. Constitutional amendments relating to national institutions such as the Senate and the Supreme Court of Canada.

The multilateral negotiations that began in March 1992 involved First Ministers, Ministers, and Aboriginal leaders in a process unique for its scope, complexity and duration. In the case of the Northwest Territories, the Special Committee members were the principal advisory body and were present during key negotiation sessions. The negotiations were the culmination of probably the most inclusive **process** of constitutional consultations in Canadian history **which** had spanned the two years following the failure of the **Meech Lake Accord** in June 1990. Numerous federal, provincial, territorial and Aboriginal processes had canvassed a wide range of public opinion during this two year period. It remains to be seen whether future talks on the **constitution**, or in the intergovernmental area generally, will continue the multilateral approach which included territorial and Aboriginal leaders in all levels of discussions.

II. REVIEW OF NORTHWEST TERRITORIES ACHIEVEMENTS

The principles and objectives which the Government of the Northwest Territories pursued in negotiations in relation to the above five matters were recommended by the Special Committee in the Committee's Report of April 01, 1992 and approved by the Assembly. These principles and objectives were achieved during the negotiations to a high degree. The content of the "Best-efforts" Legal Text and Political Accords released on October 12th confirms this. The referendum results in the Northwest Territories, where voters supported the Charlottetown package **by an impressive 619%**, provide a strong mandate for our Legislative Assembly and Government to continue pursuing the gains we made during the current round of talks.

Northern objectives which were achieved in the package which should be pursued include:

- the commitments to Territorial participation in all future First Ministers meetings and constitutional conferences;
- the recognition of the inherent right to self-government in the Territories through constitutional amendment, or through the claims, treaties or other mechanisms;

Further, other aspects of the Charlottetown package which should be pursued include:

- minimizing or eliminating, wherever possible, the negative effects on northern political and constitutional development, arising from the current amending formula for creating new provinces;

- protecting the Territories from negative impacts of future decentralization of the federation and from attacks on northern preference and economic development initiatives.

III. REFERENDUM PROCESS

Members of the Special Committee conducted an extensive public education campaign to explain to territorial residents the content and meaning of the Charlottetown Accord which included personal appearances in many communities as well as publications such as "A NORTHERN AGENDA THE REFERENDUM AND THE NORTHWEST TERRITORIES" which was widely circulated through the print media.

The national referendum results are susceptible to a wide range of interpretations. The Northwest Territories was one of only four jurisdictions that returned a "Yes" vote in the referendum. Some of the "No" results no doubt represent a lack of support for the content of all or part of the constitutional package. In some cases it may reflect a lack of support for any constitutional change at this time given the concerns of Canadians with the economy. In other cases the "no" vote may not be related directly to constitutional issues. APPENDICES A, B, and C contain the referendum results by province and territory, within the Northwest Territories, and for Aboriginal peoples across Canada.

IV. CONCLUSIONS AND RECOMMENDATIONS

The five areas of importance to the Northwest Territories identified in Part I of **this** report formed the basis for the positions taken during this round of constitutional negotiations and some of the principles and objectives will no doubt continue to be important; however, governments and Aboriginal organizations are still assessing where to go from here. Canadians have expressed concerns with the economy. This will likely be the focus for most governments for the near future and a resumption of constitutional talks is unlikely in the short term.

The Government of the Northwest Territories and the Legislative Assembly have a direct interest in reform of the national constitution as it relates to the rights of aboriginal and non-aboriginal residents and the Territories' role and status within the Canadian federation. With the failure of the Charlottetown Accord other avenues for **achieving territorial** objectives in these areas will need to be explored. The committee recommends that the Government of the N.W.T. undertake a review and assessment of the NWT's national constitutional priorities and objectives and a medium and long term strategy should be developed to achieve them.

A fundamental element in intergovernmental and constitutional processes is territorial participation. The territory must continue to build bridges with other jurisdictions and contribute to national affairs through the existing intergovernmental forums. The current round of constitutional talks has demonstrated that the **Northwest** Territories can make positive contributions in national affairs **and** that its representatives bring a unique perspective to the table. The **Committee recommends** that the Government of the Northwest Territories should take any **necessary action to preserve and enhance** its role and **status in intergovernmental affairs in relation to the constitution, national institution reform and the economy in particular.**

The Charlottetown Accord was a carefully balanced series of compromises which contained significant economic and fiscal implications for **all** governments. In many cases commitments contained in the Accord required cooperation from all levels of government in order to implement them.

The context has now **changed**. Aspects of the Charlottetown Accord such as the inherent right of aboriginal self-government will have to be realized through new approaches following close consultations with aboriginal peoples. Parliament has constitutional authority to recognize in the Territories the inherent right of **self-government** for Aboriginal peoples. Most of the Charlottetown Accord provisions on self-government could be implemented through constitutional amendment by Parliament acting alone, in relation to the Territories. The financial and other matters respecting implementation of the **right**, contained in proposed "political accords" adopted at Charlottetown, could similarly be accepted by the federal government for the Territories.

Similarly, the federal government has authority to recognize and implement inherent self-government as part of the land claims processor in a parallel process, or through renewal of existing Treaties 8 and 11. Recognition of the right, and some elaboration of the process of **implementation**, could be achieved through constitutional amendment within the context of existing section 35 of the **Constitution Act, 1982**. Financial and resource commitments could be enshrined in a legally enforceable agreement or through a political accord. A number of governments, including the federal government will be calling elections in the relatively near future. Some aboriginal organizations will be reviewing their priorities and mandates. The **Committee recommends** that **prior to pursuing** either constitutional or non-constitutional means of **implementing** any **part or parts** of the Charlottetown Accord, the **Legislative Assembly and Government** should consider, in the **context of the strong mandate given in the Northern referendum results, the priorities and means for achieving** our objectives, **bearing in mind the political, social, economic and fiscal indications of this course of action.**

The Special Committee would like to gratefully thank the many people who worked tirelessly throughout this process but also the families of these people who also had to give up many hours without them around. The Members of the Special Committee dedicated many long days to this process and without this team approach and the support of the **Legislative** Assembly, we **could** not have achieved the success we did.

With the presentation of this, our Final Report, the Special Committee is of the opinion that we have, to the best of our abilities, completed our work according to the mandate given by the Legislative Assembly. The work of this Special Committee, at this time, is complete but, as indicated in our recommendations, there will be a need to monitor and participate in the years ahead as there are still a lot of important areas to be addressed.

APPENDIX A. NATIONAL REFERENDUM RESULTS



FEDERAL REFERENDUM / RÉFÉRENDUM FÉDÉRAL
 UNOFFICIAL RESULTS BY PROVINCE
 RÉSULTATS OFFICIEUX PAR PROVINCE

Province	Total Votes Total des votes	Total Yes / Oui	% Total Yes / Oui	Total No / Non	% Total No / Non	Total Rejected / Rejets	% Rejected / Rejets	% Voting % de participation	No. Names on Voters List No d'Électeurs sur la liste
Newfoundland / Terre-Neuve	213,203	134,193	62.9%	71,881	30.9%	1,229	0.5%	54.1%	394,399
Prince Edward Island	491,961	218,618	44.5%	230,182	46.8%	2,061	0.9%	68.8%	654,905
Quebec / Nouvelle-Écosse	361,581	234,016	64.7%	165,280	45.7%	4,775	0.6%	73.2%	572,176
Ontario	66,127	48,687	73.6%	17,124	25.9%	316	0.5%	71.2%	76,924
Manitoba	486,696	241,019	49.5%	239,165	49.1%	28,912	0.6%	72.3%	6,690,187
Saskatchewan	523,354	198,230	37.9%	322,971	61.7%	2,153	0.4%	71.0%	736,870
Alberta	457,436	203,301	44.5%	224,559	49.1%	1,616	0.4%	69.2%	661,358
British Columbia / Colombie-Britannique	1,218,169	489,275	39.7%	731,975	60.0%	2,910	0.2%	73.0%	1,668,951
Northwest Territories Territoires du Nord-Ouest	1,657,820	525,188	31.7%	1,128,735	68.3%	5,877	0.4%	3%	72,746
Total For Referendum	12,535	5,354	43.4%	6,922	55.1%	59	0.5%	70.3%	17,542
Total pour référendum	24,340	14,750	60.6%	9,616	39.7%	174	0.7%	72.7%	33,485
Produced/Produit le:	9,841,913	4,475,785	45.5%	5,318,446	54.0%	47,682	0.5%	72.1%	13,645,061

45.5%

54.0%

0.5%

APPENDIX B: THE NORTHWEST TERRITORIES REFERENDUM RESULTS

UNOFFICIAL RESULTS

TIME 02:44 PM Federal & NWT Constituency	Polling Str.	Community	VOTES			Total Votes Cast	Voters on List	% turnout	% yes	% no
			Yes	No	Rejected					
NUNAVUTSIAQ Aviik	N015	Repulse Bay	145	50	1	196	235	83.40	74.36	25.64
	N016	Coral Harbour	126	23	35	184	289	63.67	84.56	15.44
	N019	Chesterfield Inlet	125	24	2	151	162	93.21	83.89	16.11
		Total		396	97	39	531	686	77.41	80.32
Arctic	N039	Hall Beach	166	65	0	231	297	77.78	71.86	28.14
	N040	Iqoosilik	343	81	0	424	556	76.28	80.90	19.10
	N042	Pond Inlet	358	43	7	408	480	84.58	89.22	10.78
		Total		865	189	7	1061	1333	79.69	82.07
Baffin Central	NA09	Pangnirtung Advance Post	18	2	0	20			80.00	10.00
	N036	Pangnirtung N	209	27	2	239	311	76.83	88.96	11.44
	N037	Pangnirtung S	196	42	2	240	301	78.73	82.36	17.65
	N038	Broughton Island	199	23	1	223	245	91.02	89.64	10.36
	N041	Clyde River	220	32	0	252	289	87.20	87.30	12.70
	Total		842	128	5	973	1146	84.90	86.98	13.02
Baffin South	NA07	Sankiliug Advance Post	7	7	0	14			50.00	50.00
	N026	Sankiliug	224	36	2	262	296	88.51	86.15	13.85
	N028	Cape Dorset	227	58	0	285	421	67.70	79.65	20.35
	N027	Lake Harbour	141	32	0	173	208	83.98	81.60	18.50
	Total		599	133	2	734	923	79.52	81.83	18.17
High Arctic	N043	Narsarvik	80	86	0	166	221	75.11	48.19	51.81
	N044	Arctic Bay	185	23	1	209	261	80.08	88.94	11.06
	N045	Resolute Bay	69	59	0	127	147	86.39	54.33	45.67
	N046	Little Cornwallis Island	90	0	1	91	82	80.22	41.38	58.62
	Total		529	168	2	697	711	77.73	68.24	31.34
	Total		433	263	4	700	870	80.46	62.21	37.79

UNOFFICIAL RESULTS

Thru	From	PM	Federal & NWT Constituency	Community	Yes	No	Rejected	Vote Cast	Vote on List	% turnout	% yes	% no
			NA08	Iqaluit Advance Poll	122	56	1	179			68.54	31.46
			NA08	Iqaluit - Lower Base & Airport	167	106	2	275	390	70.51	61.17	38.83
			NA030	Iqaluit - Centre Town	159	83	0	242	308	78.57	65.70	34.30
			NA031	Iqaluit - Astro Hall	159	83	0	242	383	63.19	65.70	34.30
			NA033	Iqaluit - South Iqaluit	300	99	2	401	536	74.81	75.19	24.81
			NA034	Iqaluit - Happy Valley & Apex Road	196	68	0	264	389	67.87	74.24	25.76
			NA035	Iqaluit - Apex	59	29	3	91	125	72.80	67.05	32.95
			Total		1182	524	6	1694	2191	76.46	68.92	31.08
			NA005	Rankin Inlet Advance Poll	17	5	0	22			77.27	22.73
			NA020	Rankin Inlet N	143	70	1	214	267	80.15	67.14	32.86
			NA020-1	Rankin Inlet Central	152	83	1	236	298	81.94	64.88	35.32
			NA021	Rankin Inlet S	169	44	3	216	306	70.59	78.24	20.88
			NA022	Winnipeg Cove	89	35	1	105	130	80.77	68.35	33.65
			Total		550	237	6	793	991	80.02	68.89	30.11
			NA002	Coppermine Advance Poll	7	5	0	12			58.33	41.67
			NA006	Coppermine	182	62	4	248	362	68.51	74.59	25.41
			NA007	Coppermine	112	42	0	154	233	68.09	72.73	27.27
			NA003	Cambridge Bay Advance Poll	12	3	0	15			80.00	20.00
			NA008	Cambridge Bay	122	59	3	184	278	66.19	67.40	32.60
			NA009	Cambridge Bay	138	70	0	208	297	70.03	66.35	33.65
			NA010	Bathurst Inlet	8	1	0	9			77.78	22.22
			NA011	Bay Cinnimo	0	0	0		33			
			NA054	Cape Young	3	9	0	12	11	109.09	25.00	75.00
			NA055	Lady Franklin Point	3	10	0	13	9	144.44	23.08	76.92
			NA056	Byron Bay	2	11	0	13	13	100.00	15.38	84.62
			NA057	Cam Main	16	25	0	41	58	73.21	39.02	60.98
			Total		603	297	7	907	1301	69.72	67.00	33.00
			NA004	Baker Lake Advance Poll	--	--	--					
			NA017	Baker Lake	177	39	1	217	293	74.06	61.94	18.06
			NA016	Baker Lake	256	44	2	302	354	85.31	85.33	14.67
			NA006	Aviata Advance Poll	--	--	--					
			NA023	Aviata	203	50	2	255	267	95.51	80.24	19.76
			NA024	Aviata	219	55	5	279	360	77.50	79.93	20.07

TIME 02:44 PM		UNOFFICIAL RESULTS		VOTES		Total		Total		Total		Total		Total	
Federal & NWT Constituency	Polling Str.	Community	Yes	No	Rejected	Vote Count	on List	% turnout	% yes	% no					
Hay River			181	111	1	293	651	45.01	61.99	38.01					
		Enterprise	12	23	0	35	44	79.55	34.29	65.71					
		Hay River Advance Poll	28	41	0	67	184	81.96	38.81	61.19					
		Hay River	53	61	0	114	309	60.84	48.49	53.51					
		Vale Island	57	130	1	168	280	67.31	30.48	69.52					
		Hay River	70	104	1	175	280	67.31	40.23	59.77					
		Hay River	88	123	0	211	310	68.06	41.71	58.29					
		Hay River	49	89	1	139	254	54.72	35.51	64.49					
		Hay River	108	153	1	262	352	74.43	41.38	58.62					
		Hay River	86	163	0	249	384	68.41	34.54	65.46					
		Total	549	887	4	1440	2077	89.33	38.23	61.77					
		nuvk													
		nuvk Advance Poll	15	29	0	44	510	56.67	34.08	65.91					
		nuvk	151	137	1	289	177	54.24	53.68	48.32					
		nuvk	51	44	1	96	189	102.65	41.75	59.25					
		nuvk	81	113	0	194	360	58.33	55.71	44.29					
		nuvk	117	93	--	210	247	83.40	39.81	60.19					
		nuvk	82	124	--	208	202	74.28	53.69	48.31					
		nuvk	80	69	1	150									
		Total	577	809	3	1189	1685	70.56	48.65	61.35					
		Deftm													
		Aldavik	89	31	1	131	241	54.36	76.15	23.85					
		Aldavik	86	24	1	111	204	54.41	78.18	21.82					
		Fort McPherson	100	18	1	119	167	71.26	84.75	15.25					
		Fort McPherson	174	27	0	201	171	117.54	89.57	13.43					
		Arctic Red River	34	13	1	48	98	48.98	72.34	27.66					
		Total	483	113	4	610	881	69.24	81.35	16.65					
		Nahendeh													
		Wildey	10	66	0	76	128	58.91	13.16	86.84					
		Nahanni Butte	4	31	0	35	60	58.33	11.43	88.57					
		Fort Simpson Advance Poll	15	32	0	47	345	31.91	88.09						
		Fort Simpson	76	113	2	191	345	55.36	40.21	58.79					
		Fort Simpson	96	109	4	208	388	53.81	47.06	52.94					
		Jean Marie River	18	2	4	23	30	76.67	78.26	21.74					

APPENDIX C: THE NATIONAL ABORIGINAL RESULTS

FEDERAL REFERENDUM:

UNOFFICIAL RESULTS BY SPECIFIC ABORIGINAL COMMUNITIES

Prepared by Elections Canada 28 Ott 1992, 10:05am

<u>PROVINCE</u>	<u>TOTAL VOTES</u>	<u>TOTAL YES</u>	<u>% YES</u>	<u>TOTAL NO</u>	<u>% NO</u>	<u>TOTAL REJECT</u>	<u>% REJECTS</u>
Nfld .	317	235	74.1%	82	25.9%	0	0
N.S.	2537	986	38.9%	1542	60.8%	9	0.4%
P.E.I.	415	285	68.7%	127	30.6%	3	0.7%
New Brun.	3284	1892	57.6%	1363	41.5%	29	0.9%
Ont.	12986	4161	32%	8731	67.2%	94	0.7%
Man.	10554	1876	17.8%	8609	81.6%	69	0.7%
Sask.	12182	5660	46.5%	6464	53.1%	68	0.5%
Alta.	7263	1487	20.5%	5744	79.1%	32	0.4%
B.C.	41447	12279	29.6%	29020	70.0%	148	0.4%
Yukon	3049	1406	46.1%	1626	53.3%	17	0.6%
NWT	16981	11236	66.2%	5598	33.0%	147	0.9%
TOTAL :	111015	41503	37.4%	68906	62.1%	606	0.5%

UNOFFICIAL RESULTS									
TIME 04:21 PM									
Federal & NWT Polling Stn. Community									
Yes : : : : 1 No									
Rejected									
Total									
Total Voters									
on List									
% turnout									
% yes									
% no									
Constituency									
Total NWT									
Total Number of Polling Stations:									
150									
Number of Polling Stations reporting									
150									
Time									
04:21 PM									
SPECIAL SUBTOTALS									
WESTERN TERRITORY									
Inuvialuit									
		478		171		4		653	
		478		14996		69.21		46.13	
Tax-based communities (excl. Ft. Simpson)									
		478		5568		42		10378	
Dene/Metis									
Treaty 11									
		493		113		4		610	
		81.35		69.24		881		881	
Gwich'in (incl. Akavik, excl. Inuvik)									
		529		96		16		641	
		84.64		63.84		1.004		84.64	
Saitu (excl. Norman Wells)									
		755		165		9		929	
		82.07		67.91		1.368		82.07	
Dogrib (excl. Dettah)									
		465		565		7		1.037	
		52.64		1970		52.64		45.15	
Deh Cho (incl. Ft. Simpson)									
Treaty 11 (incl. Dettah)									
		8		75		1		84	
		90.36		75.68		111		75.68	
Dettah									
		94		172		5		281	
		65.94		34.06		51.18		34.06	
South Slave (excl. Ft. Smith)									
		257		1196		42		3582	
		33.79		66.21		60.89		5883	
Treaty 8 Total									
		7590		6935		88		14613	
		47.75		52.25		66.82		21868	
WESTERN TERRITORY TOTAL									
NUNAVUT									
Baffin region (excl. base camps and NWS sites)									
		3901		1235		26		5162	
		24.05		75.95		80.62		6403	
Keewatin region									
		1801		522		54		2377	
		22.47		77.53		80.55		2951	
Kukuiot region									
		1195		394		9		1598	
		24.80		75.20		75.16		2126	
NUNAVUT TOTAL									
		6897		2151		89		9137	
		23.77		76.23		79.59		79.59	