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SUBMISSION OF MAKIVIK CORPORATION

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I N T R O D U C T I O N

Makivik Corporation welcomes the opportunity to express to the Joint Committee of the Senate and House of Commons the views and proposals of the Inuit of Northern Quebec on the 1987 Constitutional Accord.

Makivik Corporation was created under the James Bay and Northern Quebec Agreement and incorporated by statute (R.S.Q., c. S-18.1). Its objectives include the promotion and protection of the rights and interests of Inuit of Northern Quebec and the ensuring of the implementation of the Agreement on behalf of its Inuit beneficiaries. For the last decade Makivik has been a member of the Inuit Committee on National Issues (ICNI), the national body representing Inuit in the national constitutional reform process respecting aboriginal rights. Makivik has participated in all the First Ministers' Conferences on Aboriginal Constitutional Matters convened under Parts IV and IV.1 of the Constitution Act, 1982.

The 1987 Constitutional Accord is the second First Ministers' agreement since patriation to have as its object the amendment of the Canadian Constitution. As Honourable Senators and Members are aware, the first amendment was made in 1984 following the signing of the 1983 Constitutional Accord on Aboriginal Rights at the conclusion of the 1983 First Ministers' Conference. Three more First Ministers' conferences were to ensue without resolution of the outstanding items in the 1983 Accord, and in particular without agreement on self-government.

Makivik acknowledges the importance of this second amendment to the Canadian Constitution because it recognizes the political desirability of governments' coming to terms with the demands of Quebec. We therefore wish to state at the outset our support in principle for this amendment, to the extent that it has made

possible Quebec's endorsement of the terms of the 1982 Constitution Act. We are pleased that the government of Quebec will now become a full participant in the constitutional amending process, especially because its absence has created a number of difficulties for Inuit in Northern Quebec and throughout Canada. Because of the constraints imposed by the amending formula rules, several proposals tabled by participants at the four First Ministers' conferences on aboriginal issues failed for lack of sufficient consensus. With the full participation of all ten provinces, the issues left unresolved at the end of the 1983-87 aboriginal constitutional reform process may now have a better chance of being dealt with satisfactorily.

However, a number of provisions in the 1987 Constitutional Accord cause concern for Inuit in Northern Quebec and throughout Canada. The implications of some of the proposed amendments are sufficiently serious to compel us to submit this brief to the Joint Committee. In Part I we will attempt to describe what we believe to be the major implications of the Constitution Amendment, 1987, which will have far-reaching effects on the rights of Inuit in Northern Quebec and on our ongoing relationship with the federal government. We propose to comment on the following in particular: the "distinct society" clause, the immigration provisions, the shared-cost programs clause, and the increased incidence of the unanimity rule with respect to the amending formula.

Part II of the brief addresses what for Northern Quebec Inuit is the major omission in the 1987 Constitutional Accord — the failure to provide for further constitutional conferences on the rights of aboriginal peoples. The Accord contains provisions for a "second round" of constitutional talks to institute a permanent annual First Ministers' conference to deal with unresolved constitutional issues. Conspicuously omitted in the list contained in proposed section 50(2) is the issue of aboriginal constitutional

reform. We deplore this failure to include aboriginal issues on a constitutional reform agenda that will be operative for decades to come. We will present a proposal to remedy this situation, a proposal which we believe will adequately cover our concerns and which could be incorporated into the 1987 Constitutional Accord without changing its basic principles.

We wish to emphasize to this Committee that the unresolved issues relating to Inuit and other aboriginal peoples and to their rights as provided for in the Constitution, must be addressed by all governments in Canada with a due sense of urgency. Aboriginal rights and freedoms are not sufficiently clarified in the Constitution. With the failure of the 1987 First Ministers' Conference, the aboriginal constitutional reform process has been left to die. A fully articulated set of provisions concerning aboriginal rights and freedoms was not developed in Part II of the Constitution Act, 1982. What this means is that, in effect, a whole class of Canadian citizens, the aboriginal peoples, have had their rights relegated to a legal limbo. Unless the reform process is revived, the highest law of the land will be unclear concerning the basic rights and freedoms of Inuit and other aboriginal peoples.

This lack of clarity does incalculable damage. The land claims process has to date failed to provide a successful set of mechanisms for resolving issues of land and resources, and no settlement will be possible until a clear legal foundation is provided in the Constitution. Aboriginal peoples have therefore not been able to adequately secure their rights to a land base and to its resources, and there has at the same time been an inability to negotiate and implement satisfactory forms of aboriginal self-government. What is more, economic development in aboriginal homelands has been impeded by this lack of clarity: developers and aboriginal peoples alike are unsure of their respective rights and responsibilities. Makivik strongly believes that the crisis

affecting the relationship of Inuit and other aboriginal peoples on the one hand and governments on the other hand, stems from this basic uncertainty at the heart of the Canadian Constitution.

The objective of the aboriginal constitutional reform process was to deal with this uncertainty and to attempt to resolve it at the highest level of Canadian law. In its present form, the 1987 Constitutional Accord has completely neglected the aboriginal constitutional process. For Northern Quebec Inuit, this signals that governments have no desire to resume the process and to continue dealing with the major issues affecting Inuit and other aboriginal peoples. Makivik believes that the failure of governments to address these issues on the constitutional level will prove to be harmful. It will serve to perpetuate the outstanding grievances of all aboriginal peoples in Canada, as demonstrated in the high unemployment and crime rates and the dependency and sense of despair in the aboriginal homelands and communities. The relationship between governments and aboriginal peoples cannot be fully resolved by band-aid solutions at the community level; it requires elaboration in the Constitution itself.

It is in this perspective that Makivik believes the Special Joint Committee should address the concerns raised in this brief.

I

1. The "distinct society" clause

Clause 2 of the Accord adds a new section 2 to the Constitution Act, 1867. This section contains an interpretation provision that will apply throughout the Constitution and will oblige the courts to construe every provision of the several Constitution Acts (including the Canadian Charter of Rights and Freedoms) in the manner proposed by the clause.

The final legal draft incorporated significant changes to the wording of the text of this clause as it appeared in the Meech Lake communiqué of April 30, 1987. Some of the concerns generated by the earlier provision, which Makivik expressed in its brief on May 21, 1987, to the Quebec legislative committee studying the Meech lake communiqué, have in part been met. For example, the alteration of section 2(1)(a) to refer to two groups of Canadians rather than to two Canadas, and the insertion of the saving clause in s. 2(4), go some way to addressing the concerns that Northern Quebec Inuit had with the earlier provision.

The most significant alteration with respect to this clause is found not in section 2 itself, but in section 16 of the Constitution Amendment, 1987. Section 16 is a non-derogation clause inserted to meet the concerns expressed by practically all aboriginal peoples. It stipulates that section 2 will not affect the constitutional provisions referring to aboriginal peoples and their rights. In our brief to the Quebec legislative committee we called for a non-derogation clause. Makivik is therefore pleased to support section 16. In our opinion, it was absolutely necessary that aboriginal rights be protected from the interpretation provisions of s. 2.

Our brief to the Quebec Commission des institutions, the public statements of ICNI and other Inuit organizations, and the response in our communities this past Canada Day, all reveal the degree to which Inuit felt that the 1987 Constitutional Accord may seriously erode Inuit rights. As it stands, section 16 of the Accord will only serve to insulate aboriginal rights from section 2. Our criticism of the vagueness of the wording of section 2 and our apprehensions regarding its effects have not been dealt with fully.

We continue to believe that it is entirely unacceptable to entrench in the Constitution a principle which ignores the existence in Canada of the distinct societies of its aboriginal peoples. The federation is made up of more than the two major language groups; aboriginal peoples and their languages and cultures should also be recognized as a "fundamental characteristic of Canada". A non-derogation clause is the bare legal minimum for limiting the potentially detrimental effects of s. 2 on Inuit rights and interests; the Constitution should also contain a positive affirmation of the distinctiveness of aboriginal societies and their languages and cultures.

Inuit occupy a distinct territory in Canada, share a common language throughout the Arctic, and are a majority in most of their traditional homelands. The Constitution should recognize the dynamic, evolving nature of Inuit culture: Inuit aspirations must be reflected in the Constitution and in any arrangements for realizing self-government in our homeland. The Inuit homeland in Canada is relatively well-defined — Makivik believes that this should enable governments to more readily recognize Inuit rights and aspirations for self-government and the protection of our lands and resources. In our opinion, this issue should be more fully addressed in ongoing constitutional discussions involving aboriginal peoples and their representatives. Makivik's proposals on this subject will be set out in Part II of this brief.

2. The amendments respecting immigration and aliens

The Constitution Amendment, 1987 adds provisions dealing with federal-provincial agreements on immigration and aliens to the 1867 Constitution Act. Agreements reached between both levels of government may be constitutionally entrenched in accordance with the new section 95B. Under clause 2 of the 1987 Constitutional Accord, the federal government will immediately undertake negotiations toward concluding such an agreement with Quebec.

In its brief to the Quebec legislative committee studying the Meech Lake communiqué, Makivik pointed out that Northern Quebec Inuit enjoy relations with other Inuit not only on the national but on the international level. The international aspect of Inuit circumpolar relations has recently been recognized by the Special Joint Committee on Canada's International Relations in its Final Report (Independance and Internationalism, June 1986, pp.127-130). The Report sets out a number of recommendations for improving foreign policy initiatives in the Arctic, recommendations accepted by the federal government. Makivik has endorsed the Report with regard to the need to place more emphasis on circumpolar issues and to involve Inuit more fully in foreign policy endeavours.

Makivik is concerned that Inuit circumpolar relations may be prejudiced by the proposed sections on federal-provincial agreements regarding immigration and aliens. Changes in immigration policy may be negotiated by Ottawa and Quebec City and be entrenched in the Constitution without involvement by any Inuit organization, national or regional. Such agreements may have far-reaching implications for Inuit. For example, Inuit wish to encourage circumpolar exchanges of students and temporary workers, and to promote Inuit immigration from other countries. A constitutionalized agreement between Canada and Quebec stipulating that all foreign nationals, students, teachers and temporary workers must have or acquire adequate knowledge of French would seriously

affect Inuit circumpolar relations, and could influence foreign policy initiatives in the Arctic as well.

It is important for this Committee to fully appreciate that Inuit throughout the Arctic consider themselves as a single family. Inuit are a basically nomadic people, and look with deep suspicion on any law which attempts to restrict and to limit their circumpolar relations with their sisters and brothers in other countries. Canadian Inuit exchanges with fellow Inuit in other countries strengthen the deep cultural bonds that have long existed in the circumpolar world. It is for this reason that we must oppose the amendment contained in the Accord.

Accordingly, Makivik stresses that this issue must be fully addressed in an ongoing constitutional process involving Inuit and other aboriginal peoples. In future constitutional discussions, a mechanism should be provided for further participation by Inuit in matters which particularly concern them, such as immigration. This would enable Inuit concerns to be fully dealt with, in line with the recommendations of the Report of the Special Joint Committee.

3. The clause on shared-cost programs

The 1987 Constitutional Accord proposes the insertion in the Constitution Act, 1867 of section 106A dealing with the federal spending power and national shared-cost programs. Makivik expressed its opposition to this amendment in its brief to the Quebec committee, and continues to oppose the clause as it stands in the Accord. Our concerns with the clause stem from the vague wording of s. 106A and the long-term implications of what we believe will be an inevitable weakening of the federal spending power.

The debate on the meaning of the term "national objectives" is by now well-known and needs no further elaboration. Makivik, along with many other organizations, is not convinced that the term will allow for the establishment of a set of national standards respecting future shared-cost programs. This may indeed have a checkerboard effect on nationally based and publicly supported shared-cost programs. As aboriginal people living as a minority in Quebec, Inuit can only contemplate such a possibility with dismay.

Inuit are also concerned with the long-term effects on the federal spending power. We have made it quite clear in the past, and do so again today, that any decrease of the federal responsibility toward Inuit is unacceptable to Inuit. The James Bay and Northern Quebec Agreement contains hard-won guarantees respecting the overall federal trust responsibility and a continuing federal presence in the form of programs and services (sections 2.11, 2.12 and 29.0.2 are the key provisions). Northern Quebec Inuit are not prepared to see these guarantees eroded by section 106A.

Those who support the amendment have argued that there will be no effect on aboriginal peoples, since the provision limits the fiscal capacity of the federal government to intervene (by way of shared-cost programs) in areas of exclusive provincial jurisdiction. While this is technically true, it ignores the fact that the ambit of the federal power with respect to aboriginal peoples (section 91(24) of the 1867 Constitution Act) is not clearly delineated in the case law. Consequently many provinces, and Quebec in particular, object to federal initiatives under s. 91(24) in areas they perceive as their own jurisdiction. Examples that come immediately to mind are education and social services. No definitive ruling by the Supreme Court of Canada has determined the extent of federal jurisdiction over such areas in relation to aboriginal peoples.

Inuit therefore believe that their rights and interests may be significantly compromised by these new restrictions on the federal spending power. For example, should a national shared-cost program be put into effect to promote regional economic development, and a province — Quebec for instance — decide to opt out, what would the effect of s. 106A on Northern Quebec Inuit be? What would be the effect of this clause on the federally guaranteed programs under the James Bay and Northern Quebec Agreement? Unless the shared-cost program could be supported under s. 91(24), which is impossible, the province would be able to set up its own program and receive "reasonable compensation". And should the province decide to favour one or more regions at the expense of Northern Quebec, or to enact criteria for entitlement which in practice would leave Northern Quebec ineligible to receive benefits, there is nothing the federal government could do to impose a national standard with respect to entitlement to services under the program.

We have used this example precisely because the federal government has already stated that it wishes to withdraw from all forms of direct intervention in regional economic spending (see Le Devoir, 19 May 1987, page 1). Cash transfers will be granted and may even be increased under the economic and regional development agreements (ERDA) that Ottawa has negotiated with the provinces, but the province will enjoy complete discretion as to how and where the monies will be spent. While for some this decision will be said to promote federalism, it will not provide Inuit living in the provinces with any guarantee that the economic needs of their regions will be properly satisfied.

Consequently, Northern Quebec Inuit do not look on the proposed restrictions on the federal spending power as beneficial: in the long term, it will result in a decreased federal fiscal responsibility and will render Inuit initiatives promoting self-government in Northern Quebec more problematic. Our criticisms

of this clause should not be taken to imply that Inuit do not seek greater powers and increased authority to run their own affairs. On the contrary, Inuit see self-government and the adequate fiscal resourcing of their governments as means of securing greater autonomy, not greater dependency on non-aboriginal governments, federal or provincial. Inuit therefore believe that the federal trust responsibility toward aboriginal peoples can coexist with the increased autonomy and authority of aboriginal peoples over their own affairs, and over their homelands and resources.

4. Extension of the unanimity rule

The 1987 Constitutional Accord makes a major change to the amending formulas contained in Part V of the Constitution Act, 1982. Sections 41 and 42 have been rolled into one provision (s. 41), and unanimity will be required for all matters listed therein.

This will have damaging effects on the creation of new provinces in the territories. As Honourable Senators and Members know, Inuit in the NWT have for many years been working toward division of the Territories and the creation of Nunavut, a territory that will cover most of the area north of the treeline and promote Inuit aspirations to self-government.

The proposed amendment will seriously jeopardize constitutional development in the NWT. While Parliament retains its authority to create a new territory such as Nunavut (under the terms of the Constitution Act, 1871), it would now have to obtain the unanimous support of the provinces to make Nunavut a province.

This has become a controversial issue. Court actions have been launched in Whitehorse and Yellowknife; a day of debate has been devoted to it in the House of Commons; Inuit and other

political leaders in the territories have denounced the new rule as condemning residents in the territories to permanent, second-class status within Canada. Some Inuit communities refused to participate in this year's Canada Day ceremonies.

Makivik condemns this amendment as well. The constitutional evolution of Nunavut toward provincehood will clearly be thwarted by the proposed amendment. It is highly unlikely that all ten provinces would agree to provincehood for the territories unless substantial and probably prejudicial concessions were to be made by the province-to-be. In the case of Nunavut, it is very likely that some provinces would seek to exact some such quid pro quo as an alteration of the territory's boundaries in exchange for their consent.

The amendment is not conducive to better federalism; it reeks of colonialism and paternalism. No other federation with a political system comparable to Canada's (for example, Australia or the United States) has such a stringent requirement for the admission of new states into the union. This is quite simply unacceptable in a democratic federal state.

II

1. Review of the aboriginal constitutional reform process

Four First Ministers' conferences dealing with aboriginal constitutional matters have been held since patriation. All but one were provided for under either section 37 or 37.1 of the Constitution Act, 1982. At the close of the 1987 conference, despite the requests by the leaders of the four national aboriginal organizations, the Prime Minister adjourned the meeting without plans for future conferences having been made.

Although the four conferences failed to resolve the major constitutional concerns of the aboriginal peoples, and in particular failed to arrive at an agreement respecting aboriginal self-government, it would be short-sighted to conclude that this constitutional reform process was a mistake, a misguided attempt to resolve centuries of injustice through discussions at the highest level. Since the 1983 Conference all governments in Canada have become vastly more aware of aboriginal issues and concerns. Public opinion, at first vaguely sympathetic, has now become highly supportive of aboriginal concerns. The results of the public opinion poll that ICNI commissioned in the months prior to the 1987 Conference show that most Canadians rank aboriginal issues as a major item of unfinished constitutional business.

There has, most importantly, been a marked consensus among participants in the section 37.1 process on the major elements of a possible amendment dealing with self-government. The federal government and a majority of provinces agree that the Constitution should provide for (1) a statement of the right of aboriginal peoples to self-government; (2) a commitment by governments to negotiate agreements on the community or regional level with the aboriginal peoples concerned; and (3) protection of the

concluded agreements so that unilateral modification by legislatures cannot occur. That the 1985 and 1987 Conferences did not end in agreement on self-government was due less to failure in resolving questions of principle than to failure in arriving at precise wording that would satisfy the concerns of all. There were only two major issues left unresolved at the end of the 1987 Conference — the legal effect of a statement of the right of self-government and the role of the provinces in granting constitutional protection to any agreements on self-government.

It is therefore clear to Inuit that, with the participation of all provinces in the constitutional amending process, agreement on self-government for aboriginal peoples is not a distant goal. A great deal of positive work has been accomplished in the last five years of constitutional negotiations. To postpone discussions on aboriginal rights to an indefinite future is to fail to capitalize on the progress made to date.

2. Effect on aboriginal constitutional issues

Section 13 of the Constitution Amendment, 1987 repeals Part VI of the 1982 Constitution Act and substitutes a new part entitled "Constitutional Conferences". Annual First Ministers' conferences are provided for in proposed subsection 50(1), their agenda being set out in subsection 50(2). Aside from Senate reform and fisheries, no other agenda items are stipulated; however, paragraph 50(2)(c) provides that other matters "as are agreed upon" may be discussed at future conferences.

The reaction of Inuit throughout Canada to the dropping of aboriginal issues from the constitutional agenda has been uniformly negative. All Inuit leaders have condemned this unexplained omission. Inuit, along with other aboriginal peoples, see this

as demonstrating a marked lack of good faith and political will with respect to aboriginal interests and concerns.

It is evidently difficult for governments to respond to these criticisms, particularly in the light of the successful conclusion of the 1987 Constitutional Accord. The marked effort made by First Ministers to accommodate the concerns of the Quebec government has been widely and favourably commented upon by the Accord's supporters. The contrast with the 1987 Conference on aboriginal matters, adjourned after only a day and a half of discussions, is striking. Supporters of the 1987 Constitutional Accord have also had a difficult time explaining why governments objected to entrenching aboriginal self-government on the ground of vagueness and yet had no problem agreeing to entrench the "distinct society" clause, which is anything but clear in meaning.

Since the conclusion of the 1987 Constitutional Accord, the Prime Minister and the federal Minister of Justice have stated that a constitutional conference on aboriginal matters will be convened at an opportune time. As Inuit see it, the issue is how the federal government will determine what is opportune when no process has been instituted to allow for the kind of discussions needed to make that kind of assessment: Inuit see a catch-22 here.

Moreover, the dropping of the aboriginal reform process from the Constitution as a result of the repeal of Part IV.1 of the Constitution Act, 1982 and its omission from the Constitution Amendment, 1987 will have long-term repercussions on the relations between aboriginal peoples and non-aboriginal governments. With a process in place to deal with constitutional issues relating to aboriginal peoples, there was an expectation that aboriginal concerns would be discussed and solutions found at the highest political level. That the 1987 Constitutional Accord is completely silent on the resumption of these constitutional discussions has signified for Northern Quebec Inuit that aboriginal matters have

quite simply been left off the constitutional agenda for the foreseeable future. It is equally disturbing that no provision is made nor assurance provided that these issues will again be considered by First Ministers.

Some have said that aboriginal issues can be accommodated within proposed section 50 under the all-purpose clause of paragraph (2)(c), which states that aboriginal matters can become an item "as agreed upon" by First Ministers. There are two problems with this: the involvement of aboriginal representatives would not be constitutionally provided for (in contrast to the now repealed subsections 37(2) and 37.1(2)); and the determination of what would be "agreed upon" could be subject to unanimity among the First Ministers. For these reasons, a more specific provision is required.

3. Proposal for resumption of process

Makivik believes that a resumption of the aboriginal constitutional process must be expressly provided for in the 1987 Constitutional Accord. It will be impossible to determine the appropriate moment for a First Ministers' conference without putting a mechanism for such a process in place. Furthermore, this process must be explicitly recognized in the Constitution itself, so that aboriginal peoples may be assured in law that this commitment will be honored by all governments.

Makivik accordingly proposes that Part IV.1 of the Constitution Act, 1982 be reenacted by Parliament and the requisite number of provincial legislatures. Part IV.1 was repealed by section 54.1 of the 1982 Act on April 17th of this year. Revival would be relatively uncomplicated, in drafting terms at least, since it would merely be a matter of reenacting a section that had previously been embodied in the Constitution.

Our proposal has the advantages alluded to above. Section 37.1 contained a commitment to hold further constitutional conferences, and subsection 37.1(2) provided for aboriginal representation in the discussions. The section thus provided a complete and coherent code of legal provisions dealing with constitutional conferences relating to aboriginal matters. It would therefore be preferable for section 37.1 to be independent of Part VI and section 50.

Under the section 37.1 process, ongoing discussions took place at the officials' and ministerial levels. Such discussions were often necessary to acquaint participants with the various proposals tabled and to allow for exploratory talks on various issues. Revival of the section 37.1 process would therefore bring about a resumption of background discussions by officials and, when required, by ministers.

The final element to be considered is the scheduling of future conferences on aboriginal issues. For many reasons, this should be left as open as possible. In Makivik's opinion, at least one constitutional conference should be provided for, to be convened within the next three to five years. This would provide flexibility, enabling all participants to determine at what stage discussions might be sufficiently advanced to convene a conference. Such a timetable would also allow for background discussions before any First Ministers' conference is held. Parties should not be locked into a timetable that does not suit their needs and does not permit the issues to be fully developed. It is clear that positive work can be done on the obstacles that prevented agreement last March.

The provision should be drafted widely enough to permit future First Minsters' conferences in the event that a conference succeeds in agreeing on some items but lacks the time to fully consider and resolve others. However, some time frame must be

set by the amendment so that all participants will have a fair idea of how to proceed. The suggestion of at least one conference within the next three to five years has been made with this consideration in mind. Makivik is certainly open to other proposals, as long as it is clear that the constitutional reform process dealing with aboriginal peoples will be revived. It is of the utmost importance that aboriginal matters do not disappear from the constitutional agenda, as the present wording of the 1987 Constitutional Accord would seem to imply.

Although the last three conferences on aboriginal constitutional matters focused on self-government, there are a number of other items listed in the 1983 Constitutional Accord which have not received sufficient attention, rights relating to language and culture in particular. A renewed process would enable all parties to engage the unfinished business of the 1983 Accord.

The agenda of future constitutional conferences stipulated in the Constitution Amendment, 1987 consists first of Senate reform and fisheries. These questions are clearly of major interest to the aboriginal peoples. Aboriginal rights and interests may be affected by proposed modifications of fisheries jurisdiction and responsibilities. Representation in the Senate of Inuit and other aboriginal peoples is also an issue which must be fully discussed with aboriginal peoples. A revived section 37.1 process would be the best forum for considering these matters within a framework and according to a timetable suitable to all participants.

There is another advantage of an entrenched ongoing process dealing with aboriginal issues at the First Ministers' level — its ability to deal with questions that may arise with respect to the implementation at the local or regional level of constitutional amendments concerning aboriginal rights and interests, in particular self-government. Many governments indicated

during the last round of constitutional talks that in order to properly fulfil a commitment to negotiate aboriginal self-government, it would be useful to convene meetings at the national level. These meetings would consider the experience of various parties at the local or regional level to determine whether the negotiated agreements would provide guidance to other governments and aboriginal communities. Furthermore, such an ongoing process would be able to review and monitor the implementation of aboriginal self-government in Canada. The proposal to extend the aboriginal constitutional reform process to issues arising from the unfinished business of the 1983 Constitutional Accord on Aboriginal Rights would therefore benefit all signatories to the Accord.

C O N C L U S I O N

We have in this brief attempted to highlight Makivik's major concerns with the 1987 Constitutional Accord. Part I examined the deficiencies of some of the clauses in the Accord and Part II set out a proposal for a renewal of the aboriginal constitutional reform process. Inuit interest in the reform of the Canadian Constitution is well known. In the last decade, Makivik and other Inuit organizations have been involved in constitutional issues; our proposals for constitutional reform have received acceptance and praise in many quarters.

The provisions of the 1987 Constitutional Accord are far-reaching in their potential impact upon the rights, interests and aspirations of Inuit. The danger that aboriginal issues will disappear from the constitutional reform agenda in this country is in itself a serious enough issue to justify our intervention before this Committee. We believe that the matters raised in our brief must receive the thoughtful consideration of Honourable Senators and Members; otherwise a serious injustice may be caused to our people.

If the 1987 Constitutional Accord succeeds in bringing about Quebec's participation in the constitutional reform process, it would be a result that all Canadians, including Inuit, could applaud. Nothing in this brief should be understood as an attack on that principle. At the same time, the Accord must not prejudice our rights, interests or aspirations; it must not create a state of affairs in which we see our concerns disappear from the national agenda. We believe that the Accord can be modified to incorporate our proposal for a renewed constitutional process and meet our other concerns.

We stated in the introduction to this brief that without a constitutional process in place to deal with the critical issues

affecting Inuit and other aboriginal peoples, incalculable damage will be done to all concerned, aboriginal and non-aboriginal alike. The lack of clarity in the highest law of the land regarding our rights and freedoms is a constant reminder that we are, within Canada, "strangers in our homelands". This legal uncertainty also means that federal and provincial governments are uncertain of their rights and responsibilities with regard to aboriginal peoples, and waste valuable time and resources in squabbles that do nothing to benefit us. Land claims and other processes that have been instituted by governments to deal with issues such as our lands and their resources have to date failed to produce lasting and acceptable results. And while this unsatisfactory state of affairs persists, our homelands continue to experience high rates of crime, suicide and unemployment.

The constitutional reform process offered a forum and an opportunity for Canada's first ministers and aboriginal leaders to elaborate provisions that would enshrine our rights and freedoms in the Constitution. It offered a forum for Inuit to seek new and constructive ways to respond to the challenges of the present and future. Agreement at the constitutional level would be binding upon all and would enable parties, aboriginal and non-aboriginal, to negotiate and conclude agreements respecting lasting forms of self-government and enduring measures to protect and maintain aboriginal homelands and their resources. The ongoing relationship between aboriginal peoples and Canadian governments is now threatened by the failure to renew the constitutional reform process as it relates to aboriginal rights and interests.

We believe that the above-mentioned defects in the 1987 Constitutional Accord make it an urgent matter for Makivik to speak out at the present time. It is in this light and for these reasons that we have submitted this brief for the consideration of the Honourable Senators and Members of the Joint Committee on the 1987 Constitutional Accord.