

JACK ANAWAK AND THE 1993 NUNAVUT LAND CLAIMS AGREEMENT

HOUSE OF COMMONS (CANADA)

Friday, June 4, 1993

GOVERNMENT ORDERS

NUNAVUT LAND CLAIMS AGREEMENT ACT

MEASURE TO ENACT

20358

COMMONS DEBATES

June 4, 1993

Mr. Jack Iyerak Anawak (Nunatsiaq):

[*(Hansard) Editor's Note: Member spoke in Inuktitut, translated as follows:*]

"The history of this land claim goes back many years. It spans several federal governments and numerous ministers of Indian and northern affairs. Very few people realize that prior to 1973 the Government of Canada did not have a policy to negotiate land claims. It was the current leader of the opposition, under whom I am proud to serve, who, when he was Minister of Indian Affairs and Northern Development, brought forward the first policy to negotiate and resolve land claims.

In 1975 the Inuit of Nunavik achieved the James Bay and Northern Quebec Agreement. The following year, in 1976, the Inuit of the Northwest Territories, as represented by the Inuit Tapirisat, presented their land claim to the federal government for negotiation. Their submission included the proposal for the creation of the Nunavut Territory.

The claim proposal was subsequently revised in 1977. In that same year, the Inuvialuit of the western Arctic filed their own land claim. In 1978 they signed an agreement in principle with the federal government and the final agreement was reached in 1984. Between 1976 and 1978 the Inuit of the central and eastern Arctic experienced difficulty with their negotiations. There was an impasse over dealing with Nunavut at the land claim table.

In 1980 a breakthrough was achieved. Agreement was reached to deal with the Inuit proposals on Nunavut through a political development process in the Northwest Territories separate from but parallel with the land claims negotiations. In 1982 the Tungavik Federation of Nunavut was formed for the specific purpose of negotiating the Inuit land claim.

In April 1990 an agreement was reached. Article 4 of that agreement in principle affirmed federal, territorial and Inuit support for the creation of Nunavut as soon as possible. In December 1991 negotiations were finalized on outstanding items in the land claims, including the creation of Nunavut. In November 1992 the Inuit of Nunavut voted to ratify their agreement.

[*Translation*]

It has been a long journey filled with many rough spots and roadblocks. I want to focus now on the actual land claim and some of the obstacles the Inuit encountered in their negotiations

with the government. From the beginning the government set out all kinds of preconditions and restrictions. In return the Inuit were more than generous.

Some of the comments I am about to make I have made on other occasions over the past several years and many of the people listening or watching today will be familiar with them. However, I feel I must restate them for the record.

[English]

First, I want to take issue with the term "land claim". It is highly inappropriate. I wish there were a better term to use but I will try to explain what I mean by inappropriate.

When aboriginal peoples talk about their lands, we are talking about our homelands. We are talking about the territories and resources upon which our people have survived for thousands of years. We are talking first and foremost about our cultures and our way of life on these territories. The land, the waters, the wildlife, and we the people, are one and the same. We are not separate from our environment. We are part of it, and it is part of us.

Yet non-aboriginal governments have looked upon land claim negotiations as real-estate transactions. This is not our view. It is difficult for us to understand the non-aboriginal concept of individual land title and ownership.

[Translation]

We see these negotiations primarily as the means to preserve our relationship with the land and ensure our survival as peoples in the larger society surrounding us. Therefore we are also talking about economic and political power. We require the economical and political means to control what happens on our lands.

In claim negotiations Inuit peoples are not seeking something that someone else already owns. We dispute that implication. We are not asking the government (Hansard, 20359) to give us something that does not belong to us. We are only seeking recognition of what is rightfully ours. We are trying to take back what was taken away from us by governments without consent in the past.

We are reasonable peoples. We have always been willing to share our lands and our resources. We recognize that all peoples and all governments must work together for the benefit of all. This is why Inuit and other aboriginal peoples have entered into land claims negotiations.

[English]

We start from the premise that we are the rightful occupants and owners of the land. The government should be asking us for permission to occupy our lands and use our resources and should negotiate with us on that basis. Instead the government takes the position that it owns the land and it believes it is being generous by sharing some of our land with us.

[Translation]

The government has never even admitted that the Inuit have aboriginal title to Nunavut. The preamble of the Nunavut claim bill begins with the following statement:

Whereas the Inuit of the Nunavut settlement area have asserted an original title to that area based on their traditional and current use and occupation of the lands, waters and land-fast ice therein accordance with their own customs and usages.

I want to say for the record that the Inuit do not just assert title to Nunavut. Our title is real. It is the Government of Canada that has asserted title to Nunavut. Our title predates any claim by the government whether the government recognizes it or not.

[Translation]

The government would not be negotiating land settlements with us or other aboriginal people it did not believe we had aboriginal rights and title. I do not know why the government refuses to acknowledge this.

[English]

I also cannot discuss this land claims settlement without repeating my objection to the extinguishment clause. The clause appears in the Certainty Section of the agreement claim as clause 2.7.1:

In consideration of the rights and benefits provided to the Inuit by the Agreement, the Inuit hereby:

(a) cede, release and surrender to Her Majesty the Queen in Right of Canada, all their aboriginal claims, rights, titles and interests, *if any*, in and to lands and waters anywhere within Canada and adjacent offshore areas within the sovereignty or jurisdiction of Canada, and:

(b) agree, on behalf of their heirs, descendants, and successors not to assert any cause of action for a declaration, claim or demand of whatever kind or nature which they ever had, now have or may hereafter have, against Her Majesty the Queen in Right of Canada, or any province, the government of any territory or person based on any aboriginal claim, rights, title or interests in and to lands and waters described in Sub-section (a). (emphases supplied)

I repeat the words "if any" from part (a).

This comprehensive extinguishment of rights was a government demand and condition for settlement. Inuit did not and do not want to extinguish their rights, but this was the price the government asked us to pay.

[Translation]

The government made sure it exacted a heavy price for rights it was not even sure we had. It did so in the name of certainty.

This land claim settlement is a good deal for the Government of Canada in another way. There is a perception that Inuit are getting the bulk of the land they claimed. That is not the case.

[English]

It is true that this is the largest land claim settlement in Canada but this is because the Northwest Territories represents about one-third of Canada and the area claimed by Inuit covers a large portion of it.

The Inuit claim encompasses two million square kilometres within the Northwest Territories. Under the land claims settlement, Inuit will have surface title to 350,000 square kilometres. Inuit will have sub-surface title to about 36,000 square kilometres within the 350,000 square kilometres.

What this means is that the Government of Canada is getting title to 82 percent of the land claimed. (Hansard, 20360) Inuit are getting title to about 18 percent of the total area claimed. If we look at the area which Inuit are getting sub-surface title, the percentage drops to about 2 percent.

[Translation]

The government ended up with so much land because it set preconditions at the outset. The government said that the Inuit could only have a certain amount of land in total. The Inuit were prohibited from making land selection in certain specific areas. The government had the power to do this because it was bigger and stronger.

Canadians should understand the tremendous power imbalance that exists in land claims negotiations between aboriginal peoples and the federal government. The federal government makes the rules. It changes the rules. It breaks the rules. It has the money and all kinds of high-power expertise at its disposal. It has armies of bureaucrats and relies on legalese.

Aboriginal negotiators do not have the same resources. They are also communicating with government representatives in a language that is not their mother tongue, and they then have to explain to their people government terms and concepts that simply do not exist in aboriginal languages. In addition, there are totally different decision-making processes involved.

While some revisions to policies and practices have been made from time to time, the system and the policies are still heavily weighted in the federal government's favour.

There are other matters in this agreement that continue to cause me concern.

[Translation]

I still think \$580 million is a small price for the government to pay for the extinguishment of Inuit rights and for 82 percent of our territory. Nevertheless that sum could be of significant benefit if invested wisely. We will have to be very vigilant and cautious.

I am also worried about the numbers of boards and institutions that will be set up under this claim. We are headed into a very complex system of administration and I hope we do not find ourselves overwhelmed and overburdened.

I also want to touch briefly on implementation. Previous claim settlements, the James Bay and Northern Quebec Agreement and the Western Arctic Inuvialuit Agreement have experienced serious implementation problems. Since an entire section of the Nunavut claim agreement is devoted to implementation, we hope to avoid the implementation problems of the past.

[English]

In this context I want to remind the government to be forever mindful of the spirit and the intent behind this agreement.

[Translation]

As I said earlier, what Inuit have tried to obtain in this agreement is a better future for our children. The right to harvest wildlife on our lands and waters throughout Nunavut is a major component of this agreement. In addition, Inuit will have equal membership with governments on institutions established to manage the land, water, offshore and wildlife of Nunavut and to evaluate the impact of development projects on the environment.

As well, the Inuit will get a share of the royalties the federal government receives from oil, gas and mineral development on Crown Lands. On lands where Inuit have surface title, Inuit will be able to negotiate with industry for economic and social benefits from non-renewable development.

[Translation]

The agreement also specifies an amount of \$13 million for a training trust fund and includes measure to increase Inuit employment within governments and to increase access to government contracts.

[English]

There is much promise here. There are opportunities to be seized. There are challenges to be faced.

[Translation]

This agreement must benefit all us Inuit. This agreement is for us. We must make it work for all. We must never forget the peoples in the communities.

We must focus on our education and training needs. We must encourage and support our youth so that we can benefit from their talents and energies. We must (Hansard,20361) integrate the wisdom of our elders. Together with the co-operation with government and all the people of Nunavut we will utilize this agreement to build the better future we envision.

[English]

I would like to complete my remarks by acknowledging again the support and hard work of the people of the Tungavik Federation of Nunavut and the Inuit Tapirisat of Canada, as well the countless number of people who have had to endure a lot of travel time or being away from their families. They spent a lot of time not quite knowing what was going to happen next but they always had the intent to get the best deal for the Inuit of Nunavut.

With that I am very confident that the Inuit of Nunavut have embarked on a future that will be beneficial to not only to the Inuit but the people of Canada."

* * *