

***‘From many peoples’ strength to the common bowl:  
Saskatchewan’s influence on the Nisga’a Treaty’***

Distinguished Guests, Ladies & Gentlemen,

It is indeed an honour to be chosen to deliver the annual Woodrow Lloyd lecture here at this great university, and I would be remiss not to begin my remarks by briefly touching on the record and achievements of this remarkable native son.

Woodrow Lloyd as you all know, was Premier in this province in the 1960s. Of Welsh background, he grew up on a farm in southern Saskatchewan during the great depression and his parents simply did not have the means to send him to university. However, he did attend teacher’s college and in 1944 he was recruited to run for office by Tommy Douglas. After winning his seat in the provincial legislature he joined the CCF Cabinet and went on to become what many consider to be one of the best Education Ministers Saskatchewan has ever had. Further, on becoming Premier, Lloyd was able to point to the province having the second highest per capita income, a growing industrial sector and the lowest unemployment rate in the country during his tenure. However, he has been referred to as ‘the underappreciated man in the history of introducing medicare’ and is perhaps best remembered for his efforts to steer the government through the medicare conflicts of 1962. It is interesting that to-day, some 44 years later, the topic of health care commands such a priority in this province and indeed throughout the country.

The Woodrow Lloyd lecture series was established to honour his commitment to public service. Past lectures have promoted and stimulated intellectual and scholarly activity, debate and exchanges in the humanities and social sciences. Further, lecturers are requested to make their presentation relevant to Saskatchewan. All of these things I have set out to do to-day and with your indulgence, I will endeavour to connect the dots.

Like the Honourable Woodrow Lloyd, I have a deep and abiding respect for the value of the public service in this country. I come by this appreciation honestly. My grandfather who’s name I carry, was a provincial public servant for more than 31 years. During that time, he was Saskatchewan’s first Deputy Minister of Labour and perhaps more significantly, was recognized as the father of credit unions in this province. My own father was Secretary-Treasurer of the Saskatoon Separate School board for the last 18 years of his career. Despite my youthful appearance, I have spent some 24 years in public service at the negotiation table working on aboriginal land claims on behalf of Her Majesty’s Federal Government. In truth it has consumed a great deal of my working life. However, nothing could have prepared me for the rewards in both a personal and professional sense that I realized through the experience. In fact, one particular set of negotiations that lead to the Nisga’a Treaty so moved me, that I wrote a book about them entitled, ***‘The World is Our Witness’***. There you have it, a shameless plug for my book perhaps, but also a way to align myself with the Hon. Mr. Lloyd and his ideals, and to introduce the theme for my remarks to-day.

I will not reiterate all of the various motivations and imperatives that provide the impetus for treaty making in Canada. That is not my subject for this occasion. Suffice it to say that I believe they are necessary, urgent and fundamental to the long term health and well being of this country and her citizens, in a political, social and economic sense. There are the inevitable detractors who point to the expense, lack of results and the energy and time consuming nature of the process and label it 'flawed'. But most courageous initiatives are 'flawed' and I'm from the school that believes that the ultimate 'flaw' would be not to be so courageous.

The Nisga'a Treaty made history for all of the right reasons. It was an act of 'nation building' pure and simple. Very much to their credit, the Nisga'a put their faith in a process that ultimately saw them negotiate their way into Canada. Like other First Nations in Canada, they end up defining us in a way we have yet to fully appreciate or understand.

But truly historical covenants like the Nisga'a Treaty do not come about without extraordinary efforts and determination from many parties to such an agreement over an extended period of time. For one thing, these were tripartite negotiations - two levels of government and the First Nation. Three very distinct sets of interests are represented at the table and getting convergence can be a daunting task. Moreover, as the profile of the negotiations becomes higher, it can also become more contentious in the public domain and that further tests the mettle of the various negotiators and participants. It therefore becomes imperative that there be strong leadership, a willingness for individuals to operate outside of their normal comfort zone and concerted efforts made towards relationship building - on the one hand with the other parties, and on the other with key stakeholders.

The challenges in concluding the final agreement and having it ratified through the political processes of the Nisga'a communities, the Provincial Legislature and the Federal Houses of Parliament, called for specialized skills and unique contributions from a wide variety of sources. In this mix were sectoral experts on forestry, fisheries and land management. Added to that were those who were adept at governance, the law, communications and finance. Finally, a well organized support staff ensured that maintaining the extensive corporate memory around the file was always a priority, and this in turn spawned numerous innovations for tracking large amounts of information. Many who became the champions of these functions were self-directed and new efficiencies and high productivity characterized their work.

Every facet of this mosaic was essential to achieving success after a long and protracted negotiation period.

And so where am I going with all of this you ask ? What possible relevance does this modern day treaty with a First Nation in north western British Columbia hold for Saskatchewan and her citizens? Well oddly enough, the answer is a great deal. Let me try and explain.

I have chosen the title for my remarks to-day after considerable thought-'*From many peoples' strength to the common bowl*'. On reflection, I have come to see that there are a number of facets - some conceptual, some tangible, of these two territories, their inhabitants and their affairs that have pronounced themselves to me during my time in public service.

The first part of the title will surely be familiar to this audience. Quite simply it is our provincial motto and its meaning is unmistakable. Our people are our greatest strength. We are an innovative and tolerant people who want to live in peace and harmony with one another and with this magnificent terrain that we call home. We value equal rights and opportunities for all. We look for input from all of our citizens. And the spirit and enthusiasm of the citizens of this great province in pulling together under an accepted set of values and ideals, was never more in evidence than during the celebrations that marked our Centennial Year. The late Woodrow Lloyd would have observed as much.

As for the second part of the title, - *the common bowl*, it is the very foundation of the Nisga'a culture. It is the paramount principle found in their 'Ayuuk', or ancient set of laws. They are committed to that principle that has sustained them and by which they govern their members. Each individual Nisga'a must acknowledge their accountability to the common bowl throughout their existence. Moreover, all Nisga'a are taught to understand that since everyone relies on the same resources and community, all must contribute. For them it is about sharing energy, wisdom, spirit, joy and sadness, and it touches all aspects of their lives. The parallels in these overriding approaches and philosophies strikes me as quite remarkable.

But there is more.....the name of this great province Saskatchewan has its origins in the Cree language. It means 'swift flowing river'. The importance of our waterways in both a historical and contemporary sense cannot be overstated. They represent a resource that is envied throughout the country and indeed around the world. In the beginning, they were the transportation corridors of the earliest explorers and fur traders. To-day they are the pristine fresh water choices of commercial and recreational fishermen, and the irreplaceable source of irrigation for grains and crops that feed many tens of millions within and far beyond, our borders.

How ironic is it then that in the Nisga'a homelands, they are known as 'the peoples of the Nass River'. The Nass River is the lifeblood of an uncommonly rich watershed. It is the third largest river in British Columbia and it ties Nisga'a villages to one another and Nisga'a lands to the sea. And like our great rivers in this province, it connects the Nisga'a past to the present.

The abundance of harvestable marine life in the Nass watershed is one of the great ecological realities of our time. Oysters, clams, crab, trout and oolichan - a finger sized member of the smelt family, are all plentiful in these waters. The oolichan also known as candlefish because when dried, they retain enough oil to burn like candles, were a staple of Nisga'a trade. The 'grease trail' as it became known, was a well travelled commercial route stretching hundreds of kilometres away from the Nass hub. However, there is no

single resource as closely tied to Nisga'a life and culture as salmon. For thousands of years the rich salmon runs of the Nass River were harvested in a manner that allowed the Nisga'a people to build and sustain their villages and to develop a trading empire that extended into the interior and ranged up and down the coast.

It should come as no surprise that the importance of the Nass River to the Nisga'a nation is constantly reinforced to this day. When the Nisga'a Final Agreement became British Columbia's first treaty in more than 100 years, it marked a transition from the Nisga'a Tribal Council to the Nisga'a Lisims Government. 'Lisims' is the Nisga'a word for the Nass river. By naming their supreme governing body after the river, they do it great honour and leave no doubt about its pre-imminent place in their existence. And if further proof were needed there is the '*Nisga'a Lisims Conservation Trust*' for the management of their fisheries and the '*Lihlkism Lisims*' or '*Protector of the Nass*', an impressive, aluminium patrol boat that is the flagship of their fleet and the main vessel used for carrying out swift water rescues.

But let's move on to something that I find even more thought provoking.....

It is one of the more fascinating aspects of the Nisga'a Treaty experience for me personally, that many individuals from our great province had more than a passing connection to this milestone in government/aboriginal relations. In so many instances, this province of Saskatchewan was either the incubator, or the home to many who had an inordinate amount of influence on the outcome of this precedent setting agreement. In some cases they were advocates who exerted themselves and used their high and responsible offices to support both the negotiation and ratification phases of the process. There were also those who brought the full weight of their station to ensure that no agreement before or since, would ever have the same level of scrutiny that this deal had. And then there were some who gave generously of their time, energy and exceptional ability to bring about an end product where tradition and modernity were reconciled, and where reason triumphed over fear and embedded interests.

To illustrate this point, one must go back to the real awakening to aboriginal rights and title in this country and it occurred in 1973. The now famous '*Calder*' decision in the Supreme Court of Canada was lead by its star plaintiff and the President of the day of the Nisga'a Tribal Council, Frank Calder. One of the judges of the high court hearing that case was Mr. Justice Emmet Hall. Although born in Quebec, he lived and worked for the great majority of his life in Saskatchewan (in fact, he was a graduate of the University of Saskatchewan). He went on to become the Chancellor of the University of Saskatchewan later in his career. If the truth be known, there was a strong suggestion that this legal giant was considering stepping down before the '*Calder*' case reached the high court. However, the case so intrigued him that he delayed his plans and the result was monumental. Hall's opinion in the Calder decision concurred in by two other justices, came down on the side of the Nisga'a having pre-existing title. His argument was one of the compelling reasons that the Prime Minister of the day, Pierre Elliott Trudeau, changed his mind. Up until that point, Trudeau had said that when it came to aboriginal

land claims, his answer was 'No, they are historical might-have-beens'. Hall did retire from the high court in 1973.

Another interesting aspect of this period in Canadian history involved the pronouncements by one of the most prominent political figures our province has ever produced, the Rt. Hon. John Diefenbaker. He supported his University classmate Emmet Hall and chastised Trudeau. Trudeau's Justice Minister of the day, the Hon. Otto Lang, another native son (a former Dean of Law at the University of Saskatchewan) once the court's decision was rendered undertook to work with the Indian Affairs Minister, Jean Chretien on how to address the pressing issue of Indian Claims and the Nisga'a claim in particular.

That reversal of policy led to the commencement of negotiations between the Nisga'a and the Federal Government in 1976 and brought a host of others from this province into contact with both the issue and the First Nation. And while this is not meant to be an exhaustive list, they included individuals like the Hon. Davey Stuart, a Liberal Senator (who became involved in land claims negotiations), Tom Shoyama, then Deputy Minister of Finance and his Assistant Deputy Minister Al Johnson, and Dr. Lloyd Barber, the first Federal Indian Claims Commissioner, and a former President of this University - each and everyone calling Saskatchewan home.

Much later, and once the Province of British Columbia joined the negotiations, individuals like John Sinclair, a former Saskatchewan public servant, became Senior Assistant Deputy Minister at Indian & Northern Affairs Canada in charge of Comprehensive Claims and the Nisga'a file. He quarterbacked the negotiations through to their successful conclusion within government, and his leadership and influence with federal policy over many years was most significant. Clare Beckton another Saskatchewan native, was Assistant Deputy Attorney-General at the Federal Justice Department. Her work particularly around the 'certainty' provisions in the final agreement, was pivotal to the success we had in meeting the interests of the other two parties on that critical issue. A Saskatchewan 'brother act' also figured prominently during this same period. Wayne Wouters was federal Deputy Minister of Fisheries and Oceans, a most critical portfolio for the Nisga'a Final Agreement and his brother Gary was Associate Deputy Minister at Indian & Northern Affairs Canada at the same time.

In the British Columbia government of Premier Glen Clark, no individual was more engaged with this file than Doug MacArthur. This University of Saskatchewan graduate was first the provincial Deputy Minister of Aboriginal Affairs and then, the Premier's own Deputy Minister. Much earlier he had been Premier Allan Blakeney's Deputy Minister.

Of course when we were into Ottawa to ratify bill C-9 before both Houses of Parliament, the Hon. Ralph Goodale and Senators Raynell Andreychuk ( a former Chancellor of this university), Leonard Gustafson, Herb Sparrow and David Tkachuk were all very active and engaged on the debate that ensued over many long months.

Finally, if an exclamation point was needed to illustrate yet again, the Saskatchewan connection to the Nisga'a Treaty, it came in the Senate hearings a mere 10 days before Royal assent to the bill was given. Prominent jurist and former Supreme Court of Canada Justice Willard ('Bud') Estey, a native of Saskatoon, waded in with his views raising the profile of the hearings to a new level. Further, he was accompanied by a former North Battleford resident and former Executive Assistant to Saskatchewan Premier Ross Thatcher, one Ed Odishaw, during their Senate presentation.

But perhaps the most convincing part of the case I am making for the influence that Saskatchewan had on the Nisga'a Final Agreement can be found with those representing the federal & provincial governments right at the negotiation table itself. That's correct, right where 'the rubber was meeting the road', where the substance and nuances of the deal were hashed out, where concessions, trade-offs and negotiation minutiae were finessed, the principals had a common birthright. Consider this. I joined the Nisga'a negotiations as Chief Federal Negotiator in 1997. My predecessor for years before was a gentleman named David Osborn. David is from Saskatoon and we were in law school together at the University of Saskatchewan. The provincial Chief Negotiator who succeeded Doug MacArthur as Deputy Minister Aboriginal Affairs, was Jack Ebbels. Jack is from right here in Regina and a University of Saskatchewan graduate in arts and law. In short, it all adds up to overwhelmingly conclusive evidence that Saskatchewan's 'finger prints' were all over this deal.

Am I claiming that with these particular circumstances there was an extra measure of chemistry that enabled us to conclude the final agreement? No. Am I suggesting that there is a special 'negotiation DNA' that we all possessed by virtue of our prairie origins? No. Am I daring to imply that our collective time spent in the same law faculty of the same university, equipped us to find agreement faster than we would have, had we received our legal educations elsewhere? Answer, certainly not.....

I will close with these thoughts and return to some of my earlier sentiments. Negotiations are a grind. Inevitably they take longer than anyone can predict. In our case we were alternating between Vancouver, Victoria and the four Nisga'a villages 1,100 kms. to the north, and in the latter stages of the process, to Ottawa 4,000 kms. to the east. The travel alone was incredibly stressful and draining. In this marathon, we often drew strength from the Nisga'a themselves for their leadership had been negotiating a lot longer than anyone else and their age defied the energy they brought to the table. The Nisga'a President Dr. Joseph Gosnell said it best when he remarked that an entire generation of Nisga'a had grown old at the negotiation table.

But being prepared to do whatever it takes to see a major negotiation process through to a successful conclusion carries a high premium. It is a 'high wire act' and not for the faint of heart. These individuals represented their governments and Canadians in a credible, honourable and professional manner. They made a deal, but more importantly they made history with their commitment, dedication and personal sacrifices. In doing so, they acted in the best traditions of the public service. 'From many peoples' strength to the common

bowl' indeed! I suspect it was the kind of contribution that Woodrow Lloyd would have appreciated.....

Thank you.

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