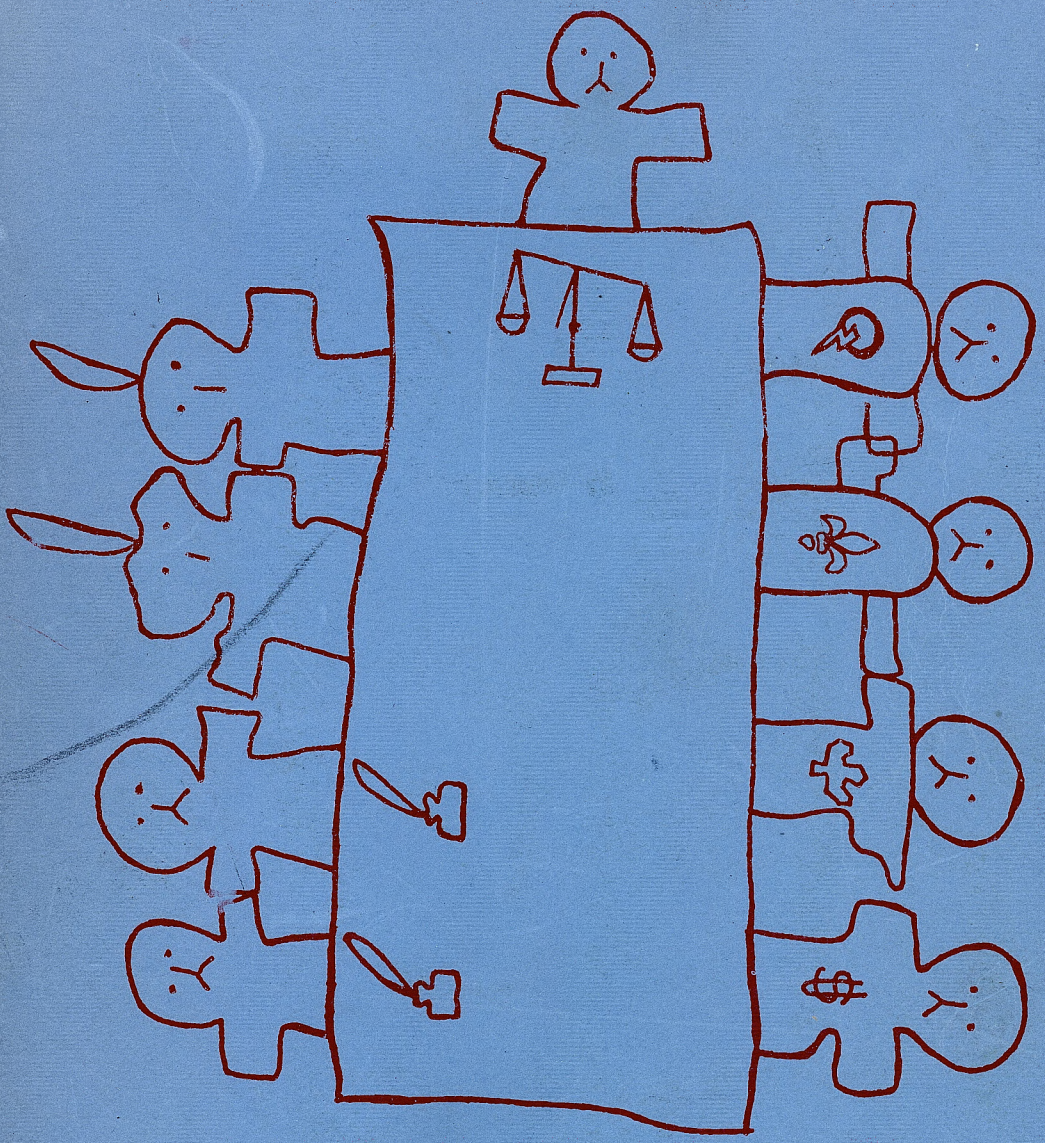
Negotiating a Way of Life



Initial Cree experience with the administrative structure arising from the James Bay Agreement

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ssDcc Inc.

70°

55°

Grande R. de la Baleine

Poste-de-la-Baleine
380

Baie James

Fort George
1,692

Wemindji
709

R. La Grande

R. Eastmain

Eastmain
341

Nemiscau
105

R. Rupert

R. Broadback

R. Nottaway

L. Mistassini

Mistassini
1,872

Fort Rupert
1,087

Chibougamau
10,500

Chapais
3,147

Matagami
4,038

Waswanipi
809

3,591
Lebel-sur Québillon

49°

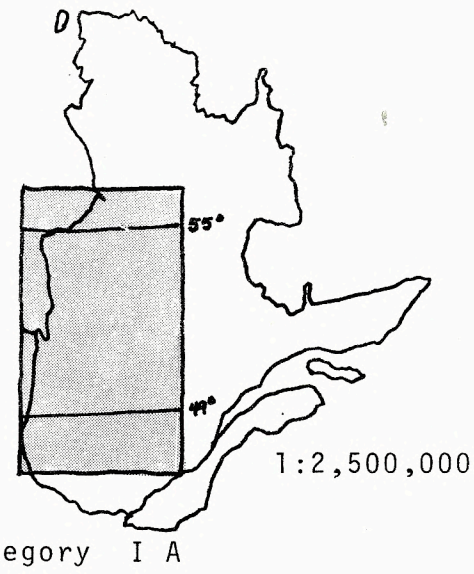
Amos
9,400

Rouyn
17,700

Val d'Or
19,900

Malarctic
5,100

0 100 200
Km



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Category I B

Category II

Flooding

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Negotiating a Way of Life

Initial Cree experience with the administrative structure arising from the James Bay Agreement

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October 1979

This report has been prepared for the Research Division, Policy, Research and Evaluation Group of the Department of Indian and Northern Affairs, Ottawa

On peut également obtenir une version française de la même étude

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PREFACE

The reader must be cautioned that the papers which make up this report present only a very limited view of the implications of the James Bay and Northern Québec Agreement. The task set out by the Policy and Research Group of Indian Affairs, was very specifically one to produce three relatively short papers on the Agreement as it affected the Cree. It is for this reason, that there is no discussion of the Inuit, even though it would have been illuminatory, especially in comparing the implications of approaches taken in matters such as local government, economic development, the utilization of consultants, or the support of the subsistence sector of the economy. Our task was further constrained by the requirement to include material on effects of the Agreement on the regional, the district, and the local levels. These limits result in very extensive editing throughout.

From a very large smorgasbord we have selected what we hope is a digestable menu for the general reader. As a theme, the papers focus on the new administrative structures which have emerged from the James Bay and Northern Québec Agreement. As a prologue for those not familiar with the region or the James Bay case, there is a statistical summary on the Cree communities, some general observations on Cree society, and as a guide to the complex events surrounding the James Bay court case, a chronology of the main events of concern to us. In the first paper, we trace the new Cree regional administration from its genesis to argue that the style and tone of the present operation bear the scars of the very early encounters of the principals in the James Bay saga. The message is that dies are cast early on, and resulting moulds are difficult to alter. The second paper attempts to give a brief view of the new structures in operation. It certainly does not present a complete canvas, but our object was to concentrate on those aspects which would shed light on the question of changes in the dependency situation of the Cree,

both economic and political. In the final paper, we look more closely at the effect of the Agreement on the local community. Here we direct attention to issues related to potential class differentiation, as well as the effects of the Agreement on the subsistence economy, which the Cree sought to protect in the initial court action. Finally, we have included as an Appendix, a brief summary of the contents of the James Bay Agreement, as it relates to the Cree. In sequence, it probably fits most logically near the end of the first paper, however, since the individual papers were prepared with the view that they might be read as discrete pieces, this overview of the Agreement's contents is relegated to an Appendix, not because of its unimportance, but to spare the reader of all three papers unnecessary repetition.

The basic data for the report was gathered between January and May 1979. It comprises interviews and discussions with Cree and their advisers as well as numerous officials of the Department of Indian Affairs. We had, of course, access to the principal documents relating to the court case and the negotiations. Besides these, extensive internal reports, studies and general documentation was made available by the Grand Council of the Cree, the Cree Regional Authority, and the Department of Indian Affairs. Our initial caveat that this report is very limited in scope, is borne out by the fact that the basic written documentation alone, runs to several thousands of pages. The principal researcher has carried out a number of studies on the Cree region over the last 13 years, and one of the research associates has worked extensively with the Cree organization since its inception and that knowledge has been drawn heavily upon as well. All materials relating to the Province of Québec and its public corporations are derived from public documents or materials made available by the Grand Council or its consultants. No interviewing was done with Québec officials.

The co-operation and assistance of the Grand Council is especially gratefully acknowledged. It is a confident and

PROLOGUE

On June 29, 1971, the leaders of the Cree hunting bands of northern Québec met together for the first time in history. They came to Mistassini Post to discuss the implications of an announcement by the premier of Québec, who, two months previously, had revealed that the province was to initiate a major hydro-electric development which involved the harnessing of the rivers of the James Bay watershed. These rivers were the centre of the James Bay hunting territories. During the three-day meeting, the Cree chiefs resolved to protest as strongly as possible, the flooding of their traditional lands, and through a petition, requested the Minister of Indian Affairs to intervene on their behalf. Thus begins the saga of the James Bay Cree and the James Bay Project.

Over the next four and a half years, the Cree became involved in a celebrated court case, followed by two rounds of negotiations with senior governments and Crown Corporations. While the initial phases of the James Bay Project were altering the course of the La Grande River and the giant dam of LG-2 was constructed, the Cree fought for their rights in the court-rooms and boardrooms of Montréal and Québec. A chronology of the principal events of those years is set out on the following three pages. The culmination of that process was the signing of the James Bay and Northern Québec Agreement on November 11, 1975. Even a cursory review of that chronology is evidence enough that, for the Cree, the events between 1971 and 1975, were epic. In the beginning, they were a group of scattered bands lacking any semblance of political coherence. Today, the Cree are a tighly welded unity, controlling their own administrative activities through their own regional bureaucracy.

The James Bay and Northern Québec Agreement is the first major settlement of a native land claim since the development in the 1960's of an interest among new native organizations in the concept of aboriginal rights. Since the time of its signature in 1975, it has played a significant - though somewhat latent - role in discussion by native groups and government representatives on the settlement of subsequent claims based on aboriginal rights.

The Cree and the James Bay Agreement

A Chronology of Events

Announcement and early reactions.

The Court Case.

Negotiations and Agreement.

Feb. 1971	Publication of the Dorion Commission Report on the territorial integrity of the province; the Commission recommends the extinguishment of aboriginal rights, which were described as partial and private, by the recognition of certain proprietal rights and compensation.	
April 30, 1971	Prime Minister Bourassa announces plans for the James Bay Hydroelectric Development Project. The project was justified on the basis of job creation and the need for electricity.	
May, 1971	Cree, through Attornies, alert the Minister of DINA to issues of Indian land rights posed by the project.	
June 1971	Minister of DINA makes known his concerns about Indian Rights to the Provincial Minister. As a result, the work of a Tripartite Committee on general issues, formed in 1969 of Fed/ Prov/& IQA representatives, is accelerated.	
July 1, 1971	First of meetings of the Cree to discuss the Project, held in Mistassini.	
July 1971	Bill 50 in National Assembly of Quebec constitutes the SDBJ; the SEBJ is subsequently incorporated in December 1971.	
Oct. 1971	DINA extends a subsidy to IQA for purpose of informing the population of James Bay about the Project.	
Jan. 1972	Provincial Minister of National Resources refuses to discuss a claim for compensation put forward by IQA.	
Feb. 1972	Joint (Fed/Prov) Committee on Ecological Effects of the Project publishes report, notes a substantial impact on Indians.	
April 1972	Meeting of Cree, under IQA auspices at Fort George. Billy Diamond raises possibility of a court case to stop project and a general mandate for this puspose is extended to IQA. Cree set up Cree community liaison workers.	
May 1972	Minister of DINA meets with Province to talk of impacts of the Project on Indians.	
May 3, 1972	IQA forms a Task Force and calls upon a number of McGill University researchers to conduct ecological and social studies.	
May 5, 1972		Indians and Inuit initiate action in injunction.
May 8, 1972		DINA reveals subsidy to IQA for preparation of Court case and other research.
May 16, 1972	Province announces switch from NBR to La Grande (LG) as the first phase of the Hydro developments.	
Oct. 23, 1972	Province announces policy of no modifications.	
Oct. 23, 1972	Meeting in Montreal of Cree Chiefs, Inuit representatives and Executive of IQA, to review work of Task Force.	

self-searching organization that can permit its operations to fall under such close scrutiny by outsiders. As pioneers in a very complex field of developing new structures for native peoples, they are subject to many demands by researchers and other native groups. We especially thank the regional officials and the individual band officials who have been so generous with their time and resources.

This report has benefitted from the critical comments and organizational suggestions of Professor Richard Salisbury, who read early drafts. The valuable insights which the research associates, Alan Penn and Serge Bouchard brought to the analysis must also be acknowledged. The work of the research assistants, Jean-Guy Deschênes and Taylor Brelsford, was certainly not confined to routine data processing. They made significant contributions in our internal discussions, which are reflected in the organization and conclusions of our report. However, the final editorial responsibility for opinions expressed, and for the material which is included or deleted, rests with the Research Director and ssDcc Inc.

Montréal
October, 1979

Oct. 25, 1972	This group meets with Bourassa; very unsatisfactory meeting; Cree resolve to pursue court actions including interlocutory injunction.
Nov. 7, 1972	Indians and Inuit file an amended writ seeking interlocuty injunction.
Dec. 8, 1972	Mr. Justice Malouf of Quebec Superior Court grants a hearing on the petition by the Cree and Inuit.
Dec. 11, 1972 through May 24, 1973	The trial on the interlocutary injunction begins. It will see 71 days of testimony including 167 witnesses of whom nearly 100 were Inuit and Cree hunters.
Nov. 15, 1973	Mr. Justice Malouf accords the interlocutory injunction on the basis of "prima facie" evidence of Indian rights over these lands effectively occupied by the Cree and Inuit in the pursuit of their traditional subsistence activities.
Nov. 19, 1973	*Bourassa submits his 11 point proposal for a settlement to the IQA executive and the Cree and Inuit representatives.*
Nov. 22, 1973	Quebec Court of appeals suspends the Malouf Judgement on the basis of the "balance of convenience" without specifically treating issues of Indian title to lands.
Dec. 10, 1973	*Cree chiefs meeting in Val d'Or agree to enter negotiations, extend a mandate to the IQA to seek funds for and to undertake negotiations. Cree also set requirement that IQA must consult with the villages prior to negotiations.*
Dec. 21, 1973	The Cree make a request to the Supreme Court for leave to appeal the suspension of the Malouf Judgement. This leave is denied.
Jan. 1, 1974	The Indians and Inuit request leave from Quebec Court of Appeals to proceed with matter of permanent injunction.
Jan. 24, 1974	*Bourassa makes public his 11 point provincial offer.*
Jan. 1974	*Cree Chiefs meet in Fort George, develop counter position entitled "Our Land, Our Demand" (undated). Diamond then announces to press that Cree reject the offer, that the "lands are not for sale".*
Jan. 1974	*The minister of Indian Affairs threatens to cut off funds if the Cree do not seriously consider the Bourassa proposal; but he later backs down.*
Feb. 13, 1974	Mr. Justice Crête refuses leave to proceed with permanent injunction until the full appeal on the Malouf Judgement has been heard.
Feb. 1974 through July 1974	*Negotiations undetaken; Cree represented on IQA team. Negotiations proceed by main Committee and subcommittees.*
March 1974	*IQA undertakes consultations with all communities regarding offers and negotiation positions.*
April 2, 1974	On petition from Indians and Inuit, Supreme Court of Canada refuses leave to aopeal M. Justice Crête's ruling.
April 1974	*Cree Chiefs meet in Fort George. As a result of dissatisfaction with IQA in the negotiations, mandate withdrawn and 3-man Cree negotiation team is constituted. "Our Land, Our Demand No. 2 for Crees" is drawn up.*

June 10, 1974 — Quebec Court of Appeals proceeds with the matter of the appeal of the Malouf Judgement.

July 1974 through Nov. 1974 — *Major work of Main Committee completed, work proceeds by subcommittees.*

August 16, 1974 — *Cree Chiefs form "The Grand Council of the Crees (of Quebec)".*

Oct. 14 - 15, 1974 — *Final offers between Cree and Province exchanged.*

Oct. 1974 — *Cree undertake another extensive consultation with communities.*

Nov. 15, 1974 — *Signature of Agreement in Principle. Cree leaders call it a victory for the Cree. IQA denounces Agreement in a press conference.*

Nov. 21, 1974 — The Quebec Court of Appeals overturns the Malouf Judgement, based on the "balance of convenience". The justices hold that Indian rights were extinguished at the time of the HBC Charter or were at best "rights to live on the territory".

Jan. 1975 through July 1975 — *Negotiations start on Final Agreement taking the form of subcommittees, working groups and task forces.*

August 1975 — *General Assembly of Crees decides to proceed with Negotiations to reach an Agreement and GCCQ is empowered to sign on behalf of the Cree.*

Sept. 1975 — *Main Committee moves to a Montreal hotel to review, edit and negotiate final matters prepared by the subcommittees and working groups.*

Oct. 15. 1975 through Nov. 11, 1975 — *All Cree Band Councils converge on Montreal for close review of Agreement and signature of Agreement.*

Nov. 11, 1975 — *After last minute negotiations, the James Bay and Northern Québec Agreement is signed in Québec.*

Dec. 15 - 18, 1975 — *Cree communities circulate a 70-page text of the Agreement and hold ratification vote: 24% of population voted, 922 for, 1 against.*

The Minister of Indian Affairs has, on occasion, referred to the Agreement as a "model" for subsequent settlements. There is, however, limited evidence that there has been any major effort to apply the approach reflected in the Agreement to other claims. While other claim proposals have incorporated aspects of the social policy embodied in the Agreement, and in some instances, have developed specific administrative principles contained in it, native political organizations have generally, as a matter of public policy, criticized the Agreement and rejected it as a basis for their negotiations, most probably because the Agreement is based on an extinguishment of aboriginal title.

The Agreement inevitably reflects the particular cultural, geographical and historical circumstance in which its negotiations took place. It may be useful, therefore, to point out the nature of the special circumstances of the Cree case, so that they can be taken into account in assessing the relevance of the Agreement as an approach to the settlement of other claims based on aboriginal rights. The following five factors seem especially important in this regard.

1) *the existence of a clear statutory obligation for Québec to obtain a surrender of native interests in land prior to development. (There was a legal case).*

2) *the existence of a single, major hydro-electric development as an act of government requiring such a surrender of native rights - the threat of which provided the stimulus for the formation of a native regional political organization. (There was a threat).*

3) *the availability, through litigation, of a significant threat to the smooth execution of the James Bay Project and, as a result, the awarding of an interlocutory injunction by the Québec Superior Court against the project. (There was a negotiating position).*

4) *the existence (as a product of the hydro-electric development) of a regional hierarchy of crown corporations with a direct commitment to resource development and their subsequent direct involvement in the negotiations because they were parties to the litigation. (There were well-defined negotiating positions).*

5) *the Cree are a homogeneous group, all communities sharing approximately the same socio-economic conditions and the same historical and cultural base. Specifically, there were no urban Cree to be accommodated. (There was a native group with compatible interests).*

This report treats some of the changes - especially at the level of bureaucratic structures which touch the Cree - which these events have occasioned. It is beyond the scope of the study to provide a detailed description of the communities affected by the James Bay Agreement. However, readers who are unfamiliar with the region can obtain a quick overview of the major facts from the descriptive and comparative tables which are provided on the following pages. A few general remarks on the overall conditions in which the Cree administrative structures arose and developed also may be helpful.

There are some 7,000 Cree-speaking people living in northern Québec in eight villages, five of which are situated along the coast of the James and Hudson Bay, the other three are located some 500 km. inland. The communities range in size from 250 to 2,000, all having developed as reserves with a substantial sedentarized population only over the past two generations.

The James Bay Cree are still heavily involved in a subsistence economy, based on hunting and trapping. Of some 2,000 family units in the area, about half still obtain their income (fur sales and social aid) through hunting, fishing and trapping, activities which account for more than half the working time of these families. Within the communities, there has long been a tradition of sharing wild meat, so that more than half the population depends on the animal resources of the area as a source of food. The annual cycle of

STATISTICAL SUMMARY

POPULATION AND LAND AREA
OF CREE COMMUNITIES

	MISTASSINI	WASWANIPI	NEMASKA	RUPERT HOUSE	EASTMAIN	WEMINDJI	FORT GEORGE	GREAT WHALE
Population (1979)	1,846	811	104	1,112	335	713	1,661	372
Lands provided under the James Bay Agreement to Cree communities; by category in sq. miles								
Category I A	329.86	140.9	37.6	189.1	59.76	126.1	523	76.5
Category I B	203.14	90.1	21.4	113.9	129.24	71.9	709	44.5
Category II	6,896.00	2,949.0	784.0	3,947.0	1,384.00	2,634.0	6,305	1,800.0
TOTAL	7,429	3,180	843	4,250	1,573	2,832	7,537	1,921

STATISTICAL SUMMARY

ECONOMY AND SOCIAL ASSISTANCE

	MISTASSINI	WASWANIPI	NEMASKA	RUPERT HOUSE	EASTMAIN	WEMINDJI	FORT GEORGE
SUBSISTENCE ACTIVITIES							
- Estimated level of harvest of edible wild meat in pounds - 1974 - 1975	738,900	273,600	-	115,500	74,700	202,800	484,300
- Population in the subsistence sector 1976 - 1977	1,392	384	-	578	187	333	909
- Percentage of population in subsistence	71%	47%	-	53%	56%	50%	51%
LOCAL ENTERPRISES	Snowshoe manufacturing 4 taxis 1 local store HBC store	1 taxi 1 local store	1 trucker HBC store	Saw mill and planing mill Construction company HBC store	HBC store	HBC store Co-op 1 local store	2 construction companies 1 bus service 6 local stores HBC store 1 bank
SOCIAL ASSISTANCE							
- Social Aid case load per month 1976 - 1977	126	47	-	56	41	63	123
- Welfare paid 1976 - 1977	$418,649	$ 26,352	-	$156,647	$104,365	$152,308	$416,940

STATISTICAL SUMMARY

ACCESS, COMMUNICATIONS, HOUSING AND COMMUNITY SERVICES

	MISTASSINI	WASWANIPI	NEMASKA	RUPERT HOUSE	EASTMAIN	WEMINDJI	FORT GEORGE
ACCESS	road	road	road	winter road	-	-	road
	air	air	air	air	air	air	air
	-	-	-	ocean	ocean	ocean	ocean
COMMUNICATIONS (1977)	telephone	telephone	-	telephone	telephone	telephone	telephone
	-	-	-	micro-wave radio	-	-	micro-wave radio
	local television	-	-	local television	-	television	television
	-	-	-	-	radio-telephone	radio-telephone	-
HOUSING (1979)	200 houses	48 houses	-	129 houses	52 houses	88 houses	207 houses
COMMUNITY SERVICES (1979)	water system	water system	-	stand-pipe system	stand-pipe incomplete	-	water system incomplete
	sewage system	sewage system	-	-	-	-	-
	electricity Hydro-Québec	electricity Hydro-Québec	-	electricity generator	electricity generator	electricity generator	electricity generator
	local roads	local roads incomplete	-	local roads incomplete	local roads incomplete	local roads incomplete	local roads
	-	-	-	-	landing strip	landing strip	landing strip
	police	police	-	police	police	police	police
	fire protection	fire protection incomplete	-	-	-	-	-
	nursing station	-	-	nursing station	nursing station	nursing station	hospital
	school primary	school primary	-	school primary	school primary	school primary	schools primary and secondary

Note: The community of Nemaska was in the process of relocating in the summer of 1979. The people had been living in Mistassini and Rupert House in recent years

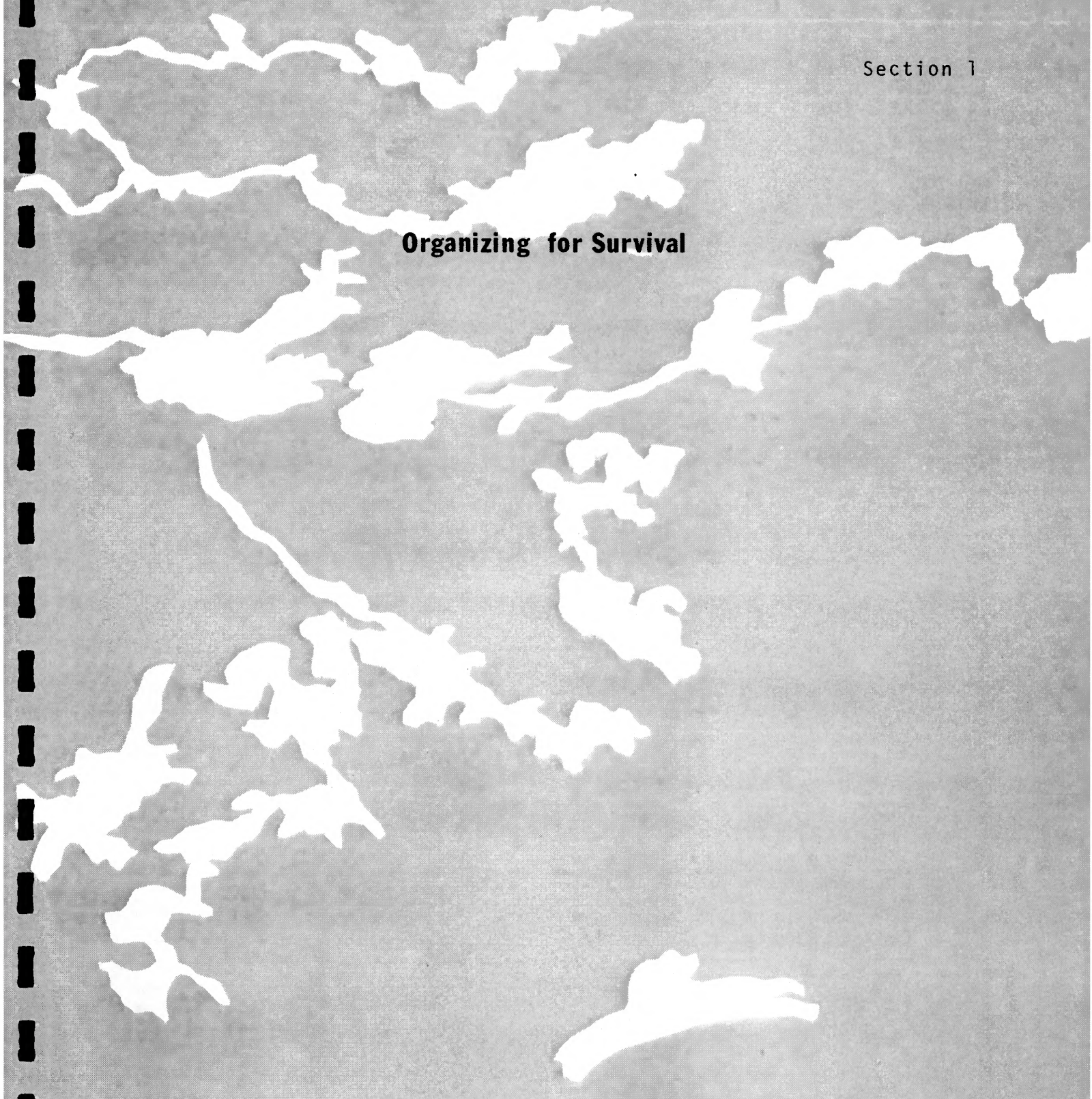
hunting and trapping demands that families spend most of their time away from the community. In the winter, they move to traditional hunting territories (which vary in size from 500 to 2,000 square kilometres and which may be very far from the settlement); in spring and fall the same families move to hunting camps for goose and duck hunting, while in the summer, many establish fishing camps on the major lakes and rivers. In short, hunting families are found in their home communities only for a few brief periods during the entire year. The sedentarized permanent residents of the Cree communities constitute about half the population, and in some cases, they make up less than a fifth.

Cree communities, then, are socially divided according to the activities pursued by the various families and individuals. Broadly speaking, those 40 years of age and older, speak only Cree. It is this group which depends on hunting and trapping for a living. Young adults and their dependents, on the other hand, are usually bilingual (Cree-English, a heritage of Anglican missionizing), and are involved in the wage labour economy on a much more regular basis. Many of them have attended secondary schools and have lived for some time in southern cities. It is this latter group that provided the leadership involved in the activities surrounding the James Bay court case and subsequent negotiations.

Until the 1970's, the Cree were relatively isolated from Québec life and the coastal communities tended to establish links with northern Ontario, rather than with the south of Québec for communications and services. The only common link among the Cree communities since the abandonment of the "canoe brigade" of the Hudson Bay Company in the 1920's has been through the District Office of the Department of Indian Affairs, which was in Abitibi in the mining town of Val d'Or. Until the rapid improvements in transportation and communication facilities occasioned by the James Bay Project, there was as little opportunity for contact among the different Cree communities as there was for contact with the rest of Québec. Today, the Cree are physically integrated into the communications and transport networks of the province, and it is relatively easy for most communities to be in touch with one another.

Section 1

Organizing for Survival



The development of Cree administrative structures

The announcement of the James Bay Project

The James Bay Hydroelectric Project was announced by Québec's Premier Robert Bourassa on April 30, 1971, scarcely two months after the publication of the Dorion Commission Report on the Territorial Integrity of Québec. Part of the Commission's mandate had been to define the nature of any aboriginal claims on the territory of the province, and the Indians of Québec Association (IQA), of which the Cree were members, had made a formal submission before it, promoting the territorial claims which it had been publicizing since its foundation in 1967. By 1970, however, the IQA had succeeded in negotiating a temporary agreement with the province, concerning native rights to subsistence hunting and fishing, and the matter of territorial claims had been set aside for later consideration.

The Dorion Commission's report was awaited with much interest, and when it came to the conclusion, that by the terms of the Québec Boundaries Extension Act of 1912, Québec was bound to recognize certain aboriginal rights over the land which the act had assigned to the province, and moreover, that the region in question should not be developed until these rights had been ceded, there was renewed interest in territorial claims, expecially by the IQA. It most be noted that Dorion's recommendations concerning the manner of providing governmental services to Indian communities were almost completely ignored. In essence, he gave enthusiastic support for the recommendations of the Federal White Paper of 1969, which had been universally rejected by the Indian leadership of the country.

Since the region covered by the 1912 Boundaries Extension Act was precisely the site of the proposed James Bay hydro-electric development, the IQA executive, which included the chiefs of Fort George and Mistassini, began to consider seriously the possibility of challenging the government project

while pursuing territorial claims throughout the province with accelerated vigor. However, in the Cree communities, there was little precise information on the nature of the proposed Project, other than the schematic maps and descriptions which had been published in the newspapers. But these sketchy outlines were enough to tell the Cree that a great deal of their hunting territories would eventually be flooded.

At that time, there was some preoccupation on the part of some of the younger Cree that the IQA, which had a majority of its leadership coming from the south and was being criticized for ignoring northern problems, might try to trade off the interests of the northern people for a general territorial settlement for the whole province, which would principally benefit the south these young people succeeded in organizing a meeting in Mistassini in late June 1971, to apprise the Cree chiefs of the nature of the Project and to discuss potential reactions to it. While the meeting was to be financed by a small grant received by the Mistassini Band from the Arctic Institute of Canada, the IQA became involved at the last minute and financed a much larger meeting, including the councillors of most of the communities and two representatives of the IQA. At this meeting, which took place between June 29 and July 1, 1971, a petition to the Minister of Indian Affairs was prepared to indicate that the Cree were opposed to the Project and to ask his Department for legal assistance. The IQA representative undertook to forward the petition, but a reply was never received[1]. At this same meeting, there was some discussion of the Alaska Native Claims Settlement and some younger Cree talked of resorting to the legal action of an injunction not only

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[1]The exchange of letters between the Minister and the IQA, reprinted in the Minutes of the Standing Committee on Indian Affairs of March 13, 1973, shows that the petition was not forwarded to the Minister by the IQA until April 14, 1972, apparently after the Minister requested a copy of the petition which he had been criticized for not answering.

to stop the project, but also to establish a strong position from which to undertake future negotiations. In spite of these discussions, however, almost a year passed by without anything being accomplished. However, the action of the Cree spurred the IQA to hire two of them as communications workers to provide the Cree communities with information on what the nature of the Project was.

The first clashes

On April 19, 1972, the Cree chiefs met in Fort George with Inuit representatives to authorize the IQA to act on their behalf before the courts to stop the La Grande Project. Procedures to obtain an injunction began on May 3, 1972, and were directed against the James Bay Development Corporation, as well as all sub-contractors involved in the Project. At the same time, the IQA set up a Task Force, consisting mainly of Cree from the Communities affected by the Project, and secured a $250,000 grant from the Federal government in order to hire consultants and undertake impact studies. Thus, the Cree began a totally new experience of working as clients of legal advisors, social scientists and environmentalists.

It is difficult to reconstruct the early period of on-and-off discussions between government and the Cree and the IQA. Theoretically, the Dorion Commission report provided an interesting starting point for discussions among the various parties, but it would appear that all those involved took some time to define their roles and establish their positions. Serious efforts were made to start direct negotiations with governmental authorities and the developers and through the Tripartite Committee (federal, provincial, and native) which

had operated since the late 1960's. These were not successful[1]. The prime minister was approached directly, but it was a perfunctory meeting. It seems that the Cree were willing to negotiate on a limited basis of securing a commitment to important changes in the proposed project, but Québec was opposed to any modification of the original plans.

The positions, then, in early 1972, were that the Cree were insisting on important modifications in the project, while the government of Québec maintained that the Project was in no way negotiable. The IQA was concerned with native claims throughout the whole province, rather than the special circumstances of the Cree. The Federal government adopted a hands-off policy in the whole affair, but provided research funds, as was their policy throughout Canada.

Although the Cree were the most important group opposing the James Bay Project in 1971 and 1972, they were by no means alone. Of course, the other native groups in the province opposed it, on the grounds that the status of native claims had to be clarified. Conservation groups and movements attacked the government for its hasty action and for the lack of environmental impact studies. The opposition parties in the political arena said that they were sceptical about the government's estimate of

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(1) Relations between the IQA and the province could not be construed as strained in early 1972. The President of the IQA reports in a letter to the Minister of Indian Affairs, dated February 2, 1972, that the province's proposal for the exemption of Indians from sales tax, which the IQA had been negotiating, "tends to show the sincerity on the part of the Provincial Government and the Association feels that the Provincial Government should be encouraged to retain this sincerity in all dealings with the Association" (op. cit. p. 56). On February 22, 1972, Québec Order in Council 545-72 exempted Indians from the Retail Sales Act.

the cost, the potential demand for electric power and also of the number of jobs the Project would generate. There were also the proponents of nuclear power, who claimed that while the harnessing of great river systems might cause unnecessary and irreparable harm to the environment, nuclear stations, on the other hand, could be built and operated with far less damage and with the assurance that less ecological harm would follow.

Despite these supporters, and the affect that they might have had at that time, by 1972, the Cree leaders, who faced an intransigent government, were convinced that there was no hope of obtaining their objective outside the courts. Even if the possibility of serious negotiations was considered, it was assumed that the bargaining position could be strengthened by the threat of, or an active on-going legal contest. This is the first manifestation of an attitude which is basic to all subsequent events: ever since 1972, the climate of real or potential legal confrontation has affected the relations of the Cree with both the federal and the provincial governments.

The legal proceedings

The hearings for an interlocutory injunction to obtain a temporary stoppage of work on the Complexe La Grande, formally known as "Robert Kanatewat et al, vs. James Bay Development Corporation et al", lasted from December 11, 1972 to June 21, 1973, and involved 71 days of testimony. A total of 167 witnesses were heard, among whome were nearly one hundred Cree and Inuit hunters. Justice Albert Malouf prepared his 180-page judgment over a period of five months, before granting the interlocutory injunction on November 15, 1973.

The interlocutory injunction to restrain The James Bay Development Corporation and to temporarily half the works in progress was argued on the basis that Bill 50 (the statute

creating the Development Corporation) was at least in part, unconstitutional, in that it provided for the development of Northwestern Québec through a Provincial Crown corporation, in the absence of the statutory obligation, implicit in the 1912 Boundaries Extension Act, of securing surrender of aboriginal interests in the land, affected by the development. Further, the argument ran, the work in progress would, if allowed to continue, prevent the Cree and Inuit from exercising their rights in land which they claimed to have and would prevent the courts from giving full legal recognition to those rights because at the time of the eventual court decision those rights would have been irreparably impaired.

The argument before the Superior Court, aside from the legal and historical testimony on the concept of aboriginal title, tended to revolve around the twin issues of the extent of the involvement in, and dependence of native people on, a subsistence economy, and the extent to which the environmental damages were temporary and reparable. Expert testimony was marshalled on either side of the court to argue for and against these issues. One of the more dramatic aspects of this process was the involvement of almost one hundred Cree and Inuit hunters, testifying with the aid of interpreters, of the extent of native use and occupancy of the land, and the nature of their dependence on wild life resources. The media covered this aspect of the court proceedings in great detail, providing the public with a very new perspective on the native way of life in Northern Québec. The involvement of the native hunters at the same time provided the communities in the North with a vivid impression of the court proceedings, which gave an important stimulus in involving them directly in the ensuing debate over the alleged impacts of hydroelectric development on the native people and their subsistence-oriented community economies.

At the same time, the hearings provided an opportunity for the preparation of background work, necessary for the later

negotiations. The courtroom provided a forum for what amounted to an environmental and social impact assessment, in that the litigation prompted a critical discussion of the social and environmental issues surrounding the James Bay Project. While the adverse situation effectively prevented neutral discussion of topics of mutual interest, the overall result was to increase significantly the amount and quality of data available for discussion, and to mobilize individuals, both on the side of the native parties and on the side of the Crown companies, who would later play strategic roles in the subsequent negotiations.

In retrospect, it is credible to suppose that the hearings were influential in developing a conceptual framework within which negotiations could take place, for the Bourassa proposal for an Agreement in Principle, which was put before the Cree, two weeks after the Malouf judgement, contains provisions which seem to flow from the court evidence. Certain project modifications - e.g., the elimination of the Lake Bienville diversion, the changes in the LG2 spillway, and the changes in the use of Lake Mistassini - which were offered, seem to have been influenced by the court testimony on the role of transfer payments in the native economy and the evidence on traditional land use.

Genesis of the Cree organization

It was in the context of the court case that the Cree developed their first regional organization. It grew out of the Task Force which was formed in May 1972. It will be recalled that it was the IQA which formally received the mandate to assess the impacts of the James Bay Project, but that mainly Cree were involved in the Task Force. But since the object of the Task Force was to challenge the hydroelectric development, the legal adviser of the IQA, James O'Reilly, was closely involved in its

establishment and in selecting a scientific director who had environmental interests, which had been made explicit in the anti-James Bay Project activities in 1971. In effect, the director and the legal counsel acted as impresarios of the Task Force at its inception. They provided an organizational framework in which the highly motivated Cree liaison workers could operate. Shortly after the injunction was filed in May 1972, O'Reilly, who had represented IQA interests for a number of years, withdrew from the firm he had been working with, (the Association was unhappy that the same firm was providing counsel to government in relation to the establishment of the James Bay Development Corporation) and established a practice with a distinct specialization in native law. The Task Force took office space in the same building as the new legal firm, where it was possible to maintain very close relationships on a daily basis as the preparations for legal action were developed and as the court proceedings began. Besides the general environmental consultant, the Task Force was composed of a number of other specialists in the fields of anthropology, sociology, biology, geomorphology and hydrology, who carried out a series of studies that later formed the basis for the environmental and social impact testimony used in the court case.

The selection and briefing of witnesses who gave evidence was a technical matter and beyond the competence of the Cree staff. Even the logistics of organizing the native witnesses strained the organizational resources of the Task Force to the limit. In fact, the Cree liaison officers worked principally at the level of the community, where they provided logistic support for the scientists and acted as communications workers, while the whole operation was orchestrated from the Montreal office by the consultants. In essence, until the end of the court proceedings, the Cree principally provided support services for the technical and legal team.

However, the Cree political body at this period still retained a position of strength in relation to the IQA. There

were two "regional chiefs", Robert Kanatewat and Smally Petawebano, on its executive. Naturally, they had to be involved in discussions relating to matters in their region. However, it was the chief of Rupert House, Billy Diamond, one of the Task Force liaison workers, who emerged as the principal spokesman for the Cree and worked closely with the legal firm and the consultants in developing policy and strategies, especially as they differed from IQA approaches. The leadership of the IQA was generally being moved into a background role.

Thus, the summer and fall of 1972 are important in defining the Cree leadership and the relation of the emerging leadership and the legal staff and the group of consultants who have worked with the Cree during the period from 1972-1979. When negotiations finally began with the Province, the Cree had at their disposal, a group of technical advisers whose performance they had seen tested in court, a group with some previous knowledge of the territory in question and a willingness to assist in the formulation and articulation of what was referred to as the "Cree position" on substantial questions of policy.

For the Cree, the period of litigation was clearly influential in setting the stage for the negotiations following the suspension of the Malouf injunction. Many of the Cree who were to be most directly involved in the negotiations themselves, and later in the implementation of the Agreement, were recruited at this time; a hierarchy of Cree leadership evolved and the future Cree politicians and administrators established working relationships with the specialized legal firm and the small group of consultants.

The negotiations leading to the Agreement in Principle

Toward the end of November 1973, shortly after the Malouf decision, Premier Robert Bourassa proposed to the IQA an Agreement in Principle for the native parties in the James Bay dispute.

The official counter-proposal from the Cree chiefs, entitled "Our Land, Our Demand", was presented in January 1974. Since these early moves define the terms of reference for the later negotiations, it is useful to review the broad outlines of the opposing positions at this point.

The prime minister's proposal put forward an eleven point offer dealing with modifications to the project, environmental protection, transfer of lands to be reserved for the Indians and Inuit, guarantees of hunting, fishing and trapping rights, monetary compensation, a guaranteed annual income for hunters, the participation of the natives in the administration of the region, and a number of clauses dealing with economic development.

The Cree response, "Our Land, Our Demand", took up each item of the government's offer, but emphasized that not enough was known about the proposed changes in the James Bay Project to determine whether they answered the needs of the people who used the land for traditional subsistence activities. The response stated that meaningful negotiations should be held to secure an understanding among the four interested parties - Canada, Québec, the Cree and the Inuit - but with the important provision that any agreement should take into account the matter of native rights throughout Québec.

A negotiating table was established by February 1974, with two Cree, as well as two members of the IQA executive, since it had been agreed that the negotiations would cover aboriginal claims for all of Québec. Québec's senior negotiator was John Ciaccia, a Member of the National Assembly who was previously an Assistant Deputy Minister of the Department of Indian and Northern Affairs, a position in which he had acquired a certain credibility in the eyes of the Cree and other members of the IQA. Agreement in

Principle negotiations were held in a committee with Ciaccia representing several Québec government departments as well as chairing the meetings; the federal government was represented by the Department of Justice and the Department of Indian and Northern Affairs; the three public corporations involved were represented - the Energy Corporation, the Development Corporation, and Hydro-Québec; with the Cree and Inuit representatives completing the cast.

While the Cree had given the IQA a mandate to represent their interests at the negotiation table, the position pursued by the IQA was one of attempting to secure recognition of aboriginal rights throughout the province. It appears that Cree participation in IQA policy execution was not influential at that time. Finally, on April 10, 1974, the Cree chiefs partially cancelled the mandate given to the IQA. This was in reaction to the slow progress of the discussions at the negotiation table, but also related to problems connected with the handling of funds set aside by the IQA for the negotiations. But above all, the Cree were motivated by the realization that the IQA did not share their interest in resolving the problem quickly. Using the negotiations as a means of pressing general aboriginal claims did not promote their rapid conclusion, and in the eyes of the Cree, this put them at a disadvantage. The new mandate stated that Cree interests should have priority over general claims, and the responsibilities of the Cree negotiators and the Cree executives were clearly spelled out.

The directive to the IQA was not enthusiastically received and relations between the Cree and the IQA continued to deteriorate. The legal advisers and the consultants involved in the negotiations, in fact, had stopped taking direction from the IQA and began to work specifically for the Cree. Another meeting of Cree chiefs,

on June 13, 1974, further limited the mandate of the IQA, giving more authority to Cree negotiators. After some painful exchanges with the Montagnais and Algonquin chiefs at a meeting held in Manitou College in La Macaza in August, the Cree later met in Eastmain, where they arranged to set up the Grand Council of the Crees (of Québec)[1] as the incorporated body that would take over the negotiations from the IQA. When the GCCQ received its letters patent on September 5, 1974, the way was clear for a direct settlement between Québec and a group of Cree which had taken a certain distance from the IQA.

The negotiations picked up speed immediately. The formal committee structure of the talks was more or less abandoned and negotiations came to depend upon the interpersonal contacts between the chief negotiator from Québec and the Cree legal advisers. The basic terms of an Agreement in Principle were set out in a series of memoranda exchanged during the first two weeks of October. These were followed by a round of intense consultations at the community level, between the Cree negotiators, their advisers and the Cree people. With the main lines of the proposed settlement agreed upon, the communities empowered their chiefs and councillors to sign on their behalf.

Thus, the context for the signing of the Agreement in Principle was created. When it was signed on November 15, 1974, the Cree obtained recognition of their traditional hunting, fishing and trapping rights, and a priority in the use of certain animals in the region. Certain lands were set aside for them, under new arrangements. The Cree secured promises to have certain modifications in the James Bay Project, especially in the positioning of the LG1 dam and the remedial works which would be undertaken to minimize environmental damage. The Agreement in Principle also

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[1] Hereinafter abbreviated as "GCCQ" or "the Grand Council".

provided for the participation of the Cree in the administration of the region. In terms of monetary compensation, the native people were to receive $150 million, certain mining royalties, tax exemption of people living on reserves, and finally, a guaranteed annual income scheme for Cree hunters and trappers. In consideration of this, the natives were to renounce all claims and titles to the territory of Québec, and the Cree were to suspend all legal proceedings connected with the James Bay Hydro-electric Project.

The main lines of the Agreement in Principle were adhered to during the subsequent negotiations which led to the final agreement a year later. The one important difference is that the final agreement has no provisions for mining royalties, but the monetary compensation is increased. Obviously, there were important matters of substance which had to be negotiated between the signing of the Agreement in Principle and the signing of the final Agreement on November 11, 1975. We will now consider the nature of these negotiations.

The final negotiations and the Agreement

What principally distinguishes the negotiations of 1975 from those leading up to the Agreement in Principle, was the growing importance of negotiating sub-committees. The main negotiating committee continued to function, but its role changed significantly because of the increasingly complex and technical nature of the subjects under discussion. These sub-committees were set up in January and February to deal with:

1 - modifications to the Project (technical sub-committee),
2 - the elaboration of a system to manage animal resources (sub-committee on hunting, fishing and trapping),
3 - the selection of lands and definition of the régimes under which they would be held (sub-committee on lands),

4 - environmental and social protection procedures (sub-committee on environment),
5 - potential regimes for regional and local government.

Later, sub-committees were formed to deal with issues relating to:
1 - economic development,
2 - the creation of legal bodies and the study of constitutional problems,
3 - police and the administration of justice,
4 - health,
5 - education,
6 - taxes and compensation.
Besides these committees, three study groups were formed to work on problems relating to:
1 - water levels on the Eastmain River,
2 - the elaboration of research needed to establish the current level of animal harvest by the Cree,
3 - the design of a system of income security for Cree hunters and trappers.

The sub-committee and study group format made it possible for the various experts to work out solutions to technical problems, in a climate which was not necessarily one of confrontation. On the Cree side, the contribution to the work of these same committees came largely from their consultants, that is, by the same people who had taken part in the court proceedings and the earlier negotiations.

The actual number of Cree negotiators was small. In 1974, there had been only two; in 1975, there were five. Necessarily, the requirement to attend to fifteen committees, sub-committees and working groups imposed a heavy working load on them. Three lawyers worked full-time with the Cree on the negotiations dealing

with the legal and technical aspects of the Agreement. The technical support team consisted of four consultants, specialists in the fields of engineering, ecology, resource management, administration and social anthropology.

Each sub-committee meeting usually meant that the Cree side had to be represented by a legal adviser, a technical consultant, and a Cree negotiator. In order to maintain lines of communication with the Cree communities, liaison officers were hired. They not only organized the local information meetings, but also gathered any special data needed by the consultants working in the various sub-committees.

The central or main negotiating committee was a counter-balance to the technical sub-committees and their more detailed proceedings. It acted somewhat as an editorial board, reviewing and improving documents submitted to it by the separate groups, and making final decisions in the case of deadlocked positions. Certain inconsistencies in the final Agreement are the result of last minute changes made by this committee. Some of the administrative difficulties of the Agreement can probably be traced to the editorial work of the main committee, especially in the last phases of negotiations, when there was a considerable amount of dickering about text and wording.

Québec's attitude in the negotiations can be characterized first by a willingness to assign senior civil servants to the negotiations and secondly by a highly technical and detailed approach which was to be embodied in the Agreement. By appointing a negotiating team at the decision-making level, Québec assured that the major interests of the various departments were co-ordinated and that there would be basic agreements on the positions arrived at, at least among the senior civil servants.

This manner of proceeding kept the negotiations out of the sphere of politics, which avoided delays, but as we shall see, the fact that the politicians were largely in the dark as to what was being negotiated caused problems and delays when it came time to have the Agreement accepted by cabinet and the parliamentary committees.

Interest in the negotiations among the Québec government departments depended upon how much each department judged its objectives to be at stake in any final Agreement. It is clear that some departments saw the negotiations as an opportunity to clarify and consolidate their role in the administration of the north; this was the case for the departments of Education, of Justice and of Social Affairs. Other departments took the role of a watchdog, ensuring that established provincial policy was not upset by an agreement; this was the case of Lands and Forests and of Natural Resources. Other departments, including Tourism, Fish and Game, as well as Municipal Affairs, wished to maintain their jurisdiction which was threatened by the establishment of the Crown corporations involved in the hydroelectric project.

The role of the federal government in the negotiations has often been misunderstood. While the Department of Indian and Northern Affairs had taken the critical step of providing the native people with the necessary funds to hire the essential technical expertise needed in the negotiations (through an interest-bearing loan), its role at the negotiating table was primarily passive. Consistent with departmental policy outlined in the 1969 White Paper, it was anxious to divest itself of responsibility for the provision of community services such as education, and see these taken over by the Province. This department was represented extensively throughout the negotiations, but this representation was explicitly defined in terms of the trusteeship responsibility of the department under the Indian Act - an agreement which needed to be worked out with the Province. In a manner consistent with their approach, therefore, the representatives of the Department ensured that the Agreement would make it clear that the Cree and Inuit beneficiaries

would only retain entitlement program benefits available to other Indian and Inuit in Canada, and would not derive additional benefits from Canada, over and above those normally available to Indians and Inuit. This approach was based on an underlying policy that Canada's obligations in a settlement were to be limited to indemnisation for the extinguishment of aboriginal title in the James Bay area south of the Eastmain River [1], and a committment to see that any necessary administrative measures were taken in areas involving federal jurisdiction.

It was the Department of Justice which was the leading federal agency in the negotiations defending federal presence in the James Bay Territory. This department was largely responsible for the application of the traditional formula for the extinguishment of aboriginal title as it appears in the Agreement, the determination of the federal share arising from the settlement, and the extent of federal responsibility for modifying existing laws and regulations potentially affected by the settlement (e.g., the Migratory Birds Convention Act). The combined influence of Justice and Indian Affairs in maintaining a "status quo", with respect to federal obligations, was an important feature of the negotiating process and the eventual form of the Agreement; the innovative features of the Agreement result primarily from the efforts of Québec to define a new administrative role for itself. The attitudes of both governments produced a result which had been strongly recommended in the Federal White Paper of 1969 and by the Dorion Commission.

The Crown corporations - Energy, Development and Hydro-Québec - necessarily had very specific interests in the negotiations.

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[1] Canada's contribution to the compensation arising out of the Agreement ($32.75 millions) is approximately proportional to that fraction of the area contemplated by the Agreement lying south of the Eastmain River (i.e., about 22%). The Québec Boundaries Extension Act of 1912 specified that Québec shall bear and satisfy all charges and expenditures in connection with or arising out of such surrenders (Sec. 2 c); no such provision applied south of the Eastmain River.

The Energy Corporation needed a clear right to complete the works under construction and the related hydro projects which were in the planning stage, without the risk of further court action. But their interests were not limited to the evident requirement for an unimpeded right to develop. The act which set up the Development Corporation - Bill 50 - had given in a broad mandate to co-ordinate the management and administration of the area under its jurisdiction, a mandate resented by some government departments which criticized the apparent encroachment of their traditional fields of jurisdiction. During negotiations, therefore, the corporation took care to preserve the prerogatives it enjoyed under Bill 50.

For its part, the Energy Corporation was not content to limit its role to a formal definition of the La Grande stage of the James Bay Project, and outlining details, as agreed upon by the parties to the negotiations. In this case, there is strong evidence that its approach was largely influenced by its chief negotiator, who was aware of the necessity of developing a continuing working relationship with the Cree. He was prepared to commit himself personally to the implementation of a joint Cree-Energy corporation (SOTRAC) with broad responsibilities for the execution of remedial works to lessen the environmental effects of the La Grande development.

The role of Hydro-Québec in the negotiations is less conspicuous, a reflection of its limited direct involvement in the execution of the James Bay Project. Nonetheless, the Agreement contains some provisions which require Hydro-Québec to accept obligations similar to those of the Energy Corporation, in future cases when Hydro-Québec might be involved as the principal agency in a hydroelectric development in the territory.

From the very beginning, the negotiating table was a highly technical forum. The corporations and the government were

represented by lawyers and technical people who were expert in the highly legal and specialized aspects of federal-provincial relations, government administration or hydroelectric development design. In such a forum the Cree had to rely on their hired experts to assure that their interests were not being prejudiced. As the negotiations neared the end and took on an even more technical aspect, the role of the expert advisers became even more prominent.

The Agreement in Principle had established that a final Agreement had to be reached by November 1, 1975. When October arrived with many details still to be worked out, the negotiators took suites in a downtown hotel in Montreal and during the next five weeks there was a dramatic change of pace in the negotiations. The main committee and all the sub-committees worked practically non-stop to draw up a final text. Negotiators worked day and night in an atmosphere not unlike that which prevails in labor negotiations when there is a desperate rush to end a strike. It was not precisely an ideal forum for elaborating the administrative procedures which form such an important part of the Agreement. It did, however, force compromises, as physical and psychological fatigue brought about some concessions from all sides.

The Cree people at the community level had already decided to endorse the negotiations and sign a final agreement in a series of consultation meetings, which had taken place in the communities in late September and early October. The chiefs were given individual powers of attorney to sign an agreement on behalf of the people. In October, the chiefs and band councils from each Cree community came to Montreal to participate in the final round of negotiations and to ratify any last minute changes. They stayed in the same hotel as the negotiators, where the Cree representatives were able to spend most of their time reviewing

final texts which the consultants provided. By the time the Agreement was ready for signature on November 11, 1975, the Cree delegates were growing impatient and frustrated by the last minute delays and disagreements. When the signing ceremonies were over, they immediately left by plane for home.

The first Cree administration

If the Cree Band Councils left Montreal in November 1975, exhausted, frustrated and impatient with the final round of non-stop negotiations, the leadership and negotiators of the GCCQ were not far behind them. The pace of work in the Grand Council office ground to a snail's pace in December and January as people recovered from the ordeal. But, as the Cree soon discovered, the signing of the Agreement did not mark the end of negotiations, rather it signalled the beginning of a process of continued interaction with consultants and government which would last for years.

The staff of the Grand Council filtered back to Montreal in early 1976 facing a reality that the Agreement set out short-time limits for certain provisions to be implemented. The Income Security Program had to be operational by September 1976. The Native Harvesting Study, already underway from the signing of the Agreement in Principle, had to be continued for an additional four years. A range of provincial and federal legislation had to be enacted to give effect to the Agreement in general, and specific sections in particular, and it was essential that the Cree be involved at the Bill drafting stage, if their interests were to be protected. (See Table I, page 23). And there were issues relating to the compensation they were to receive, which required very specific GCCQ input.

At the same time, the Agreement demanded that certain government departments or Crown agencies do certain things which were im-

TABLE I

Compilation of Legislation Enacting the James Bay and Northern Québec Agreement, James Bay Cree Sections.
(Numbers in parentheses refer to the relevant sections of the James Bay and Northern Québec Agreement).

Federal

July 14, 1977	-	Bill C-9	- The James Bay and Northern Québec Native Claims Settlement Act.

Québec

June 30, 1976	-	Bill 32	- An Act approving the Agreement concerning James Bay and Northern Québec. (LQ 1976 C46)(1)
		Bill 40	- An Act modifying the Act on Social Aid. (To permit early implementation of the Income Security Program. (Sec. 30)
Nov. 17, 1977	-	Bill 10	- An Act to amend the Act respecting health services and social services. (Sec. 14,15)
June 8, 1978	-	Bill 2	- An Act to amend the Education Act. (Sec. 16,17)
June 23, 1978	-	Bill 24	- The Cree Villages Act. (Sec. 10)
		Bill 25	- An Act respecting the Cree Regional Authority. (Sec. 11a, 26)
		Bill 26	- An Act to establish the James Bay Regional Zone Council. (Sec. 11b)
		Bill 32	- An Act to create the La Grande Complex Remedial Works Corporation. (Sec. 8)
		Bill 33	- An Act to incorporate the James Bay Native Development Corporation. (Sec. 28)
		Bill 34	- An Act respecting Cree and Inuit Native Persons. (Sec. 3)
Dec. 22, 1978	-	Bill 28	- An Act respecting hunting and fishing rights in the James Bay and New Québec territories. (Sec. 24)
		Bill 29	- An Act respecting the land régime in the James Bay and New Québec territories. (Sec. 4,5,6,7)
		Bill 30	- An Act again amending the Environment Quality Act. (Sec. 22,23)
June 21, 1979	-	Bill 12	- An Act respecting Income Security for Cree hunters and trappers who are beneficiaries under the Agreement concerning James Bay and Northern Québec. (Sec. 30)
		Bill 38	- An Act respecting the Police Force of the Cree villages and of the Naskapi village. (Sec. 19,21)

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(1) This Act was not proclaimed until October 31, 1977

possible without the collaboration of the Cree. As agencies such as the Québec Ministries of Education and of Health moved to fulfill obligations under the Agreement, they requested the regular involvement of Cree representatives. The Energy Corporation needed the Cree to establish SOTRAC, the remedial works agency.

To react to these situations, the Cree needed an active and complex organizational structure. By February 1976, the Cree were feeling pressure of the time constraints of specific sections of the Agreement, and this pressure speeded the process of establishing an effective administration to respond to the situation.

For staff, the Grand Council had the people who had been working during the negotiations either as senior negotiators or as members of sub-committees. With the financing of a Cree operation secured by the access to the compensation funds, they were able to approach seriously the matter of establishing a permanent office. The small staff began to seek out Cree who were working in government agencies or in some administrative or technical capacity elsewhere, to see whether they could be attracted to the young organization. This strategy had been successful in bringing in a few highly-skilled individuals to the organization during negotiations and again it met with some success. In retrospect, it is clear the the GCCQ was locating all available potential Cree human resources and engaging them to work in the organization, not so much for their specific skills for a particular job, but rather to have them available within the organization where they could eventually be fitted into the evolving structure.

But in early 1976, a scarcity of potential Cree employees was not the major difficulty. The problem was more that the negotiations left the Cree with a very small number of employees and consultants who were familiar with the details which had been hammered out

at the negotiating table, people who would know the intent of discussions when certain sections of the Agreement were drafted. Continuity was really only possible when the same people were involved. Thus, when pressure came to the Cree to begin further meetings with government agencies, or with the Cree bands at the local level, the burden for about fifteen complex areas of interest fell on less than a dozen people. These pressures were felt not only by the Cree staff but by the consultants. Day-to-day operations in this period resembled crisis management and in the midst of this, filing systems had to be established, budgets arranged, coherent policy developed, and priorities agreed upon.

Up until this period, the Cree had relied on management advice from the senior legal counsel and the engineering consultant, who had extensive experience in management. But the new situation, especially with the imminent reception of very significant compensation funds, was far too time-consuming for part-time advisers and the Cree were advised to retain the services of financial and management consultants. First, an accounting firm was engaged, not only to oversee a financial system for the GCCQ, but also to sort out the confused financial affairs of some of the Cree bands and train local bookkeepers. From the beginning, the Cree were foreseeing the requirement for a sound local administration, as well as a regional one. When the basic files, treasury and accounting systems were set up, the management consulting firm, Peat Marwick and Partners, was engaged to give advice on organizational structures for the new Cree institutions which were contemplated.

The management consultants initially worked closely with the Cree consultants in a process of transferring the background information on the negotiations. Then they made their initial efforts towards designing potential structures for the health and the school boards. While the suggestions concerning the

management of these bodies was not well-received by government departments, which had their own notions on how such bodies must be structured and financed, nonetheless, the advice on the internal Cree organization was considered useful by the Cree and since 1976, Peat Marwick and Partners have maintained close relations with the Cree. In their role of management consultants, they have specialized in matters relating to the organization of the corporation and in the general field of economic development.

In the first case, they provide advice on and coach the executive on such matters as job descriptions, recruitment and training of staff, the introduction of budgeting systems and staff development (through "consults" which utilize "brainstorming" or "prioritising" sessions designed to help the Cree identify planning goals). The management consultants have provided the Cree staff with general conceptual advice on the area of economic development, mainly at the level of "consciousness raising" where there is general talk of the development of the Cree as a "self-sufficient nation" but as yet without detail on what is actually involved in achieving such a goal. On more specific matters, it is this company which is advising the Cree on the development of the master plan for Cree transportation and on Cree involvement in the regional tourism industry.

The small group of technical consultants retained their prominence as they and the Cree continued with the complex negotiations with government departments or the development agencies on matters relating to land selection, environmental protection, hunting, fishing and trapping activities (referred to generally as "harvesting"), or project modifications. The legal firm also retained its high profile, assisting at most negotiation sessions or meetings with government officials as legal counsel. At these sessions, government officials report, consultants and legal advisers frequently dominate the highly technical discussions and are responsible for the

preparation of most reports and memoranda setting out the Cree position. This appears to be the basis of their assessment that the Cree are dominated by their consultants.

However, on the Cree side, the perception is not one of manipulated Cree. Before these sessions, the consultants meet with the Cree to develop "the Cree position", which is argued by Cree specialists in the technical idiom of the technocrats before the audience of experts of the government or its agencies. But whatever the perception of the parties involved, there is no doubt that the young Cree organization relied heavily on their consultants. In the 1976-77 fiscal year, consultants' and legal fees and expenses amounted to about $850,000, approximately 30% of the total Cree budget, much of which was recoverable from government. The following year, the amount had dropped to just over 20%, a total of $690,000. At the same time, it is very important to stress that the cost of consultants for the Cree must be considered in relation to the volume of work they handled. The productivity is high indeed, especially when compared with the normal workload of the public servants with their extensive back-up staffs who confronted the Cree across negotiating tables. For example, in 1977-78, Indian Affairs had a staff of over two hundred at the Québec regional office and an overall budget of about $55 million, of which $7 million was for administration alone. The Department could afford to assign two senior officials to deal exclusively with the files relating to the Agreement, as well as providing the back-up officials for them. The Department of the Environment established a complete office of about eight - including biologists and other technicians to treat only one section of the Agreement (Section 22) relating to the environment. These were only two of the highly specialized groups of technicians in front of whom the Cree consultants had to protect "the Cree position". Were the Cree to have had on the

staff the people with the technical formation to maintain the level of input provided by the consultants, it is estimated that the salaries and back-up support would balance present consultant costs. This observation is largely academic, for whether on staff or retained by professional service contract, such personnel would not be Cree, for there are no Cree lawyers, engineers or biologists.

It had been the hope of the Cree that legislation relating to the Agreement would be passed quickly and the new structures contemplated by the Agreement, especially the Cree Regional Authority (CRA), could be used to support implementation processes. However, the problems with the acceptance of the Agreement in Inuit communities placed considerable pressure on both civil servants and politicians at Ottawa to exercise great caution in proceeding with the passage of federal legislation. The result was that Bill C-9, the federal Act giving force to the Agreement, remained at the committee stage for many months. This forced the Grand Council, which was primarily a political organization of the Cree, to maintain a very active role in administration for much longer than was intended. Had the Cree Regional Authority, the body which was conceived of as the service and management organization to serve the Cree communities, been operational, it would have been very active in the transitional period. Whatever this would have meant in matters of formal organization or financing, it is doubtful whether the manner in which the staff worked during the transitional period would have been significantly different. The Cree executive ran things under the Grand Council, and when, in fact, the CRA was set up in 1978, there were no major changes in the authority structure. The pecking order of Cree leadership had already been established during the court case and negotiations.

The overall direction of GCCQ policy between 1976 and 1978 - aside from the legislative and quasi-legislative activities - was one of taking control of programs formerly under direct government operation. The Agreement itself made it clear that the Cree would move quickly into health, education and police and, parallel to the processing of lobbying relating to drafting of legislation, an incipient Cree staff began the direct discussions with government to prepare for the eventual complete takeover. Consequently, when legislation was finally passed, the Cree had necessary administrative plans of action ready for implementation.

Between 1975 and 1976, the GCCQ provided the organizational structure which permitted the following entities to be developed:

The Cree Regional Board of Health and Social Services of James Bay
Cree School Board
The Income Security Board
Cree Housing Corporation
Cree Arts and Crafts Association
Cree Trappers' Association
Cree Construction Company
The Cree Regional Authority

These bodies are now legal entities and with the passage of the legislation have the legal personality which permits them to operate without the trustee relationship with the Grand Council which was necessary prior to that. This has not only simplified the administration of these bodies, for among other things, they operate with their own budgets, but the Board of Directors of the Grand Council does not have to consider their affairs in detail in order to permit them to function. The consideration of detailed aspects of the operation of what later became bodies such as the

School Board or the Health Board occupied a great deal of the attention of the Grand Council meetings. In the six months between September '77 and April '78, a full 60% of the formal resolutions of the Board of Directors related to these kinds of matters. The committment of the GCCQ to the expeditious setting up of these organizations can be judged from the fact that it was that body which provided the initial capital, by way of loans, to the interim bodies while they were getting organized before the formal legislation was passed. Thus, for example, it was the Grand Council which provided the funding to do the early organizational work in the Income Security Programme, the Cree Health Board and for a range of other projects. Without this interim funding there would have been significant delays in their establishment.

It will be useful at this point, to recall that the Board of Directors of the Grand Council is made up of the chiefs of the bands plus one additional representative from the band who is selected at a meeting of the band. The additional delegate has almost invariably been a member of the band council, so that in practice, the chief and one councillor are directors of the GCCQ. The close linkage between the band councils and the regional organization was further strengthened between 1975 and 1978 when it was normal for as many as half the chiefs in the Cree region to be full-time employees of the GCCQ - usually at senior levels. While it is speculative to comment on the extent to which this close involvement of band chiefs with the GCCQ administration had an effect on the style of operation at the band level, it appears that the manner of interaction of band councils and government changed in the period from 1974 to the present. An example of the change can be found in the experience with the housing and community infrastructure programme, which was the most important Indian Affairs activity in the James Bay Cree communities in the 1970's.

There had been significant difficulties in the housing and community infrastructure programme in several communities - problems relating to the adequacy of design and scheduling. These were perceived by the personnel in Indian Affairs as being caused by inadequate budgets, while the Cree more frequently placed the blame on the incompetence of the Department. There seems to be no doubt, though, that both sides agreed that there was good cause to criticize the programme. It was normal that the chiefs who were working at the Grand Council, with professional consultants and advisers, asked advice on problems they faced as chief of a band. The consultants were familiar with the communities, as they had visited all of them on occasion, and it was simple for them to offer advice, or even gather information, on the housing programme ancillary to their normal work. In effect, the bands, in an informal manner, were beginning a process of seeking professional advice from consultants on local matters. It was a small step to move the situation where the consultant accompanied the band chief at meetings with the Department to argue for changes in the programme.

When the professional civil servant was faced with criticism from consultants representing a Cree band on a specific project, there were some quite strained exchanges. The civil servant, for the first time, found himself the object of professional criticism, in which his professional judgment was being questioned. The situation was compounded by a strategy which the Cree could now use. They could appeal lost arguments at one level of the bureaucracy to officials at a senior level by using the new channels which they had opened during the negotiation process. This place middle-level civil servants in the line of potential cross-fire, a position which they found most uncomfortable. While this has not led to animosity between the civil servants and the Cree, it seems to have resulted in a situation where they are a

good deal more guarded in their dealings with Cree. Some Cree complain today that Departments are particularly inflexible on details so that they have a need for assistance from consultants to assure that they have extracted the maximum they are entitled to. On the other hand, the government administrators complain that they talk to consultants, not the Cree, and cannot be sure whether "the Cree position" - the negotiating term which has become a cliché in all government-Cree discussions - represents the views of the people in the community or those of the consultants. Formal exchanges of memoranda now tend to be demanded where previously informal and fluid arrangements sufficed. The formalized confrontation strategies which are normal between negotiating partners now seem to be operating at the band level and concurrently, the implicit involvement of professional consultants in that process is now becoming a fact of life in band administration.

The Cree Regional Authority (CRA)

The new Cree regional body which took over the administrative aspects of the GCCQ is the CRA. It defines its objectives in the following words:

> "The first area of responsibility is to provide services and programs that will help and assist Cree Bands. The direction for the services and programs comes from the Council of the Cree Regional Authority. The second area of responsibility is the management of the compensation money that the Cree are to receive under the Agreement. The responsibility of looking after the money falls on the Board of Compensation of the Cree Regional Authority."

The Council of the CRA, the policy-making body for administrative programmes, is composed of the chiefs of the bands ex officio and one elected member from each Band. The chairman and vice-chairman are elected and the other members of the executive are appointed by the council.

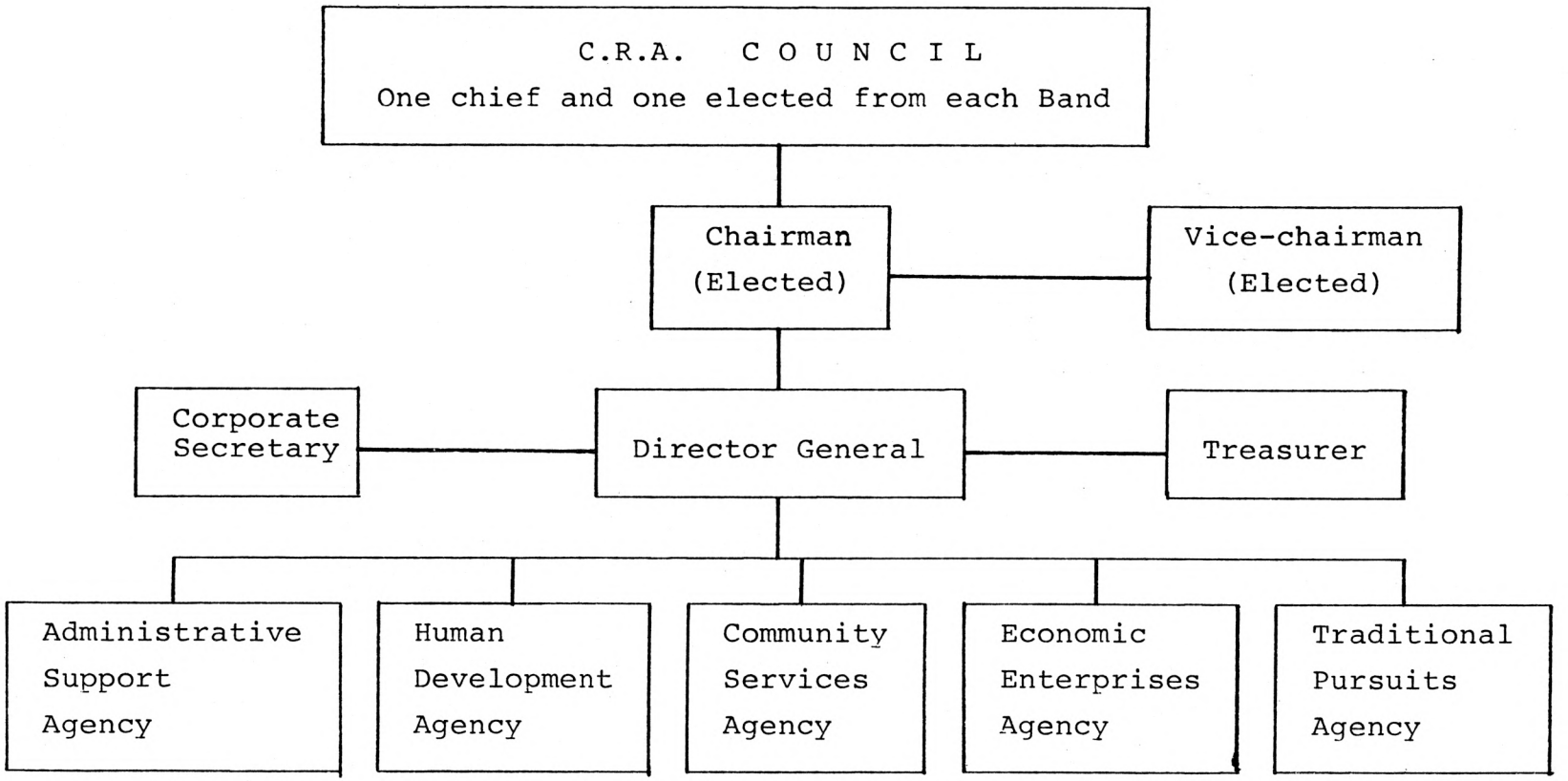
The staff of the CRA is, in fact, no different from that which worked for the GCCQ. When the requisite legislation was enacted, the CRA was officially established in the summer of 1978 and the employees of the GCCQ became the staff of the CRA. From the exterior, it would appear that the change-over represented little more than a name-change initially. Internally, the organizational change was much more complex, involving much of the staff's time for many months. The resulting structure of the CRA is outlined on the chart on the following page. It will be noted that there is no direct connection between the CRA and the entities established by the Cree, such as Cree Construction or the Cree Housing Corporation. The co-ordination of programmes of these agencies and the CRA is accomplished by an interlocking directorships of the CRA, the independent agencies, and the School and Health Boards.

The CRA is without a doubt the strongest organization in the Cree area today. In a certain sense, it is like a municipal government at the service of scattered communities. However, it is financed by income on investments from the compensation funds rather than a tax base. While the CRA today does not have to justify its expenditures to a tax-paying constituency, it must justify its budgest to the Board of Compensation. In this sense, it is very different from the Band Councils or from whatever local government body may be set up later at the band level. The latter must secure a financial base from a non-Cree entity, either grants from Indian Affairs or allocations made to the band to manage self-administered programmes.

The Board of Compensation has two elected members from each Cree community, three appointed by the CRA and two non-Cree members, one of whom is appointed by the federal government, the other by Québec. The Board then, with a slightly broader elected base than the CRA, is master of the Treasury. The Board has to manage an

ORGANIZATIONAL CHART

CREE REGIONAL AUTHORITY



interesting division of power within the organization. Technically, the Board could refuse to fund activities of the CRA so there is a question of which body is, in fact, the more powerful. The Cree themselves speak of the Board of Compensation as being somewhat akin to the federal Treasury Board. In 1979, it exhibited signs that it indeed did work somewhat like the federal body, in that, when the first annual budget of the CRA was presented to it, the Board did not approve the requested amount, but returned a message to the CRA that it should be more diligent in seeking sources of funding for its programmes from the government.

Although specific policies of the Board of Compensation have not as yet been clearly articulated, there are some indications that it will pursue a policy of not utilizing compensation funds for direct support of programmes. Rather, it will probably guarantee loans or provide limited seed capital for Band, regional or individual initiative. For example, should a Band wish to become involved in an activity such as tourism and outfitting, the support would likely be through a loan or a guarantee of a loan.

In the field of economic development, the CRA sees that it has an important role in setting up the necessary environment for development projects. In this, it works, of course, in close consort with the Board of Compensation, the goal being that when an individual or Band is ready to move on a significant project, there is a well-developed support system at the regional level. Thus, the CRA has set up not only a range of training courses but also the physical facilities of a centralized purchasing office. Moreover, in order to assist individual Bands in their planning, it has commissioned feasibility studies for such activites as regional transportation and the development of the tourist industry.

The growth of the Cree bureaucracy

Between 1975 and 1979, the Cree office in Val d'Or has gradually grown until today it has a staff of about sixty. More than half are Cree. If one adds to these 35 the other Cree who are involved in local band administration, the Cree School Board and the Health Board, the total comes to about 150. This would be about 6% of the total Cree labour force employed in the region. When one considers that the total Cree population of the region is less than 7,000, it becomes evident that the overall number of Cree involved in administration is considerably higher than for any other native group in Canada. What is more impressive is the number of Cree involved in senior management functions. About 20 could be so characterized. At the same time, the development of middle-level staff - especially in administration and programme management - is comparative well-developed. The use of non-Cree staff has been in the areas of bilingual secretaries and financial services. By any standards, the growth and development of the Cree staff has been impressive and invites an explanation of the circumstances under which this could be done, the more so because in other areas of the country, programmes to involve native people in administration have been somewhat less than impressive.

Compared with other regions in the country, James Bay could not be considered to have been a particularly favoured region. Formal programmes in education were only introduced for the Cree in the early 1950's. Prior to then, a few individuals had attended elementary school in Chapleau, Ontario, under the auspices of the Anglican Church and one began to find these people manning the band councils and the local administration from the early 1960's. By 1954, young Cree began to attend primary school in Moose

Factory and followed up with secondary schooling at Sault-Ste-Marie. This group was relatively numerous, and included children from all the James Bay Cree communities. The first group of graduates began to return to their settlements by the end of the 1960's. It was a closely-knit group, linked by friendships which had developed over the years at school outside the Cree communities. They became an important resource for their region, for most had done quite well academically.

It was from the twenty or so graduates of the Sault-Ste-Marie school system that the core of the Cree opposition to the James Bay Project developed. It was principally this group which took on the responsibilities connected with the court case and negotiations. And as the Cree organizations developed, recruiting continued to be from the same group. Since these Cree had received a sound education, they were a reliable source of man-power and since they knew one another so well from the years at school, it was easy for a co-operative team spirit to develop among the staff.

The development of a new administrative structure from raw recruits, even if they are relatively well-schooled, presents very special problems for any organization. The one possible method is training "on the job". The Cree have refined this process by having the person to be trained in a particular job actually taking responsibility for it from the beginning but providing at the same time access to a consultant who works with the incumbent and trains him on the job. Then, as the project or programme is well underway, the consultant is to gradually withdraw as the new recruit is able to handle routine administrative tasks. The management consultants have developed some staff

training courses especially relating to programme design and budgeting. Of course, there has been a lot of rubbing off of skills from the consultants who have worked with the Cree from the inception of the court case.

It is important to stress that such training, while effective, has the result of reinforcing the position of the consultants within the organization. Since the policies of programmes are usually established at an early stage in the operation, it is then when outside advice is particularly critical. And this is the moment when the consultants are the most active in each programme.

Overall though, results have been excellent from the point of view of training competent personnel in a minimum of time. The majority of observers and government employees who work with the Cree staff agree that the new Cree administrators acquire a sound grasp of their work with a remarkable speed, even though consultants are always at hand to provide support in complex proceedings.

Conclusions: The Effect of Negotiations on Cree Bureaucracy

The nature of the argument

We intend to argue that the involvement of the Cree in the events of the court case and the subsequent negotiations resulted in the development of a Cree bureaucracy with a style of operation that closely reflects that of the structures involved in the litigation. In other words, the question is not whether the negotiations and Agreement spawned a bureaucratic structure; a regional organization of any type would have developed one. Rather, our argument will be to show that the negotiations leading up to the Agreement exerted a critical influence on the style of the operations of the GCCQ, and later, the CRA; the style marked by a dependency on consultants, an administrative, as opposed to a political involvement with both senior governments and the local communites, and above all, a style marked by confrontation. All Cree structures which have emerged bear the stamp of and result from the climate of negotiations, without having been, in fact, defined by or demanded by the Agreement.

We must recall that some sort of regional-local native administration was in the cards for the Cree, as it is for all Indian groups in the country. The Indians of Québec Association and the Department of Indian Affairs both were concerned with the matter of rationalizing the delivery of services and programmes to the Indian people long before the James Bay Project was an issue. Eventually, the administration of these programmes would devolve to native hands. The administrative apparatus needed to affect such a transfer is, in itself, as relatively neutral as it is inevitable. In the case of the Cree, the mechanism of the new structures in the final analysis cannot be strictly tied to the design of the James Bay Agreement. However, we shall argue that the form and style of those structures was influenced, first and foremost, by the nature of the negotiating forum with which the first Cree organization interfaced. The influence of

negotiations then, has to be considered in connection with the style of operation of the partners in that process.

The question of sovereignty

The first critical political decision made by the Cree in the litigation process was not to challenge the sovereignty over the territory. That decision, which had the effect of recognizing the sovereignty of Québec over the James Bay territory, in fact, determines all the actions which followed. The decision came about in a very particular way. The Cree chose to recognize federal sovereignty, insisting only that Québec must fulfill the obligations it had incurred in 1912 (the obligation under the Québec Boundaries Extension to obtain surrender of Indian rights in the territory). If Québec was willing to negotiate, then its sovereignty was recognized by the Cree.

That decision defused the political confrontation between the Cree and Québec, but it also required the Cree to redefine their ideas about the real locus of power in our society. Pursuing the legal route might not have taken them any closer to the goal of sovereignty, which is fundamentally a political concept, but it was a route which could have shown itself determinant in the establishment of the bureaucratic structures. As it was, the Cree seem to have been convinced that Québec society, the decision-making powers, hence the locus of real power, lay at the higher levels of the public service; this in turn, required that they deal directly with that level. This overall strategy, which flows directly from the decision not to contest the issue of the sovereignty of Québec, further required, if it were to succeed, that the upper echelons of government entities enter into close and constant communication with the

Cree - in other words, that government be willing to negotiate seriously with the Cree.

With the political situation at the time of the Malouf judgment particularly favourable to precisely such a stragety, the government found it easy to establish a negotiating table with representation at a senior level. The government, and especially the public corporations involved in the James Bay Project, preferred a negotiated settlement to a continuing legal battle. It was clear that the demands likely to be made by the Cree could be classified as "manageable", and all parties were willing to enter the discussion so long as Cree demands were formulated in a realistic way within the conventional technical idiom.

The decision not to contest the issue of Québec's sovereignty made it possible for the government to enter into discussions, the general terms of which - as far as Québec was concerned - had been determined by the Dorion Commission on the integrity of the territory of the Province. The Dorion Commission, it must be recalled, had squarely refused to consider the idea of negotiable native sovereignty. Since the Cree indicated in a roundabout way that they were not heading in a direction of legally challenging provincial sovereignty, Québec could allow itself to manifest "its will to recover the effective control of its northern territories and to include the native populations living there in the common destiny of the people of Québec"[1].

The province, on one hand, could consider implementation of Cree demands as part of a general scheme of development of the James Bay region, mainly again, through the participation of its development corporations. The Cree, on the other hand, could

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[1] Rouland, Norbert, Les Inuit du Nouveau Québec et la Convention de la Baie James, Québec 1978, Association Inuksiutiit Katimajiit et Centre d'Etudes Nordiques, Université Laval.

set about formulating their precise demands and putting them on the negotiating table with the assurance that contact had been made with the appropriate levels of power in our society.

The integration of divergent positions

From that moment, we may speak about the integration of the Cree into the planning and development process. Certainly the Cree were not a passive element in this relationship and the entire history of the negotiations can be seen as a series of effective actions on the part of the Cree to force the corporations and the government to take Cree demands and requirements into account to as great an extent as possible. Two very important points must be made about this process, since they were essential conditions for the survival of negotiations which, for the Cree, were often strenuous and wearisome.

First, in order to respond to the challenge of negotiations in a meaningful way, the Cree had to rely heavily on hired experts. This situation is what has led to the dependence of the Cree upon consultants, a dependence which has not lessened since then. In fact, it is a dependence which existed in the period prior to the negotiations, that of the injunction hearings, when a panoply of experts in various fields had already started to take form. Secondly, in order to keep the Cree interested in the negotiating process, the government had to consider for the first time that it was important to include subsistence activities in its plans for the overall development of the territory. The rational management of the subsistence sector became a potential activity for administrators.

Notwithstanding the quality of the Cree input into the negotiations and the sustained energy with which the Cree took part in them, the main characteristic which emerges from the

process, is that the Cree were brought around to accept that they had to argue the issues under discussion in the language of the government - the technocratic idiom.

Government and administration

When we suggest that the present Cree regional bureaucracy emerged from the context of negotiations, we are principally saying that its emergence had little to do with a formal political decision on the part of the Cree to create a regional government. The initial stragetic decision of the Cree - the non-challenging of sovereignty - has but one result in the long run: Cree administration of Cree affairs , rather than political control over them.

The negotiating strategy which is referred to as "the Cree position" involves a deliberate confusion of the administrative and the political levels. This confusion, it is possible to believe, arises from the following premises, under which the Cree were operating at the negotiating table:

1) Nothing could be gained by claiming sovereignty since the Cree were faced with a fait accompli, and the balance of political power simply would not sustain such a claim;
2) The true locus of power is at the higher levels of public administration;
3) The acquisition of any real power by the Cree is based on access to privileged information, which presupposes that contacts with the decision-makers are direct, continual and obligatory;
4) Autonomy can be achieved through the administration of one's own affairs.

With such premises, the content of negotiating discussions never had to treat a sharing of political power, only the administrative modalities which would apply in the Cree region. With a negotiating table

made up of participants at a very senior level, the Cree could perceive the very fact of being at the table as a very positive accomplishment; they were already in direct contact with those who they defined as the locus of power.

For their part, it was important for the government officials to perceive the Cree organization which faced them as one which had sound political bases in the Cree communities. The regular community consultations, which were held by the Cree both during the court case and the negotiations, even if they were informal, served to convince the public servants that they were dealing with a group which genuinely represented the Cree. So, just as the Cree saw the bureaucrats as being the political decision-makers, so the bureaucrats saw the GCCQ representatives as being the legitimate delegates of Cree society, having the authority to act in its name. At the same time, the Grand Council, from the objectives and goals of its Letters Patent, could be viewed as the precursor of a regional administration, as well as a political body. It acted and was treated as such, and as we have noted, the bulk of the work accomplished in the negotiations, which is codified in the Agreement, relates to the rationalization of a public administration for the Cree principles, it is patentedly an administrative concordat. Politicians and potential administrators were not distinguished at the negotiation table.

The role of advisers and consultants

We shall now consider the particular style which emerged during the court hearings and the subsequent negotiations, a style which we maintain, persists today. Since part of that style involves the preponderance of consultants, it is

reasonable to look for a connection between the premises we have just discussed and the kind of advice the Cree were receiving when the negotiating strategy was developed.

The task of formulating the Cree demands into the technical idiom required at the negotiating table, and in the context of the premises we mentioned above, was left largely to legal advisers, with the result that they soon became the essential intermediaries between the Cree people and the public bodies. Legal and corporate issues became the most important factors in negotiations; in fact, a legal approach to problems became dominant. The Agreement which resulted from this process, is essentially a contract among corporate bodies. Lawyers then, played a dominant role in the proceedings for all the parties involved in its negotiation. Later, in the talks held to establish the modalities of transfer of existing programmes from various provincial and federal departments to the new Cree regional structures, the presence of lawyers continued to exert its major influence, as it still does today. It is difficult to establish whether the climate of latent confrontation in these sessions was exacerbated by the presence of lawyers, but it is certain that whether the matter at hand in negotiations was one of compensation or the co-ordination to be established between established government entities and the emerging Cree organization the lawyers were perceived as essential resources for the protection of both parties' interests.

It is mainly in this respect that the legalistic tone established during the negotiations continues to influence a major part of the Cree administrative operations, which have since developed. Since there is really no power - so goes the initial Cree thesis - outside the administrative structures, the exercise of power becomes a series of sophisticated legal manoeuvres to

secure maximum autonomy and advantage for the Cree administrative entities. Lawyers then, are involved in areas which parallel those of a normal role of management. In a normal functioning administration, where the fundamental activities are largely routine, there is little need for legal input, however, in a fledgling organization which is struggling to establish new spheres of action, there is a transitory requirement for legal advice. However, if the climate of continuing confrontation is maintained, it is probably inevitable that critical legal advice, rather than a transitory requirement, becomes transformed into a permanent necessity. On the other hand, it can be observed that it was by following a strategy of confrontation that the Cree obtained the greater part of their financial compensation and modifications to the Project.

The involvement of consultants in Cree affairs was demanded from the time of the initial encounters with the structures against which they were struggling. Before the court hearings began, the Cree did not have independent political or administrative structures of their own. Band councils were inefficient, cumbersome and controlled by Indian Affairs, and could not have been viewed as useful to the lawyers approached to pursue the case. Complex court proceedings, such as the James Bay case, demand a high level of organizational skill and sophistication to marshall evidence, witnesses, etc. in the time constraints imposed by a court. For different reasons, the organization of the Indians of Québec Association was equally unpromising as a support organization. Its functions were principally of a representational or public relations nature; the technical work or preparing briefs and supporting documentation was farmed out to researchers and legal firms.

Since neither the Cree nor the IQA had a suitable organization to handle the necessary work, a new body had to be created. The James Bay Task Force, which was the precursor to the GCCQ

and CRA, initially was a structure where the managerial and directive positions were largely assumed by consultants. The Cree leadership which emerged through their work in this organization had as their principal role that of liaison between the scattered Cree communities and the consultants who needed rapid and efficient access to the body of data available only at the community level. Initially, the Cree had only to express to the public a general demand that the James Bay Project be stopped; the role of consultants was to choose the grounds upon which the battle would be fought.

The grounds chosen to attack the project, were in the field of ecology, an area in which there was much public sympathy at the time. The lawyers perceived the force of an argument which would link the notion of territorial rights with that of the exploitation of the territory's resources. Of course, the Cree had no expertise in these areas in 1972, and they had to rely on their advisers to choose the individuals who would be able to provide the necessary technical advice. By the end of the court hearings, the Cree and the legal team had come into contact with a broad range of experts, and, moreover, were able to evaluate the weight which the government agencies gave to the arguments which were put forward. For example, it was clear that the notion of the value of subsistence was received with some credence within certain government agencies.

Thus, the fields of technical discourse were selected by the nature of the legal arguments in the court proceedings, and the choice of consultants followed logically from this. The Cree and the legal advisers were able to judge from the public performance of the experts in court those who would be useful resources to an organization which was preparing to undertake negotiations

with the government. Most of the consultants who are active in the Cree organization today were discovered in the court proceedings.

The fact that consultants have become more or less permanent in the Cree organization results from the nature of the translation work they do. In developing broadly articulated Cree concerns into a "Cree position", phrased in a technical idiom presentable to the forum of a court or negotiating table, they become indispensable, not only to marshall the technical arguments before the experts of the opposition, but also to interpret the technical responses and their implications in terms which are understandable to the Cree. Thus, within a very narrow field of discourse, the consultants control the flow of information between the Cree and the parties they deal with. For the Cree organization, as with any organization which accepts to communicate with a sector of the technical world in its own idiom without the trained human resources in that esoteric discourse, they also accept a continued dependence upon consultants to manage that interaction.

The concentration of the Cree human resources

We have seen how the recognition of the Cree demands necessarily led to the requirement for a Cree regional administration. The attendent problem is one of finding personnel to manage such an organism. The training of people in the routine tasks of administration is not a particularly difficult problem, though it was an area in which Indian Affairs had not been particularly successful. We must ask, then, how the training of the new staff was accomplished, especially in the light of the fact that the new staff have proven themselves competent to handle dossiers which were previously managed by provincial or federal offices. Our conclusion would be that, where the training efforts of

Indian Affairs had been unsuccessful, the school of negotiations and the related Cree activities provided a fertile training ground. At the regional level particularly, it is clear that the Cree have the necessary resources to operate a functional regional administration.

The situation at the band level is less clear, for as we shall demonstrate in the cases reviewed in the second paper of this report, there are some difficulties there. This fact is recognized by the Cree, who resolved in the 1978 General Assembly held at Fort George, to establish programmes to upgrade the quality and quantity of human resources at the local level. A question can be raised as to whether the concentration of a significant number of skilled Cree at the regional level has robbed the bands of valuable manpower. Another would be whether regional concentration is inevitable.

The first question is more completely treated in our third paper and we need only note here that in most Cree communities, a lack of local opportunity caused a significant haemorrhaging of trained manpower well before the activities surrounding the Agreement. The establishment of a regional government did not affect that. As to the inevitability of regional concentration, we conclude that it is a response to a series of factors. The co-option of the Cree into the management of the territory, the necessity of dealing with senior agencies in a common technocratic idiom, and simple, rational efficiency, demand that the scarce human resources be concentrated at one point. The location of the offices in Val d'Or, away from the day-to-day life of the communities, can be seen as inevitable in the 1976 situation. The Cree needed to remain in close contact with the decision-makers for the territory, a geographic constraint related to the remoteness of the Cree communities. However, the desire of the Cree to eventually move the regional structures to Cree

communities is an indication of their consciousness of a problem and their willingness to cope with it.

It must be pointed out, however, that moving the regional offices to Cree communities does not solve all the problems and in fact, raises others. The move still implies a concentration into one or two centres for reasons of rational efficienty. Fort George and/or Mistassini would seem to be logical points of concentration, since only they are large enough to effectively support the necessary infrastructure. Another implication is the effect the move would have on significantly strengthening the economy of the chosen community or communities, as well as a likely improvement in community services such as education. One can foresee that the target communities would tend to be overrepresented on the staffs of the regional structures. In every likelihood, they would become natural centres for the development of trained manpower, produced by a superior school system, which, theoretically, at least, is better from the perspective of training administrators. (The third paper of this report treats the implications of the educational choice which Cree make for their children).

Another important potential effect of such a concentration, flows from a present tendency for political and administrative functions to be fused at the level of the senior staff of the present Cree regional structure. The relative political strength of the small communities could be negatively affected.

The nature of Cree participation

What is really at issue, however, is the sort of role the new Cree regional staff have in their structure. What is their position vis-à-vis the consultants who have played such an important role in the development of the organization? There is evidence (which shall be presented and developed more completely in the following papers) to suggest that a system has developed wherein Cree are trained in and assume control of the more routine

aspects of administration, while the more active or dynamic areas of bureaucracy - the level at which decision and policy-making power resides - remain under the determining influence of consultants in general, and legal advisers in particular. From such a situation, it is not surprising that one already sees some early signs of a potential resentment developing among the Cree concerning the power of consultants and the difficulty of controlling them.

Certainly, though, it would be naive to suggest that the Cree do not need consultants and legal advisers. Their participation has been necessary to provide advice on how to make the new administrative structures properly interface with those of the state. But this transitional stage seems to be perpetuated, given that the consultants maintain a pre-eminence in the new organizations over time. There is also evidence that the presence of consultants dominates the Cree participation in certain structures - we are thinking of the consultative committees such as Hunting, Fishing and Trapping, which were precisely designed to put various provisions of the Agreement into effect. Such a domination is more or less by default, because it is difficult to find Cree interested or sufficiently skilled to undertake the representation function. We shall have more to say, in the following papers, about the set of factors which tend to limit the desired participation of the Cree at the significant levels of organizations which are designed to ensure them certain power in the management of their own affairs. What is sufficient to stress here, is that pre-eminence of consultants in these situations is less due to any hegemonic designs of advisers, than to the requirement to fill a vaccuum left by the Cree.

The fact is, that when the Cree were faced with the reality of involving themselves in the administrative structures they had negotiated in the Agreement, they were required to maintain constant

contact with senior public servants. It would seem, though, that the people at the community level have little interest in long-term issues which are treated in consultative forums. Certainly, it is difficult for Cree hunters to perceive such participation as an important benefit from the James Bay Agreement. They have more interest in short-term usable benefits. One must not be surprised, then, if the Cree must justify the existence of the large operation at Val d'Or by becoming involved in administering programmes which affect the community directly. Thus, today, the bulk of the operations at the Cree regional office at Val d'Or deals not with the implementation of the Agreement, but with the delivery of programmes which had previously been handled by the federal or provincial governments through direct relations with the local band councils. It was relatively easy for the Cree organizations to make these programmes more effective, especially in the smaller communities, through the deployment of more and better-trained Cree and non-native personnel, backed up by consultants, who can more seriously confront government departments and negotiate a harder deal with them. However, larger bands have recently expressed some concern that the regional approach may be usurping their role. The regional administration can scarcely afford to abandon the control of such programmes which are needed to demonstrate the viability of its own mode of operation. The compromise being sought, in political terms, is that of establishing the notion that the local bands control the regional organization through their chiefs, and that specific mandates to the region - which technically are revocable - are required from bands before such programmes are initiated.

To maintain high performance in these programmes, the Cree are inexorably involved in a continued reliance upon consultants. Once embarked on a regional programme as complex say, as the Cree Housing Corporation's five-year construction programme (treated in the following paper), the Cree require engineering and town-

planning consulting firms as well as legal advisers. This is the normal reliance of any municipality. However, when the Cree have within their own organization a relatively inexperienced staff it is difficult to adjudicate performance and hence exercise control. This is critical, not so much at the level of execution of projects, but in the conception or design stage where early decisions quickly evolve into long-term policy.

The response of the Cree organization to this situation is varied. In some instances, where there is a commitment on the part of the adviser to see the Cree staff member with whom he deals grow in his position, and where there is a willingness on the part of the Cree to make the necessary effort, we find serious Cree input into policy-making. On the other hand, in cases where the adviser leaves his work shrouded in mystery or where the staff member is simply not interested in making an effort but merely rubber-stamps the consultant's input, the role of advisers in policy-making remains dominant and Cree participation is confined to routine administration.

The Cree precedent

In less than ten years, the Cree have been propelled into a remarkable trajectory in the field of social and institutional transformations. In 1969, no-one would have been able to envision that Cree communities, which at that time conformed to all the normal standards of sub-arctic native communities, that is to say, isolated, marginal, with socio-economic conditions which were extremely difficult, dependent upon a Department of Indian Affairs which was only able to serve them inadequately, no researcher in the field could foresee that a decade later, these communities would be involved at the frontier of a decentralization experience in administration, in the creation of local and regional governments, in managing novel welfare programs or in assuming regional responsibility for the economic orientations of the communities.

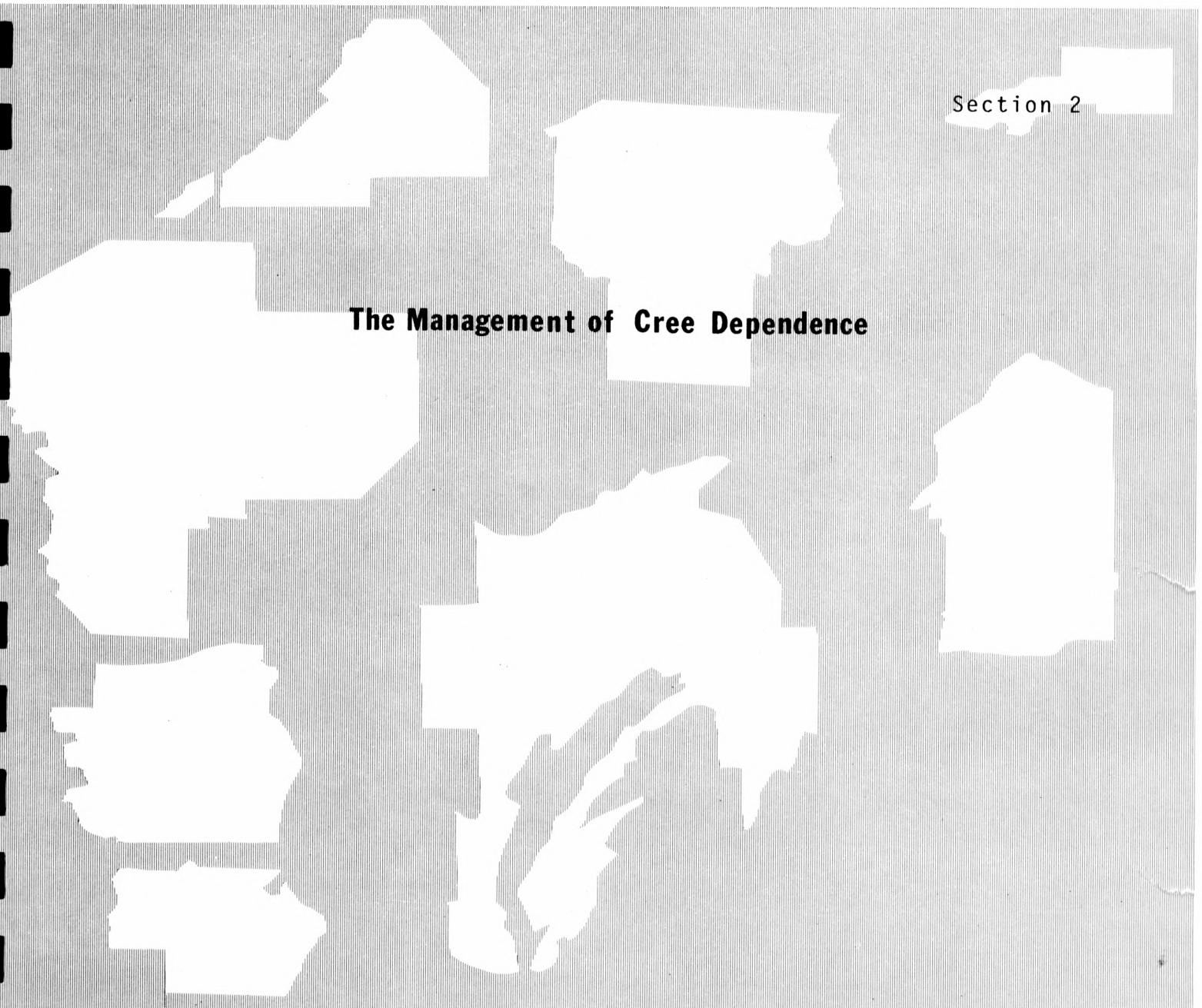
From any point of view, and for all the parties involved, the events of recent years are without precedent. All parties learned "on the job", in the course of doing day-to-day work, the real significance of the complex interdigitating of the new native structures with those of the state, all of this in the context of a region where a vaccuum existed, the inheritance of out-moded and poorly-performing federal administrative structures.

This situation put all of the parties on their guard, because theoretically, any error would be able to snowball. This was particularly the case for the civil servants of the federal government, who, in the long-run, were only able to respond with strict legalistic interpretations of discussions and confrontations. The Cree themselves were under the same pressure of knowing that their actions were watched by other groups of natives in Canada and the question of precedent was important for them as well.

One must not be surprised that the strategy of confrontation and sharp and pointed negotiations was resorted to constantly and was cultivated, notwithstanding a fundamental agreement upon the general objectives. Such a climate, though, created a distrust where lawyers became indispensible for everybody. Confrontation is what probably reduced the discussions to their highly technical tone, one in which consultants were the main participants.

Section 2

The Management of Cree Dependence



The operation of administrative structures at the regional level

Introduction

If there is one area that has been prominently covered in the discussions of Indian-White relations in the past two decades, it is the nature of the dependency relationship of Indian bands and the dominant society. It would be basic, then, to focus any discussion on the development of radically new relationships between a native group and the dominant society on the degree to which it has affected that dependency relationship. That is our purpose in this paper. We want to treat the operation of the new Cree regional structures over the past three years to assess the potential for changing the dependency syndrome.

In the past, there has been an admitted paternalistic attitude on the part of Indian Affairs in their treatment of the native populations. In the first paper, we noted how ill-prepared that left the local communities in the face of a significant threat, a threat in which the Department appeared unwilling or unable to become involved. We noted that the reliance on the provincial Indian organization left many things to be desired, primarily because the nature of the matters to be discussed by a local affected population and those of a provincial brotherhood in the face of a threat such as the James Bay Project do not easily coincide. Self-interest forced the Cree to seek their own approach to the problem. But pursuing that interest threw the Cree into a dependence upon advisers and consultants, to the extent that these specialists played as overriding a role in the life of the Cree regional organization as that of the previous patron - the Department of Indian Affairs.

At the same time, we noted that the presence of consultants and advisers in itself was probably inevitable and in the short-run, they would probably play a dominant role. But there

was room for the Cree to eventually control them, if they have the inclination or the energy to become seriously involved in an available learning process and then shoulder seriously the burden of formulating their own policies. Theoretically, at least, the Cree can get control of their local and regional administrations from the present hegemony of the world of consultants.

To what extent though, will the control of local and regional administration result in economic or political independence, or at least significant changes in its nature? An analysis of the material we are to present, we think, shows that some significant shifts have taken place but shifts that are only a rearrangement of the traditional dependency pattern. The region remains firmly locked into a dependence on a transfer payment economy; the bands seem to be involved in a shifting of dependency from IAB to the regional Cree organization. The CRA, dependent upon the senior governments to provide access to programmes which it can administer, to support its service role for the bands and to pay the costs of maintaining the regional structure becomes Janus-faced in character but can tend to act as if its responsible constituency were the senior levels of super-ordinate governments, rather than the bands.

While this may seem a dismal analysis, it must also be noted that the Cree region has within the structures the possibility of taking other initiatives. As local awareness of the nature of the issues emerges, which is more likely among the young population which is just reaching voting age and beginning political activity, a new leadership may emerge. Such a leadership would have no investment in the Agreement , nor remembrances of the confrontations which brought it about, nor indebtedness to particular public servants who may have been crucial in the battles of the past. Such people will be more free to take new

initiatives. The interpersonal relationships which now characterize the relations with consultants, may well count for nothing at that moment and a change there could well lead to some very different directions for the Cree. If the regional organization, which now is primarily a service administration and deals with senior governments on that basis, should suddenly start to pursue a political line, the nature of the established relationships which are now administrative and geared to produce a significant quantity of creature comforts for the Cree, would be drastically altered, and something resembling a Cree "government" at a regional level, might quickly emerge. The Agreement, in short, has produced the regional structures which make political activity possible but we find that - at the present - there are no indications that a political line is being followed.

The first few pages of the text have some repetition of facts already at the end of the first paper, for we shall treat the operation of the Cree organization from the moment it arrived in Val d'Or, a move which we have already referred to in the first paper.

The origins of a distinct Cree organization

When the James Bay Project was announced in 1971, the James Bay Cree had no regional organization, either of a political or an administrative nature. Their political leaders, the chiefs, participated in the operations of the Indians of Québec Association (IQA) and through this body were able to maintain periodic contacts among band chiefs and a few other individuals who were working with the Association. The threat perceived in the Project, however, quickly brought the Cree chiefs together as a politically cohesive body as early as 1971. The experience of organizing the testimony for litigation in 1972 and 1973 aided in the development of a more formal regional organization.

The critical steps toward such a regional organization were taken in the first half of 1974, when, in a series of meetings, the Cree chiefs began to define their interests at a regional level as distinct from those of the IQA, which had, until then, represented their interests in most activities. The result was a decision by the Cree in August of 1974 to establish a distinct association which would have legal authority to represent the Cree interests in any litigation which might be necessary or to negotiate a settlement of that legal action with the governments of Québec and Canada. The association received its Letters Patent on September 5, 1974, and was named "The Grand Council of the Crees (of Québec)".[1]

The Letters Patent of the Grand Council defines a role for the organization which goes well beyond the immediate object of litigation and the settlement of a potential land claim. As a political organization, it is charged with representing the interests of the Cree in dealings with government. Beyond that,

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[1]Hereinafter, we refer to the organization as "the GCCQ" or "the Grand Council".

it is assigned a broadly defined role as an institution with general responsibility for community economic development and for facilitating the delivery of various community programmes and services - perhaps analogous to the administrative branch of a municipal government. While at the beginning, the Grand Council acted primarily as a political association, during the years since 1974 it has evolved more along the lines of a multiple-purpose administrative centre for community services than as a political representative of the Cree communities.

Although its head office was in Fort George, very little of its business was actually transacted there because of the logistic requirements of negotiations in 1974 and 1975 and the need to work closely with legal advisers and consultants. The business office was in Montreal and it grew in size as the scope of the negotiations increased. But even at the time of the signing of the Agreement in November 1975, it was still a small organization, its Cree staff comprising two senior and three junior negotiators, an administrative head, a secretary and an office manager. The numbers swelled periodically when the three-man executive or the community delegates came to Montreal to participate in the negotiations. Its non-native technical support staff, meanwhile, involved the services of four resident consultants, two secretaries, and one or two research assistants.

The expenditures of the newly-formed Grand Council during the first two years of operation reflect a major preoccupation with the negotiation of the James Bay Agreement. In its first 7-month year of operation, it incurred expenses of about $650,000; during the following year, the expenditures rose to nearly $1.9 million. During this period, the organization relied on loans and advances connected with negotiations and accumulated liabilities of around $3.2 million which were eventually recovered as part of the settlement. Nevertheless, the organization had to remain small

and be conscious of restraint in its expenditures. Roughly one half of the $2.5 million expended prior to the Agreement was to cover the cost of legal and consulting fees and three-quarters of the remainder went to pay salaried staff in the negotiating office and associated travel expenses.

The signing of the Agreement gave the Grand Council a stimulus to develop as a substantial organization for the Cree communities, even though the uncertainity of its financial position remained a constraint until the Agreement finally got federal assent on October 30, 1977. The decision to establish a central office in the north was taken in early 1976, but it was deemed impossible to locate it in one of the Cree communities. The lack of community infrastructure and the remoteness of the communities were the principal reasons for selecting instead the mining town of Val d'Or as the headquarters for the new Cree regional organization. It was a city which offered adequate air service to Ottawa, Montreal and Québec and, in addition, was roughly equidistant from both the coastal and the inland communities. Furthermore, the District Office of Indian Affairs was located there and since at that time most of the bands dealt almost exclusively with Indian Affairs for their community services, Val d'Or had obvious advantages over other white centres for the location of a Cree central office. By the summer of 1976 the move was made and the new Val d'Or office was in a position to develop an administrative staff of its own.

The Grand Council of the Crees: 1976 - 1979

During its first years of operations, the Grand Council faced the general problem of defining a role for itself - as a governmental organization for the Cree communities, as much as a co-ordinator of community services. In doing so, it was handicapped

by delays in the passage of legislation giving force to the Agreement. Although the Agreement provided for legislation to "give effect to and declare valid" the Agreement within a period of two years, the Cree expected that the necessary federal and provincial bills could be enacted within six months or possibly a year. This was not the case and, while provincial legislation was enacted in June 1976, the federal bill was not proclaimed until only two weeks before the deadline, November 11, 1977. In the interim, the Grand Council was limited to proceeding with those programmes which did not require enabling legislation and the work of setting up the regional administrative structures. In some cases, a framework for a structure could be established on a trial basis but could not acquire full legal authority until the special legislation was passed. Before embarking on certain other provisions of the Agreement, the Cree simply had to await the enabling legislation to be adopted by Québec.

This rather loose situation resulted in a somewhat amorphous organization - one which tended, where possible, to try and initiate the first steps in the implementation of the Agreement but which, at the time, was concerned with defining a concrete role for itself which was not immediately contingent upon the vicissitudes of the legislative process.

The first major task was the preparation of the groundwork which was needed for the introduction of the Income Security Program which took effect upon the signing of the Agreement (not its coming into force by legislation). The Grand Council also provided the necessary support services to help the Co-ordinating Committee on Hunting, Fishing and Trapping, which was also expected to commence its work within months of the signing of the Agreement, to begin to operate on an "informal basis". Although

the School Board and the Health Board required incorporation by special legislation, they were expected to commence operations, in part, at least within a year of the signing of the Agreement. The Grand Council provided the necessary support services to permit the recruitment of personnel and assisted in the first stages of the formation of the administrative structures of the Boards. These exercises were not without shortcomings but they were the first significant steps in the conscious task of defining a regional bureaucratic structure and assigning to it a set of functions. Through such practical experiments the Grand Council began to acquire experience, both of personnel management and in the deployment of consultants in the management of ongoing programmes.

At the same time, the Grand Council continued to create for itself a service role for the Cree communities. Using its more experienced staff and especially its access to consultants, by the spring of 1976, it had already commenced to actively represent the interests of the individual bands in their dealings with Indian Affairs relating to the housing and community infrastructure programme. This resulted in an active involvement in the securing of agreements for the electricification of certain communities and in negotiating with Central Mortgage and Housing Corporation (CMHC) for financial assistance under low-rental housing schemes as a means of supplementing an inadequately funded Indian Affairs programme. The Cree Housing Corporation was created as a vehicle to receive funds from CMHC and administer them on behalf of the individual bands.

The potential to be involved in an active housing construction programme spurred the incorporation of the Cree Construction Company which soon branched out in contract work relating to the James Bay Project. By selecting jobs in which Cree people had special skills, they tendered successfully on several

slashing and land-clearing projects which they executed very economically, turning in an interesting profit as well as providing jobs for several hundred Cree. The rationalization of the already-existing handicraft industry was another obvious area in which to become involved and the Cree corporation "Cree-ations" was soon established to manage and develop this industry on a regional basis. In both organizations non-native, experienced staff run the operations with the active involvement of Cree who are learning on the job.

The initiative of the Grand Council in the social field came within a few weeks of the signing of the Agreement. Widespread concern over possible mercury poisoning in the James Bay region, especially in the communities of Mistassini and Waswanipi, prompted the Grand Council to use its environmental consultants to assess the situation and develop with the Department of Health and Welfare a programme of public education on the matter. The programme was expanded on the initiative of the Grand Council to include a detailed study of the mercury concentrations in the fish the people were consuming. This research was largely funded by the Department of Supply and Services on the basis of an "unsolicited proposal", the first coming from an Indian organization which the Department had supported. Following the same general direction, the Grand Council also assumed the general direction for the alcohol and drug abuse programme for the region. The innovative feature here was that the availability of senior staff with travel budgets permitted some of the Cree executive to carefully study programmes in other areas of the country as a basis for developing their own approach. Finally, the organization moved into the field of manpower training and entered into an agreement with Canada Manpower to administer the Outreach Program - a job placement service for the Cree communities. In each of these cases, the Grand Council accepted a role as co-

ordinator for programmes which previously had involved a direct link between federal government departments and the local bands.

Of course, the Grand Council staff grew as it assumed responsibilities for these programmes. By the time the Val d'Or office was fully operational in late 1976, the organization had at its head a four-man executive who were rapidly turning into full-time professional administrators. At the same time, a "middle management" began to emerge and by the end of 1976, one could identify a group of 12 to 15 Cree in this category, involved mainly in the administration of community service programmes. At that time, the number of junior Cree personnel working in clerical type activities or involved in community liaison work numbered about 20.

The non-native staff at the Grand Council offices in Val d'Or then, as now, chiefly manned the financial administration section and provided secretarial and translation services. The Cree still maintained the "southern base" in Montreal, an office from which some of their consultants operate. The total non-Cree staff in the Montreal and Val d'Or offices was about fifteen in late 1976.

By 1977, then, the Grand Council had evolved into a regional organization which was active principally in providing a service role for the communities. A relatively small portion of the 1976-1977 expenditures are taken up specifically with the implementation of the Agreement. The total budget was just under $3 million, about 20% of which was derived from the administration of government programmes. Major expenditures were on staff travel and salaries (about $1.2 million) and on management consultant services (about $500,000). Other legal and consulting fees totalled about $700,000, half of this being recoverable from

government under the heading "continuous negotiations". There were, however, major expenditures on professional services connected with the drafting of the numerous pieces of enabling legislation rising from the Agreement which was generally not recoverable.

This portrait of the Grand Council holds until the summer of 1978, when the Cree Regional Authority Act was adopted by Québec. The Grand Council could then turn over the administrative functions to the body which was intended to manage them. There was a transfer of staff from the Grand Council to the CRA and the organization resumed the role of the political wing of the Cree. In this capacity, the Grand Council will probably be involved in negotiations relating to any amendment to the Agreement or the federal undertakings which remain the object of further discussions. For these purposes, the Grand Council is expected to be self-financing ("continuing negotiations" expenditures are recoverable from government), although it may receive financial assistance from the CRA when necessary.

The Cree Regional Authority (CRA)

The Act establishing the CRA sets out the objectives of the organization primarily as a regional administration with responsibilities which one would normally associate with the "City Hall" or a substantial municipality. The legislation does not speak of a "governmental" role for the CRA in the same sense that the Letters Patent of the GCCQ refers to its governmental role. It has specific statutory responsibilities to name the Cree representatives to various bodies and organizations and it ultimately controls the purse strings which lend some political or governmental character to the Authority. The key point to be made, though, is that the CRA is defined very much as a service organization of which the clients are the individual bands.

Technically speaking, the line of communications between Indian Affairs, for example, and the Cree would still be from the Department to the bands and from the bands to the CRA, in matters relating to that department's programmes. Thus, the involvement of the CRA in programme administration requires that it be mandated by the band council resolution to assume that role. That was precisely the situation under the regional administration of the GCCQ; the matter reiterated here to underscore that neither the James Bay Agreement nor the CRA Act make any attempt to spell out the details of the local-regional relationship. Presumably, this was to be subject to continuing discussions and evolve as the region and the bands gained practical experience in issues of centralization and decentralization and the resultant distribution of powers between the CRA and the individual bands. The power of the local bands over certain CRA programmes is real, in that the mandate for the region to be involved in administration of any local programmes can be revoked.

The CRA, like its predecessor the Grand Council, is directed by a council of representatives from the communities, the chief, ex officio, and one additional member from each community, regardless of size. The executive comprises a chairman and vice-chairman (who are elected at large in a triennial election) and three who are appointed by the Council.

The legal entity responsible for the management of the compensation funds is the Board of Compensation. This Board is an independent body from the CRA, having a separate council which is elected - two representatives from each community, two members who are named by the federal and provincial government, and in addition, three appointed by the CRA. Thus, while there are close links, through council composition between the CRA as a public administrative body and the Board of Compensation as the

"manager" of the Cree compensation funds, the CRA as an administration depends upon the Board of Compensation for an important part of its finances and must justify its own internal requirements to that body.

The source of financing of the CRA derives, in part, from certain allocations which it receives for the administration of some federal programmes but, most importantly, from the funds it receives from the Board of Compensation. While the Cree have received a total of some $70 million in compensation to date, it is the income on investment which is the source of funds for current operations. Since part of the interests are re-invested as a hedge agains inflation, the organization must operate with some constraint. The costs of a full year of operation of the CRA are not yet available, but if we combine the budgets of the GCCQ and the CRA for the fiscal year 1978-1979, it would appear that the total operating costs of the region are in the order of $2.8 million, an average of close to $2,000 for each of the 1500 Cree families in the region. An additional $3.3 million have been committed to an accelerated five-year housing programme (recoverable from Indian Affairs by the end of the decade) which suggests that the present operating costs of the regional body are close to the cash flow available from investments. As a general observation, we might conclude that the present investment of Cree compensation funds in the support of a regional bureaucracy is probably close to the maximum level which would be consistent with a policy which would permit the reservation of significant funds for community economic development.

As the organizational chart on page 34 (paper I) shows, the CRA is dived into five agencies. Their responsibilities in the fields of Community Services, Economic Enterprises, Human Development, Traditional Pursuits and Administrative Support Services are, in effect, a continuation of the organization

developed under the Grand Council. Each has a director and a support staff reflecting the scale of programmes for which the Agency is responsible. Traditional Pursuits, for example, is responsible for the implementation of the sections of the Agreement dealing with wildlife management, the Income Security Program and environmental protection. But this Agency does not administer the programmes directly and only has two members on staff. In contrast, Human Development administers the Outreach Program and requires a staff of ten. Community services, as we shall see below, is closely tied with the Cree Housing Corporation and relies heavily on community planning consultants, so it needs a staff of only two.

It is apparent from the organizational chart that the CRA, like the GCCQ before it, continues to be heavily involved in the delivery of community services which existed in some form prior to the Agreement but which were administered directly by Indian Affairs of another government agency. At present, there are perhaps only five Cree whose activities relate directly to the implementation of the Agreement. Of course, many of the other staff are involved more or less directly in the implementation of programmes which would not have been possible without the existence of the CRA, which the Agreement formalized, if it did not indeed give birth.

CRA staff sit as representatives of the Cree on a series of advisory boards created by the Agreement to provide for Cree participation in provincial and federal administration of matters relating to wild-life management, environmental protection, the administration of justice, the planning of economic development, etc. Part of the time of the Cree staff of the CRA, then, evidently has to be allocated to such representation and related functions.

The CRA has between 30 to 40 Cree on the staff. Of this total, there are six who might be termed "senior management", 12 to 15 in "middle management", and about 15 who work at a junior or clerical level. (The actual numbers vary as programmes terminate and as new ventures are undertaken). The non-native staff numbers about 18. Of these, six are in the accounting department, six in secretarial work and from four to six provide administrative support. In June 1979, the total staff of the CRA in Val d'Or was 57.

Other Cree regional organizations

A discussion of the regional administration of the Cree would be incomplete without some reference to the cross-links between the CRA and the other Cree corporations which operate at the regional level. The Cree Housing Corporation, referred to earlier, has a president who is also a CRA agency director and three of its eleven-man board of directors come from either the CRA or the Grand Council. Cree Construction is a similar case, in the sense that in its three years of operations it has shared the offices of the Grand Council and made use of a common set of legal advisers and technical consultants. While it has become more autonomous at the level of broad policy, a close link is maintained with the CRA and the GCCQ through interlocking boards. Over the past few years there was a tendency for the chiefs of bands to sit as board members, but this is now changing.

There are other incorporated bodies, such as the Cree Trappers Association and the Cree Arts and Crafts Association (Cree-ations), which are constituted more or less along the lines of Cree Housing or Cree Construction. They are closely identified with the regional organization and in some respects, might be considered to be administrative branches of it at the present time. Technically however, they can - like Cree Construction - withdraw

from their close administrative ties with the CRA and establish a more independent role for themselves.

The School Board and Health Board set up under the Agreement and incorporated by special legislation, are much more important regional organizations. Both have their headquarters in Val d'Or (although the Health Board is, at the time of writing, relocating its offices in Fort George) and in their initial stages, made use of the offices as well as the administrative support of the Grand Council. Both are now independent with their own budgets negotiated through normal provincial channels (Federal contributions are negotiated between the federal and the provincial governments).

The Health Board has 16 members at the moment, of whom eight are community representatives (and generally not otherwise involved in the Cree regional organization) and one of whom represents the CRA. The remainder are representatives of the health care establishments in the territory. In contrast with the other regional Cree organizations we have discussed, the Health Board is a much more separate entity, and the amount of administrative liason is relatively limited. A six-man administrative committee (headed by a Cree director) at present effectively exercises the functions of the Health Board Council and primarily provides administrative services for the hospitals and clinics in the region. It remains a small organization with a staff of four Cree (one "senior management", two "middle management" in the sense of the earlier discussion) and four non-native, including secretarial support. Presumably, the size of the administrative organization will increase as the Health Board begins to diversify its functions.

The School Board is a much more substantial organization, having an administrative staff of 43 and a total payroll (which includes northern teaching staff, adult educational services, principals and maintenance staff of about 215). It is the largest administrative unit which has emerged from the Agreement, with an annual budget in the order of $9 million, three times that of the CRA.

The School Board is far from being a Cree bureaucracy in that only the general manager and two or three senior staff are Cree, while the rest of the administration is composed of non-native specialists. There are, however, around 25 Cree teachers who are involved primarily in teaching Cree and Cree-language related matters to the younger grades. The organization of the administration is characteristic of that of other provincial school boards with similar budgets. Unlike the Health Board, the elected school commissioners seem much more active in the development of policy for the administration to carry out, perhaps a reflection of the relative technical complexity of the issues.

A general observation arising from the consideration of the Health and for the School Boards is that, by and large, they do not have associated with them a significant number of Cree personnel in management positions. It is in the CRA and the associated corporations that one finds the greater concentration of what we would term a Cree regional public service. It also may be significant that it has grown up around programmes which previously were largely under some local control of administration. Health and education programmes have always, and continue to operate under norms which are highly technical and standardized; until the Cree develop within their own ranks the professional expertise necessary to compete in the field, they will have to rely on non-native specialists. Until then, the contribution and control will have to remain at the level of general administration.

Relationships of the Bands and the Regional Administration

The Cree Regional Authority is to an increasing extent, the institution which provides the "interface" between Cree society and the federal and provincial governments. As the implementation of the Agreement proceeds, it seems likely that the CRA (and its companion institutions like the School Board and the Health Board) will act as the agency through whom the individual bands will have to deal in the management of their local affairs. This does not necessarily mean that the CRA can act as a kind of "government" for the Cree because much would depend on the kind of authority delegated to the CRA by the bands and the extent to which individual bands would be prepared to revise or revoke the mandate of the CRA. However, it does mean that the CRA must be viewed as a form of "representative" institution, one in which the mechanisms for ensuring that representation of community interests are clearly defined.

The Grand Council and the CRA both rely on a form of community representation in which the chief and one other appointed or elected representative sit as members of the regional association. In the case of the CRA, the chairman and vice-chairman are elected by the communities themselves, and not from among the board members. The Board of Compensation is a separate, independent body - a necessary step in assuring some external fiscal control over the Cree Regional Authority - in which each community is assured of having two representatives. Most of the other corporate bodies that were provided for in the Agreement or which the Cree have decided to set up make use of a similar approach and have boards of directors with one or two representatives from each Cree community. In many cases, the chief is one of the community representatives, ex officio. It is evident then, that the chief has become the most important link between community and regional bodies.

One characteristic of such a system is that the locally elected chief continues to exercise his authority as an "Indian Act" chief, but is in addition, a potentially influential regional figure who has the opportunity to participate directly in the establishment of broad directions of social policy for the Cree as well as in determining the priorities of individual bands in the allocation of resources and benefits at a regional level.

The Indian Act "Band Council", however, remains a purely local body and does not, at the moment, have direct institutional ties to the regional administration. Very often the representatives (other than the chiefs) on the regional boards are also councillors at the level of the band, but this is incidental to their functions at a regional level. As a result, it would appear that the regional administration generally has the effect of reinforcing the position of the chief, but perhaps of relegating the council to a secondary role.

Before the signing of the Agreement, the nature of the position of a chief in a Cree community was such that he would necessarily have to work closely with his council, and any significant attempt to act independently from the council would have been at the risk of the security of his elected position. Chiefs now, to the extent that they can actually become involved in the decision-making process at the regional level, enjoy a relative independence of action that would have been difficult, if not impossible to achieve from a purely local power base. Perhaps this situation contributes to the relatively rapid turn-over of Cree chiefs in the communities since the signing of the Agreement.

The argument presented above, however, pre-supposes that the boards of the regional Cree corporations are the real seat of the decision-making process and that the executive arm of, for

example, the CRA or the Grand Council is actually under the month-to-month control of the Board of Directors. Most observers of the regional organization in 1978 or 1979 would be impressed by the observation that there is a strong and experienced central executive with several years of working knowledge as senior-level administrators. At the moment, it is to be expected that they would exercise a strong overall influence on the direction of the Grand Council and the CRA. Indeed, there have been some indications that the Board of Directors tends to be used as a "sounding board" which is certainly consulted closely on major policy issues but which, in the final analysis, primarily acts to ratify decisions taken by the executive committees. Even in a case as important for the communities as the Housing and Infrastructure Agreement, it was the executive of the CRA that was authorized to take the measures necessary for finalizing the Agreement and who finally signed the Agreement itself.

There is a fundamental logistic difficulty involved in convening meetings which involve participation of all of the eight Cree communities and, in practice, a considerable part of the administrative load of the Val d'Or office is associated with logistic support for such regional meetings and the preparation of documentation for them. During the first two or three years after the Agreement, the Grand Council succeeded in organizing as many as six or seven such meetings per year but this was at the expense of a heavy travel schedule for those involved. Increasingly, there is a tendency to restrict the number of meetings to those actually provided in the charter or legislation (usually four meetings each year) and to make them shorter and more efficient (they had tended to last a full week). Inevitably, however, a move towards increasing the efficiency of board meetings and of reducing their number would make it relatively more difficult for the board to assume a strong role vis-à-vis

the executive. In fact, a continuing emphasis on efficiency would possibly have the effect of concentrating power even further in the executive.

To some extent, this situation is counterbalanced by the practice of holding general assemblies in the summer months which involve a substantial number of administrative staff from Val d'Or, the boards of the Grand Council and the CRA, and in addition, a delegation from each community which includes a number of councillors as well as older men with past experience in the band "local government". The general assemblies are occasions for festivities and for social gatherings, but they are also intended as occasions on which the communities can reflect upon the work of the regional organization during the previous year, discuss priorities for the coming year, and voice criticisms and complaints when necessary. The social form of gathering itself permits the informal "sounding out" of the attitudes of band members towards the performance of the regional Cree officials and, in fact, there is considerable opportunity for dialogue and comment. All this is unquestionably valuable, but at the same time, it does not fundamentally alter the distribution of political authority within Cree society.

As the Cree regional offices in Val d'Or became more involved in the operation of programmes formerly run directly by government department, the nature of their involvement at the local level underwent a change. During the court case and the negotiations, there were regular meetings with the band membership - more or less political in nature, for policy was being explained and agreement on lines of action to be taken were approved by the population. The involvement with the communities changed to one of an administrative relationship. The consultations with communities after the signing of the Agreement have been at least as intense as those prior to signing, but the people involved do so as public servants of the Val d'Or office,

acting as bureaucrats making the necessary administrative accomodations at the band level that are fundamental to the operation of the newly developing structures. The relationship is not that dissimilar to that of Indian Affairs a decade earlier, when they were involved in setting up local entities like a school committee or stimulating the development of a local band administration.

As in the case of Indian Affairs some years ago, the Cree region finds that while as a general principle the local people manifest that they want Cree control of programmes, at the same time, there is no chorus of Cree waiting in the wings to participate as actors in the new structures, or to offer advice on how roles should be played. The details of many of the issues involved may simply be too complex for many local people to be knowledgable. But with encouragement from the chief and councillors, promising candidates have been encouraged to participate and most communities filled the positions in the new structures. There were not an inconsiderable number of people to locate to fill the new posts. Table II (pages 79-81) enumerates the Cree representatives needed on various boards, committees, etc. The total of over 200 seems inordinately large on the surface, and in fact, this had been the object of some of the criticism of the Agreement. But since the same person can sit on several bodies at both the local and regional levels, which is possible for a representation which need only be made once a year, the actual number of people involved is considerably smaller.

The involvement of the local people on the various boards and committees is of particular importance in the flow of information to the communities on the nature of the new regional administration. Of course, only when members become aware of the issues they deal with do they become useful channels through which information on the new programmes spreads to the communities. Most of the band level representatives begin their

TABLE II

COMMITTEES, COMMISSIONS, BOARDS, ETC. ESTABLISHED BY THE JAMES BAY AND NORTHERN QUEBEC AGREEMENT WITH NUMBER OF CREE REPRESENTATIVES REQUIRED

Committee Responsibility	Entity set up by Section --	Name of entity and membership	Number of Cree representatives
Eligibility	3.3.1	Local Enrollment Committees 3 resident members in each community	24
	3.3.3	Enrollment Commission: 5 members - 1 by GCCQ, 1 by Canada, 1 by Québec 1 by NQIA and 5th by mutual agreement	1
Technical Aspects	8.9.2	Board of Directors of SOTRAC: 5 members - 2 by Energy Corp., 2 Cree plus a third Cree appointee with consent of Energy Corp.	3
Local government over Category I A lands	9.0.1	Cree Band Councils: size limited by Indian Act to between 2 and 12 per council	16 - 96
Local government over Category I B lands	10.0.4	Councils of the Corporation of Fort George, Mistassini etc. Identical memberships as the Band Councils above	-
Cree Regional Authority	11A.0.1	Council of the Cree Regional Authority: The chief of each community ex officio, plus 1 elected member from each Cree community	16
James Bay Regional Zone	11B.0.2	James Bay Regional Zone Council: 3 Cree, 3 James Bay Municipality	3
Environment and future development below the 55th. parallel	22.3.1	James Bay Advisory Committee on the Environment: 13 members 4 each from Cree, Québec and Canada, plus the chairman of the Hunting, Fishing and Trapping Coordinating Committee	4
	22.5.6	Evaluating Committee: 6 members 2 each from Québec, Canada and the CRA	2
	22.6.1	Environmental and Social Impact Review Committee: 5 members 3 from Québec, 2 from CRA	2
	22.6.4	Environmental and Social Impact Review Panel: 5 members, 3 from Canada, 2 from CRA	2
Hunting fishing and trapping	24.4	Hunting, Fishing and Trapping Coordinating Committee: 12 members, 3 each from Québec, Canada, NQIA and the CRA	3

TABLE II (CONTD)

Committee Responsibility	Entity set up by Section --	Name of entity and membership	Number of Cree representatives
Cree legal entities	26.0.1	The Board of Directors of the Corporation (now the Board of Compensation): 11 to 28 members, but must have 1 from each community 2 from Québec, 1 from Canada	8 - 25
	26.0.5a)	Board of Directors of Venture Capital Corp.	
	26.0.5b)	Board of Directors of Charitable Corporation	May coincide with other Board above
	26.0.5c)	Board of Directors of Investment Corporation	
Cree Health and Social Services	14.0.2	Cree Regional Board of Health and Social Services: 15 members, 8 Cree (one from each community) plus 1 Cree appointed by the CRA, 1 representative of non-clinical staff, 1 director of community health facility, 1 general manager of health facility	9
Cree Education	16.0.4	Cree School Board: 9 members 1 commissioner from each community plus 1 appointed by the Cree "Native Party"	9
	16.0.16	School Committee (local): 1 Elementary Committee in each community, and one High School Committee in each community with one, membership 5 - 11 with at least one member or representative of the Band Council	50 - 110
	16.0.31	Tripartite Committee on Interim Administration: 3 members, 1 administrator from CSNQ, 1 from DINA, 1 from Cree School Board	1
Administration of Justice	18.0.9	Cree Justice of the Peace no number designated	-
	18.0.33	Cree Information Officers no number designated, persumably one for each community	8
	18.0.37	Judicial Advisory Committee	2
Police	19.1.12	Police Advisory Committee	2

TABLE II (CONTD)

Committee Responsibility	Entity set up by Section --	Name of entity and membership	Number of Cree representatives
Economic and Social Development (Cree)	28.2.1	Board of Directors of the James Bay Native Development Corporation: 5 members, 2 Cree, 2 Development Corp. 1 chairman, Québec	2
	28.5.1	Cree Trappers Association	16
	28.5.2	Joint Founding Committee	not established
	28.6.1	Cree Outfitting and Tourism Association	not established
	28.7.1	Cree Native Arts and Crafts Association:	16
	28.8.1	Joint Economic and Community Development Committee: 9 members, 5 CRA, 2 by Québec 2 by Canada	5
Income Security Program	30.4.1	Cree Hunters and Trappers Income Security Board: 6 members, 3 Québec, 3 CRA	3
		TOTAL	207 - 364

duties on these bodies with no background in the particular field. Their subsequent performance varies widely as they must learn on the job. Some remain silent and passive and don't do the necessary homework to make a useful contribution. But others, even if they initially lacked the technical skills to follow complex proceedings, have grown into the new roles quickly. The School Board, for example, is reported to have developed within a year from a body which was silent and passive to one in which there are spirited discussions.

While the information flow back to the communities which comes through the participation of the local members on boards and committees is valuable, the Cree leadership at Val d'Or is keenly aware that it is inadequate. There have been several efforts by the region to develop communications programmes, including the use of videotape and newsletters, but in general, they have not been highly successful. The problem seems to be that few Cree have the skills to take the highly complex and technical material of the Agreement and the evolving programmes and structures and simplify it into a package for general consumption in either English or Cree. Since the bulk of information on activities at the regional level comes to the community through the informal channels of people discussing their activities on boards and committees, only band councillors tend to be reasonably well-informed, in that reports are usually made to the council. The significant problem of communications relates to disseminating information to the communities at large.

Is the Cree Regional Authority a "grass roots" institution or is it a rigid and highly centralized administrative structure which is antithetical to the concept of a local participatory democracy? This is a logical question for an outside observer to make in relation to any new regional authority which purports to represent local interests. In response, we would observe that

what we are witnessing at the moment is the product of the first two or three years of counter-play between local interests and a regional administration, and that the dialogue over the extent to which either political or administrative responsibility should reside at the local or regional level has scarcely begun. What we do point out, however, is that there are elements in the present situation which, sometimes for purely geographical reasons, encourage reliance upon a strong central administration and upon a strong central executive. An attempt to move in the opposite direction towards a greater degree of political and administrative decentralization would have to be conscious and deliberate, and would inevitably involve a conscious loss of efficiency in the decision-making process.

Regional involvement in community services

From the perspective of the band, issues relating to band control over the regional organization would be considered a very abstract matter. The efficacy of the Val d'Or offices could be better judged by its ability to improve the services provided for communities. One area in which the region made serious efforts to improve conditions on the local level was that of housing and community infrastructure. Since more regional effort and more regional finance has been committed here than in any other area, the experience may provide evidence of how the region may approach policy in the future.

The situation of community housing in the Cree region in the early 1970's can only be described as scandalous. There was a conservative requirement for at least 1,100 houses and only about 200 existed which could be categorized as being satisfactory. About another 350 needed major repairs, 100 were classed as ready for the wrecking bar, while to meet immediate demand at least 450 completely new units needed to be built. As for normal

community infrastructure, such as water and sewage or local roads, etc., there was not one community with adequate service and most had none at all. More depressing than the overall poor conditions was the evidence that the construction programmes of Indian Affairs were proceeding at a snail's pace and there appeared to be no way of pressing the department to commit sufficient funds to rectify a situation which was recognized by everyone as intolerable.

Until about 1974, the method of financing housing in the Indian communities was for the Department of Indian Affairs to finance the construction from a basic grant of about $12,000, augmented by funds which were diverted from a variety of sources, such as community electricification (to wire the houses) and water and sewage developments (for plumbing). The costs of local labour frequently were paid from local initiatives projects of Canada Manpower. There was no individual contribution by the occupant. While technically, CMHC funds were available to Indians, there had grown up in the Cree communities the idea that Indian Affairs was obligated to provide a house for everyone and besides, the Department was reluctant to guarantee the CMHC loan. The department tried that in other communities but it had to meet the mortgage payments when the families were in arrears, so the policy of the Department became one of guaranteeing CMHC mortgages (necessary because of the proscription on seizing an Indian's property) only in cases where sufficient Band Funds existed, which the Department might claim. This, in effect, excluded the penniless bands of the Cree region until the Agreement provided the compensation payments.

Notwithstanding the limited scope of its housing programme, Indian Affairs had been attempting to involve the local bands in the administration of these programmes on an increasing scale since 1973. Prior to then, the band council simply passed a

resolution asking the Department for a housing programme, by indicating that a certain number of families had an urgent need for housing. There was no involvement in planning communities or defining long-term construction programmes.

Beginning in 1974, the role of the Cree in housing programmes became more important. First, the band council took over the administration of the programmes and the payment of employees. With time, the band also controlled the purchase of materials and the choice of plans. The Department provided a lot of close coaching to the bands and could and did step in when there were difficulties. But it supplied certain technical advice and gradually its principle role became one of simply furnishing the bands with the limited funds available in its budgets.

In 1976-77, in order to resolve the problem of the lack of funds for housing, the Grand Council established the Cree Housing Corporation (CHC) with the purpose of obtaining from CMHC, access to housing loans for individual bands. In these proposals, the interest would range from between 8 and 10%. The Cree asked Indian Affairs to guarantee these loans and the Department, in turn, asked the bands to use its compensation funds for this purpose. This the Cree were unwilling to do and the question degenerated into a legal debate in which there was a good deal of tension between the new Cree organization and Indian Affairs for some time. The Department finally guaranteed the loan but there is no question that the possibility of entailing the compensation funds was an important factor in that decision.

With construction programmes somewhat accelerated in 1976-77, the regional organizations became more active in the actual carrying out of projects. By co-ordinating the services of consultants in community planning for the various communities, as well as

having the involvement of Cree Construction, the administration of housing at the Cree regional offices in Val d'Or became a more complex operation and the bands began to get more advice on the long-range planning of their community needs.

The initial experiences with the CMHC loans at the band level were positive, in that the financial capacity of the individuals to make regular mortgage payments had been considerably improved, especially by the Income Security Program. There were indications that it would be possible to count on people to honour mortgage commitments in the future. Accordingly, the leadership at the regional level suggested to the bands that they become involved in a special CMHC financing arrangement, under which, mortgages were available at the very favourable rate of 2%. To speed up the housing construction schedule, Cree Housing entered into a contract with the Department of Indian Affairs in which the Cree use part of their compensation funds to participate in a housing programme and houses which the Department had slated for construction over the next ten years will be constructed over the next five. The Cree would pay the additional costs of the Department's share in the first five years and be reimbursed over the following five. The operation is totally controlled by the CHC in the name of the bands. All bands are included in the Agreement with the exception of Fort George, which has its housing provided under the Chisasibi Agreement.

It is likely that this new programme will make major community improvements over the next few years and, at the same time, provide the major source of local employment. The Department of Indian Affairs will have to respond to the increasing number of houses with a corresponding expansion of community infrastructure, which will also increase local job opportunities. With the whole operation under the control of CHC at Val d'Or, there will be

less band input in the administration of the programme, for the Cree will seek the economies of bulk purchase, co-ordinated design, etc. Of course, the whole operation demands the services of professional town planners who now make important input into the programme.

The extent to which the region will involve the local people is not clear. There are indications that the bands abdicated their powers of decision for the financial aspects in this matter to the judgement of the executive of the CRA. Whether they leave responsibility for other aspects of the programme at the regional level, has yet to be seen. Certainly from the perspective of the CHC, there would be gains in efficiency in such an event. It would certainly seem logical that there would be little incentive for the region to closely involve the bands. This is perhaps the inherent danger of all Cree regional programmes. With the security that there is at the regional level a group of one's own people running the administration, it is easy indeed for a decision of abdication to be made by a busy band council.

Regional - local relationships

The Agreement introduces a set of "governmental" responsibilities which have no real counterpart in the previous relationship between Indian Affairs and the Cree communites. In part, they arise from the new land régimes, but it also reflects the introduction of new community services and of a measure of direct local responsibility for their implementation.

Before 1975, the most conspicuous functions of Indian Affairs were probably the administration of social aid, the operation of the schools, the building of houses and the maintenance of basic community facilities such as generating stations, roads and

ditches, and so forth. The Department, during the decade from 1965 to 1975, undertook numerous initiatives to encourage "local government" and did so specifically by involving the bands in the administration of these kinds of community services. In this context, the chief and council served as the "representative" arm of the local government and the band manager (and sometimes support staff) served as the executive arm. Indeed, the band manager, although technically an employee of the band, was treated as a junior offical of Indian Affairs. In practice, the distinction between the "political" or "representative" arm and the "executive" or "administrative" arm became blurred, and as the chief and councillors became deeply involved in basic administrative functions connected with local government, the conventional distinction between "politics" and "administration" lost much of its meaning.

The band office, then, was directly involved in the administration of social aid payments, the hiring of men to work on housing or local improvements to roads and ditches, the administration of the payroll connected with this work, and the allocation of housing to community residents. In this work, there was no input by the band in matters of broad social policy in the community but a considerable amount of day-to-day administration on behalf of Indian Affairs. In effect, the band office was an agency of the Department and the costs involved in its operation were justified in terms of the economic value of the services it provided. Cynically, the situation could be described as one where Indian Affairs retained control of policy and purse, while putting the chief and councillors in a position where they took the blame for any shortcomings.

Since 1975, the CRA and its sister agencies like the Cree Housing Corporation and the Cree Construction Company have tended

to assume a more and more prominent role in the administration and delivery of precisely these kinds of community services. As we have seen, the organizational structure of the CRA, with its parallel series of service agencies, is designed to accept this kind of responsibility, and in fact, most of the present personnel are involved in some aspect of programme administration or of negotiating the transfer of programmes.

The Grand Council, and its successor, the CRA saw as a normal evolution in their "political" development, a gradual assumption of responsibility for administering community programmes financed by Indian Affairs. In setting this objective, however, the Cree administrators saw themselves as taking over the functions of the district office of Indian Affairs, and certainly not as taking over the work of the band offices. Indeed, a substantial reduction in the staff of the district office (most noticeably in the field of education) seemed to bear witness to this take-over of responsibility.

In practice, however, as we saw above, the transfer of substantive responsibility has been, in many cases, to consultants (in the case of community planning and perhaps also the hiring of local manpower) or to a new, but non-native bureaucracy (as in the case of the administrative superstructure of the School Board), rather than to the Cree regional organization as such. The real transfer, consequently, results from the fact that the new consultants and the new bureaucrats report directly to Cree administrations.

But, at the same time, there has been a noticeable transfer of administrative responsibilities away from the band offices towards the CRA. This can be seen most clearly in the changing

composition of the funds transferred by the Department to the bands for local programme administration. As welfare, housing and education are "managed" at the regional level to an increasing extent, so the cost of operating the band office, paying the salary of the band manager, and finally, paying for the band audit, now exceeds significantly the value of the programmes actually administered by the band. (See Table II). The chief and council are now involved in setting priorities and in resolving administrative difficulties but increasingly in the capacity as community representatives on a regional-level board or council.

The character of "local government" has changed accordingly. An important component of the work of "local government" now consists of making input to a regional decision-making process and the determination of planning priorities between as much as within Cree communities. The CRA, meanwhile, inevitably perceives its function as being primarily one of administering community services or of facilitating their local administration. They therefore see their performance being evaluated in somewhat the same terms as Indian Affairs used to be judged by the bands.

This apparent regional concentration of administrative authority - which seems now to characterize the "governmental" role of the CRA - is perceived by the Cree administrators as a temporary expedient. The transfer of programme responsibilities, it is argued, first requires the assumption of the task by a distinct regional entity, followed by the gradual delegation of responsibility to individual bands. This may well be true, but, at the moment, the bands inevitably seem to be casualties in this process, in the sense that political power is consolidated in the regional, rather than the local, entity.

TABLE II

Funds Transferred to Cree Bands from 1976 - 1980
by Indian Affairs for Programmes and Administration.
CORE Funding Received by Bands with Amount Transferred
to Administration.

Programme	76 - 77	77 - 78	78 - 79	79 - 80 (Estimated)
Education	$ 521,433	$ 956,332	$ 164,343	$ Ø
Welfare	846,181	176,342	252,220	260,000
Capital Projects	1,325,216	866,097	1,527,782	Ø
Recreation	17,680	23,655	24,150	25,000
Sanitation	18,792	20,898	18,264	Ø
Road Maintenance	30,000	56,900	58,973	75,000
Policing	25,211	7,627	20,867	Ø
Rental Housing (Fort George only)	105,896	96,600	102,618	Ø
Total	$ 2,890,409	$ 2,204,451	$ 2,169,217	$ 360,000
Administration	$ 161,238	$ 298,088	$ 302,274	$ 300,000
Percentage of Programme Transfer	5.6%	13.1%	13.9%	83.3%
CORE funding	$ 215,258	$ 254,866	$ 258,652	$ 260,000
CORE funds transferred to administration	61,134	72,630	71,326	75,000

(Source: Dept. of Indian Affairs)

Since the land régime for Category I A lands is incompatible with the present Indian Act and would require special legislation, the Agreement provides for later negotiations with the Federal Government to clarify this situation. This created an opportunity for discussing a broad range of amendments to the Indian Act, so that, in effect, a new "Cree Act" would replace the Indian Act for most purposes relating to the Cree. Similarly the granting of I B lands to the Cree land-holding corporations was accompanied by the erection of Cree municipal governments for I B lands, to be administered under Québec Cities and Towns Act. Fortunately, the absence of any resident population on I B lands, at the present time, simplifies the immediate responsibility of the individual band.

Both the "Cree Act" (in draft form) and the Act establishing the village corporations for I B lands have as a basic objective the creation of municipal governments, with most of the conventional responsibilities of municipalities elsewhere in Québec. The major differences result from the indivisibility of the land, the absence of a right of seizure of property, and the absence of taxation of real estate. The new Cree local administrations have most of the characteristics of municipalities, except a local taxation or revenue base. In this respect, there is a fundamental difference between Cree communities and other Québec municipalities of similar size: the Cree depend in the first instance on the Department of Indian Affairs (in the case of I A land) and the Provincial Department of Municipal Affairs (for I B lands) for their revenues required for purposes of municipal government. If these sources prove inadequate, they presumably turn to compensation funds.

Both the I A and I B systems of municipal government, nevertheless, have as a focus the management and administration of land. The proposed form of the Cree Act, for example, would require

the local government (that is, a combination of its council, or representative arm, and the secretary-treasurer as the executive arm) to be actively involved in community planning and in the management of natural resources on I A lands. But, as we have noted, many of these implicit planning functions are being executed at a regional level, and the role of the council has, for the most part, been one of ratification.

Another characteristic of the powers of local government resulting from the Agreement is the absence of direct involvement in many of the service sectors conventionally associated with local government. As we have seen, local involvement in, and responsibility for, education and health care delivery is regrouped as a formal regional-level sets of "boards" under Provincial law, to which the local committees on health and education report. The same trend can be seen in other fields as well, including manpower training, recreation, and more generally, the field of community services. The local governments are involved in many of these activities only in the sense of providing input to a larger regional administrative structure. We would see it as significant that the proposed Cree Act deals indirectly, or not at all, with the range of administrative services presently provided by the CRA. The separation of powers between the local band and the region, has yet to be decided. But at the moment, the region seems to be in the dominant position.

Much of the text of the Agreement and many of the individual pieces of its enabling legislation are concerned with describing administrative structures for the interaction between the James Bay Cree and the provincial government and with the rules of operation of these structures. It is this "interface" which accounts for a good deal of the administrative complexity of the Agreement.

The underlying principle that runs through the Agreement is that the Cree can make effective input to governmental administrative policy by making representations in committees involving members of the communities and of the provincial civil service. In other words, the assumption is made that the committee work within the civil service bureaucracy is potentially a more effective political strategy than the conventional approaches available to, and used by, the larger non-native society. Working within the bureaucracy, in these terms, is conceived as more effective than using the democratic political process in which the Cree are immediately at a disadvantage, because of their minority position.

The structure and composition of the various advisory committees in the Agreement varies widely and depends on the nature of the subject matter being dealt with. Some of the advisory committees are relatively straightforward extensions of existing mechanisms in provincial law for the decentralization of departmental administrative responsibilities. The Cree Board of Health and Social Services and the Cree School Board are examples of the latter type of committee. Both have an expanded administrative authority not normally associated with their counterparts elsewhere in the province, but they nevertheless fit within the framework of the subdivision of Québec into administrative districts, each with their advisory boards to represent regional interests.

Other committees are created to make the administration of new community services more efficient and also provide for the flexibility for adjustment in the light of experience in the implementation of the Agreement. Examples of this type of committee, which do not normally have counterparts elsewhere in the province, are the Income Security Board, and the Police and the Judicial advisory committees.

Other committees still are oriented more towards the co-ordination of government programmes and the establishing of policy priorities. The joint Economic Development Advisory Council (Federal-Provincial-Cree) is the key example of the latter type of committee.

Finally, there is the fourth type of committee, which provides a forum for regular Cree input into governmental decision-making on a broad range of issues relating not to the services supplied to individual communities but to the development of the territory. There are two main aspects to this type of committee, which does not generally have a counterpart elsewhere in Québec. The first is concerned with issues of wildlife management and the second, with environmental protection. A Co-ordinating Committee for Hunting, Fishing and Trapping provides a forum for both consultation and administrative work connected with the management of wildlife resources. An Advisory Committee on the Environment provides the corresponding forum for review of issues involving the regulation of development of activities in northwestern Québec. The work of the Advisory Committee is further assisted by a series of committees involved in the assessment of the environmental and social impact assessment of northern projects.

All four types of consultative committee have the common feature that they constitute mechanisms for influencing the decision-making process within government, without actually challenging the authority of government to legislate or to regulate. The basic concepts involved here were worked out early in 1974, when the Co-ordinating Committee for Hunting, Fishing and Trapping was devised. Both the senior governments and the Cree felt they had a stake in the decision-making process, and neither was willing to surrender or delegate that type of

administrative power. As a matter of negotiating strategy, the Cree negotiating team considered it preferable to aim for a substantial measure of participation in the administrative decision-making process, rather than a restricted, and probably residual, decision-making power in matters of purely local significance.

The decision to use the "advisory committee" concept on the scale which it was employed in the Agreement has some important implications in the long-term for the relationship between Cree society and the federal and provincial levels of government. Perhaps the most obvious implication is that the Cree have to put these committees to work, and therefore they have to commit to them the manpower and technical resources to ensure that they continue to operate in the future. If they do not, there is the evident risk that a committee may cease to function. An implication of this fact is that the advisory committee concept involves a substantial financial committment by the Cree, sometimes without any immediate prospect of return on present investment. In the area of wildlife management, as well as that of environmental and social protection, it is quite possible that the real utility of these committee structures will only become apparent some years in the future, when serious problems of allocation of resources between competing users become a critical issue. The committees, however, have to be maintained in place, until that critical time arrives.

This, in turn, has frequently required the use of consultants to make the necessary technical input to the operation of the committees. Legal counsel is also used as support staff in a similar way. In many cases, the technical nature of the subject matter is such that, at the present time, no Cree have the expertise, and those that are involved must acquire the necessary knowledge from the professionals with whom they work. This itself is a gradual process which also involves a substantial investment in professional assistance. It also implies that

when a Cree member of a committee is changed, as has often happened, the learning process must recommence and continuity on the part of the Cree is largely dependent on the maintenance of the same consultants and advisers.

The difficulties involved in this reliance upon expert advice is further compounded by the complicated linguistic policies that affect the implementation of the Agreement. The business of those committees with active representation from the provincial civil service usually involves the use of French-language working documents and correspondence. The committee work, where it involves Cree persons with fluency only in English and Cree, will of necessity, take place in English, but exchanges between francophone members naturally take place in French. As a result, even though serious efforts are sometimes made to adopt a flexible attitude towards the language of work, the Cree representatives (who are rarely French speaking) are inevitably at a disadvantage. This inherent difficulty may perhaps be resolved in the long-term by the gradual acquisition by the Cree themselves of French as a working language in their interaction with the provincial civil service. In the interim, the Cree interests which can be safeguarded by these advisory structures, can mainly be defended by, at best, a hired staff of non-Cree.

A further complicating factor in the operation of these functional advisory committees is their rigidity. For reasons which appear to be related mainly to the federal constitutional responsibility towards Indians, the parties to the Agreement have generally adopted the view that as much as possible of the Agreement should be given legislative form. Behind this position is an underlying concern that regulations adopted under existing Provincial laws could always be unilaterally amended, and that greater protection is afforded by expressing the Agreement in statutory form.

One important consequence of such a policy is that many of the administrative procedures connected with the operation of the different types of consultative committees are now expressed in the form of legislation and as a result, are quite inflexible. The parties to these advisory committees are unable to adapt their procedures in the light of their working experience. The working relationship, in effect, is defined in the Agreement, and the representatives sitting on the committees have to work within those parameters. This has led to complexities, especially in those cases where the details of the Agreement were written in the absence of a precedent or a provincial counterpart to use as an administrative model.

A striking example of complexity is the impact assessment procedures described in Section 22 of the Agreement. This was the first impact assessment procedure to be applied in Québec. All of the administrative steps, consequently, are based on theoretical assumptions but are now prescribed by statute, and the parties have to act accordingly. In operation, the required procedures are almost byzantine. The experience here suggests that appropriate administrative guidelines are better developed from operational experimentation, rather than by detailed provisions of a statute. In effect, one might almost conclude that the administrative complexity of the Agreement arises not so much from the text of the Agreement, but from the fact that more than twenty separate legislative Bills are required for its enactment. Regardless of the cause, the complexity is there in any case, and it puts a definite limitation on the use which the majority of Cree can make of the new structures for some time to come.

Relationships with the state through continuing negotiations

In contrast with the procedural difficulties of operating within the administrative structures of advisory committees, the

Cree have been able to develop some very productive relationships with state entities - the Energy Corporation in particular - on the basis of direct negotiations outside the formal channels provided by the Agreement. We shall look at two examples, where, in theory at least, the Cree had an opportunity to protect their interests through strict application of the Agreement but chose instead to use other channels. Both cases involve environmental protection.

When the Agreement in Principle was being negotiated, the James Bay Project was already under construction. One of its objects, then, had to be that of giving what was essentially a retroactive approval of these works. Section 8 of the Agreement accomplishes this, and while it gives the Energy Corporation approval for the works defined in the Schedule, it also has the effect of preventing the Corporation from making major changes without obtaining agreement from the Cree. For the purposes of our discussions here, it is only significant that Section 8 locates the first dam on the La Grande River (LG-1) at Mile 44 and binds the Corporation to protect from erosion the island on which the community of Fort George is located.

The site of the LG-1 dam was a major issue in the initial Cree reaction to the project. It originally had been planned for Mile 23, near Fort George, where the Cree not only feared the social impact of a major construction camp on their doorstep, but that it would destroy a major whitefish spawning area, a location of great importance to the subsistence economy of the community. Consequently, in negotiations leading up to the Agreement in Principle, the Cree successfully bargained a new location for that dam at Mile 54 on the grounds of potential ecological damage and social costs to the Fort George community. In the initial press conference following the Agreement in Principle, the Cree spokesman emphasized the importance of this concession which they had obtained

from the Energy Corporation and cited it as an indication that the Cree had not "sold out" for simple monetary exchange.

The Energy Corporation was not satisfied with the location of LG-1 at Mile 54 (it entailed significant generating loss), and while the negotiations were taking place in 1975 relating to the Agreement, subsidiary negotiations between Energy Corporation and the Fort George band exchanged a new location (Mile 44, the one mentioned in the Agreement) for a community centre and certain other benefits for the Fort George people which are mentioned in the Agreement. It must be said, however, that the Corporation was probably always uncomfortable with the fact that there was a community of almost 2,000 on an island with a serious erosion problem, in the middle of the river downstream from the power dams and which, by the terms of the Agreement, it had to protect from further erosion. Obviously, it would have been strategically awkward to raise this issue during negotiations, but events in the following year brought the notion of a possible relocation to the forefront.

During 1976, the initial testing of erosion control on Fort George island probably confirmed that it would be expensive to live up to the erosion guarantee. At the same time, the estimates of the cost of the bridge to the island (promised by the Federal government) were determined to be close to $10 million. These two items, combined with the costs of major infrastructure committments which the federal government had given to the Cree, suggested that the cost of maintaining the community on the island were to be high indeed. Now in the past, there had been occasional talk of re-solving the difficult problem of access to Fort George by relocating it on the mainland. This idea surfaced once more. The Energy Corporation, the federal government, and the Cree from Fort George commenced discussions to explore this line in 1976.

By early 1977, the Energy Corporation presented to the Fort George people the notion that they should reconsider the location

of LG-1 on Mile 23, arguing that it was superior on ecological grounds and that, given the improved relations between Cree and the Energy Corporation, the issue of negative social impact of a construction site there was no longer an issue. In exchange, Fort George was offered substantial financial assistance towards the relocation of the community off the island to the mainland, where it would have direct access to the new highway.

The Fort George band then entered into negotiations with the Energy Corporation and the federal government and, by the end of 1977, reached an accord (the Chisasibi Agreement) which essentially exchanged the access to the spawning area at Mile 23 for a contribution from Energy Corporation towards the relocation of Fort George, plus $10 million from the federal government in lieu of its obligations to finance the bridge and assorted community infrastructure. The total of approximately $50 million involved in the settlement is managed by a Relocation Corporation, a predominantly Cree body which will plan and carry out the works. In short, the Fort George people, through direct negotiations, got a totally new, fully serviced community, with a high quality house for each family, a community centre, high school, etc., a total investment of something over $100,000 per family. In exchange, they lose the whitefish spawning grounds, an important traditional fishing site, and, as well, end up with more difficult access to their resources.

In a somewhat analogous case, the Energy Corporation faced a serious problem of containing environmental damage in the Boyd-Sakami Lake area in the Wemindji (Paint Hills) hunting territories, an area which was supposed to be a major environmental focus of the Corporation. Estimates indicated that remedial works would cost over $60 million and even then, there was some uncertainty about the effectiveness of proposed safeguards. The Corporation approached

the Cree and commenced direct negotiations with the band which resulted in the proposed remedial works being exchanged for an $4.5 million community development fund to provide Wemindji (population about 700) with modern community infrastructure, including a water supply and sewage system. The Corporation also undertook to spend some $17 million on a transmission line to the community as well as an access road, the latter requiring federal participation if it is to be carried out.

In both these cases, it should be noted that the negotiations have taken place directly with a Cree band (as contrasted with the Grand Council), which indicates that where a single community's interests are at stake, the regional organization stands back and permits local leadership to make the decisions. It is also significant that the agreements can be viewed as ones in which the Cree had to weigh the relative gains of improved community infrastructure against the costs of environmental degradation.

It is possible to view community improvements gained in these negotiations as being more important to that part of the community not intensively involved in the subsistence economy, which would suggest that they have gained at the expense of the resource base of the hunters and trappers. As such, the cases suggest that the Cree themselves may be changing their views on the importance of the subsistence sector or perhaps rethinking advice that impacts of the Project are remediable. From an original position in 1971 of wanting to stop the Project at all costs because of the environmental implications, important trade-offs in that sector can now be contemplated in exchange for direct community benefit. There is also an important difference between the kinds of matters negotiated by the communities and those negotiated by the Cree as a region. In the case of the band, the benefits are direct and visible within the affected community.

There is one matter relating to both these negotiations which invites explanation. Given that most of the community improvements gained by the bands were all contemplated elsewhere in the Agreement - the roads, the electricification, the water and sewage systems, etc. - one can ask why such items as could be construed as a gain for the community in question. The answer probably lies in the experience of the Cree relating to the delivery of such services in the past and the lack of activity in the provision of community infrastructure between 1973 and 1977. The local leaders had also seen on the regional level the evidence of the federal government's hedging on a range of issues provided by the Agreement and in the letters from the Minister, written at the time of signing (the so-called Letters of Federal Undertaking reprinted in the Appendix). It has been suggested that the lack of celerity on the part of Indian Affairs, related to budgetary constraints in most of the committments made in the context of the Agreement had to be provided for out of normal budgets. Whatever the reasons were in fact, there was no evidence at the band level that the performance of the federal government would be significantly different from its poor record in the past. In that light, the decision of the local communities probably makes a good deal of sense.

But one thing that clearly emerges from these examples is that the Agreement is not viewed by the Cree as a document written in stone. There are clear possibilities of obtaining at least short-term gains by direct negotiations and trade-offs. The implications of this become clear in the initial approaches to developing a response to the plans for the future phases of the James Bay Project (the Nottaway-Broadback-Rupert (NBR) scheme and the Great Whale (GB) scheme). Both of these were foreseen at the time of the Agreement and the provisions relating to impact assessment, etc., presage them. Given the possibilities of

environmental trade-offs, communities may wish to be in a position to bargain directly with the Energy Corporation to achieve gains similar to those obtained by the Fort George or Wemenji bands. The extent to which such strategy could affect the pre-eminence of the consultative and advisory committees is difficult to assess, and it will be one of the more interesting areas to watch over the coming years.

The role of transfer payments in the Cree economy

The Agreement has, since its signature, often been regarded as a document which is expected to somehow transform the economies of the Cree communities and result in a vaguely-defined state of future self-sufficiency. This belief is most clearly associated with the staff of the CRA and with the management consultants who have been asked to provide direction in the matter of economic development. On the other hand, some of the sharpest criticisms direct at the Agreement have concerned the observation that the Cree cannot be considered as "owners" of natural resources in the territory and that they do not ultimately control access to them and their eventual exploitation - preconditions, in the minds of the critics, for self-sufficiency.

The Agreement, however, makes no such claims, and even the introduction by the Provincial negotiator (J. Ciaccia) seems to avoid this rather fundamental question of the future economic base of Cree society. What the Agreement does do instead is generally to provide for the continuance of existing government transfer payments to Cree communities, through rationalizing their delivery, and where consistent with Québec's larger policies to transfer responsibilities for programmes from Ottawa to the province.

At the same time, there are compensation funds arising from the Agreement which, in 1979, generate a cash flow of the Cree

interest earnings of the order of $7-$8 million a year. The point has already been made elsewhere in this report that the Agreement defines the permissible range of expenditure of compensation funds in terms not only of investment in profit-yielding Cree enterprises, but also in terms of contributing to community improvements by complementing other sources of government transfer payments available for this purpose.

With this perspective, it is appropriate to look rather more closely at the present-day transfer payments flowing into the Cree communities and to discuss the probable impact of the Agreement on these payments, as well as the larger issues of the relationship between continuing transfer payments and efforts by the Cree communities to achieve their stated goal of self-sufficiency.

The James Bay Cree share in common with most other Indian groups in Canada and, for that matter, a large number of rural non-native communities a growing reliance a range of "transfer payments" which, in a broad sense, reflect the efforts of a central government to counterbalance regional economic disparities. In the case of the Cree, substantial involvement in a regional transfer payment economy only spans about a decade. Social aid has been available to needy families since the second World War, though on a limited and tightly controlled basis. Criteria for providing social aid only became more flexible in the late 1960's. The Department of Indian Affairs' major programme of providing employment through housing programmes commenced only in the early seventies. In this sense, one can say that the decade preceding the Agreement was accompanied by a substantial investment of government funds in Cree communities for the first time.

The arguments in the James Bay court case included a discussion of the evolving patterns of federal and provincial government expenditures. The data presented was incomplete, and

there were problems in deciding what to include in a calculation of transfer payments. Generally, however, the situation seems to be that in 1971-72, the value of government programmes and services was of the order of $11-$12 million per year and that by the time of the signing of the Agreement, this figure had risen to about $15 million per year. Even on the basis of a most conservative calculation, we seem to have a situation in which the value of government programmes and services is of the order of two to three times the current cash flow resulting from interest earnings on compensation funds.

Nearly half of this expenditure is attributable to capital investment in schools and health care facilities and their operation, and the remainder is divided roughly equally between the payment of social aid to individuals and capital investment in residential housing and related infrastructure. The Province's share in this expenditure rose from about 10% in 1970 to approximately one-quarter by the time of the signing of the Agreement, largely the result of a growing involvement in health care and education as well as in the administration of social aid.

One striking aspect of the transfer payment economy, prior to the Agreement, is the very rapid rate of increase in welfare payments. Expenditures under this heading rose at a rate of 30% to 40% per year from $600,000 in 1970-71 to about $1.8 million in 1975. There is substantial evidence that these payments were an important mainstay of the local subsistence economy during this period. It is equally noteworthy that transfer payments to individuals in connection with educational services to the Cree communities are of the same order of magnitude as the payments of social aid. Even though some three-quarters of the households in the region (i.e. 1,100 to 1,200 households) are dependent at some time of the year on some form of welfare, there is a substantial wage economy in the region. The quality of the basic data leaves

something to be desired but suggests that total wage earnings in the region are roughly equivalent to the combination of social aid and transfer payments connected with educational programmes. This suggests, incidentally, a highly skewed distribution of personal income in the communities with a small number of successful wage-earners accounting for a very significant fraction of the income generated in the communities.

The Department of Indian Affairs' housing and infrastructure programme must be considered a significant source of income to the communities, even though housing assistance might not be routinely classified as a "transfer payment". During the five years prior to the Agreement, the Department built some 450-500 houses at an average cost on the order of $20,000.00.

The Agreement deals only indirectly with the question of transfer payments. One of the Principal Provisions (2.12), in effect, provides that the Cree will continue to have access to federal programmes on the basis as other Indian bands, subject to criteria for eligibility which may be established by the Department from time to time. This has generally been interpreted to mean that the Department may apply a "means test" in assessing the fiscal priorities for the Cree region in which case, the Cree might expect to find themselves under pressure to use compensation funds, rather than the Department's programme funds. There is an equivalent provision for Québec, but since the Province does not, at the present time, provide the same kinds of services to the communities, comparatively little attention has been paid to this provision so far.

There is a section in the Agreement devoted to economic development (Section 28) which provides, in addition to a joint venture scheme with the Development Corporation, that Indian

Affairs will continue to be involved in planning and in funding (jointly with Québec and the Cree Regional Authority) specific categories of development (notably handicrafts, tourism and outfitting and trapping). The same section also provides that "discussions will continue" on such items as the construction of roads to the communities, the upgrading of airstrips and the building of community centres. In practice, however, this section may generally be regarded as a confirmation of the underlying principle that the Department will maintain its pre-existing relationship with the Cree.

The major innovation in the area of transfer payments, is the Income Security Programme which provides, in effect, for a rationalization of the provincial system of social aid so that it can be used explicitly as a means of supporting the local subsistence economy. About half the Cree families in the region now receive social aid under this new programme, which has been especially tailored to meet the requirements of people who spend long periods in the bush. It provides about $5 million in payments annually.

The sections in the Agreement which deal with education, health services and police services, all contain provisions which basically state that provincial standards will be applied. In practice, this involves a transfer of administrative responsibilities to the provincial government, accompanied by a federal undertaking to provide financial assistance, following a pre-arranged cost-sharing formula. This has significant financial implications for Canada in the areas of education and police services, in the sense that the Agreement has resulted in a substantial upgrading of services and in substantially higher operating costs. In the area of education, for example, annual operation costs are now of the order of $10.5 million, which represents a very substantial increas over pre-Agreement expenditures.

The Agreement, in providing for a generally higher standard of community services and for Cree participation in the administration of those services, probably has the overall effect of increasing the value of government programmes and services. That is most conspicuous where it was possible to negotiate a transfer from federal to provincial jurisdiction. But even in these areas (such as education and police services), the federal government must now contribute more to the regional transfer payment economy, because it is bound to accept provincial standards for services.

In those areas (like the housing and infrastructure programme) where no transfer to the province was contemplated, the status quo remains, and the conclusion seems to be that the Agreement probably has little effect on the availability of government services - except perhaps to the extent that the James Bay Cree, as a whole, are in a better position to lobby to ensure that they receive their proportionate share of funding for Indian bands in the province of Québec. Prior to the Agreement, the James Bay Cree barely kept up in the housing sector, and lagged significantly behind other regions of the province in the construction of water supply and sewage schemes. The balance has not yet been restored, but there are indications that the Cree will be able to "catch up" between now and 1984.

Of course, the increased cash-flow in the individual communities resulting from government transfer payments may well stimulate entrepreneurial activity in the service sector. There is some indication that this is occuring today, in a very limited way. Any expansion here would improve and diversify the local economy, but clearly, stability of this sector will be dependent upon the continuity of a cash flow in the communities - that is, transfer payments.

One major question still remains to be answered: where do the compensation funds fit into the transfer payment economy of the Cree communities? Understandably, the Cree have been unwilling to see compensation funds used either as a replacement for, or as a supplement to, existing government transfers. This is partly motivated by a general caution in spending the limited financial resources, but it is also motivated by a belief that the funds should be used for economic development in a more conventional sense, i.e., in prompting profit-generating enterprises.

It is already apparent to Cree administrators at a regional level that it is considerably easier to use compensation funds to generate employment in the public sector than to create economically viable business enterprises. To some extent, the present regional administration under the CRA is a reflection of this fact of life. Nevertheless, it would probably be incorrect to argue here that there is a conscious investment in the public sector for the sake of improving community service delivery, or for the training experience that work in the public sector represents. The clearest indication so far as to the kind of financial policy which the Cree consider appropriate is the commitment of about $3.5 million of compensation funds to compress a ten-year Indian Affairs programme for housing and infrastructure, into a five-year period, a programme with the avowed intention of rendering more efficient (through economies of scale) the use of captial provided by government.

If this exercise proves successful, it may well be that in the future, the Cree will consider that it is in the overall interest to use compensation funds to augment government transfer programmes. However, the fundamental problem will still remain: the Cree communities have still to develop an economic base

outside the public sector if they are to enjoy at least some of the economic self-sufficiency which they believed the Agreement would bring about.

Conclusions

Fundamental changes in political dependency of the Cree

It is our conclusion that, notwithstanding that the Cree, having graduated from the school of negotiations, and taken over successfully the administration of their own affairs, remain dependent upon a larger political network. Because of its provincial character, it is far more diversified, complex and difficult to manage than their previous solitary link with the Indian Affairs administration.

The implications of specialized relationships with diversified bureaucracies are that it brings about a growth of a regional bureaucracy far more extensive than that which would be necessary with a single general purpose body specializing in dealing with one client, e.g. Indian Affairs.

The necessity to co-ordinate the policy-making of each band and of each Cree regional organization and to elaborate from them an overall Cree policy which can be articulated to various policies of powerful bureaucracies on the provincial level required that they develop a new, single and centralized policy-making body. Today, it is the executive of the Cree Regional Authority which largely assumes that role.

In that regard, for purposes of analysis and to understand the phenomena, we have made the distinction between 1- how the Agreement deals with this kind of problem and 2- the directions the Cree organizations are taking in these matters.

It should first be noted that the Cree made the choice in 1972 to remain under the jurisdiction of the Indian Act, thereby remaining under the tutelage of the federal crown. In taking this decision, the Cree were in line with the thinking of other Indian leaders on the national level vis-à-vis the contents of

the White Paper of 1969. This decision on the part of the Cree is an indication of their concern about the status of the lands in the region, as well as the division of respective jurisdictions of the principal entities involved.

It is then possible to view the complexity of the Agreement, a complexity which demands elaborate bureaucratic structures, to have arisen from the difficult exercise of establishing Cree jurisdiction, old as well as new, federal as well as provincial, all of which had to develop meaningful strategies of interaction. Thus, the Cree decision to participate in an exercise, the object of which was to be involved in the decision-making process, placed them in a position where the negotiations surrounding that exercise became the occasion for various governmental and administrative entities to clarify longstanding ambiguities in jurisdiction.

In this sense, Mr. Ciaccia is probably right in saying, in the preface of the Agreement, that the Agreement is as complex as it is fundamentally because it is an exercise in clarifying aboriginal rights and the division of jurisdictions, both of which had been neglected for far too long. Thus, through the Agreement, Québec attains its fundamental object: clarifying its jurisdiction over a territory on which, from the provincial point of view, federal presence had long been far too pre-eminent.

The fact is, however, that today, Cree jurisdiction in the James Bay territory is integrated with the provincial administrative network. Through the Cree Health Board and the Income Security Program, the Cree are in contact with the Ministry of Social Affairs. Through the administration of category 1B lands, they are in contact with the Ministry of Municipal Affairs. Through the Cree School Board, they are integrated into the network of the Depart-

of Education. Thus, under various administrative aspects, the list could be extended to include other departments and provincial entities.

Notwithstanding that this transfer is relatively neutral in itself, there were, nonetheless, tensions and conflicts to be resolved. The situation was made more sensitive because, de facto, there appears to have existed in the Québec governmental structures at that time a two-fold division of provincial civil servants. One group might be characterized as conservative or traditional compared with the other which could be described as "management" oriented. The new crown corporations, which were specifically set up to develop the James Bay (even if, in fact, the only development so far is in the hydro-electric field, although the original conception was development of the territory) are definitely more aggressive management-oriented bureaucracies which are struggling for new jurisdictions in their respective fields. On the other hand, the Ministry of Tourism, Fish and Game and of Natural Resources, or even the Ministry of Municipal Affairs, who were not all that anxious to negotiate with native people, are examples of departments which we might call "traditional" and whose definition of the situation did not fall in line with the basic ideas which eventually served as a basis for the Agreement. One must not underestimate, then, the significant role played by the small number of bureaucrats who took it upon themselves to articulate the Québec position.

The Department of Indian Affairs doesn't enter into our compatison between "traditional" or "management-oriented" bureaucracies which we find useful only to characterize the provincial scene. We would underline, however, that the Department was subject to budgetary constraints that prevented it from following the pace of the new Québec state corporations. Being in that situation, it could appear in the course of the events, to be a good deal weaker and less sympathetic to the Cree position than in general the provincial corporations might be. Thus, as the representative of the federal

jurisdiction in the territory, Indian Affairs now faces a new situation: from principal actor of yesterday, the Department finds itself in the difficult position of having to justify its own rhythm of delivery of services in the face of comparisons with the investments of the new provincial presence. In this regard, the financial resources, but above all, the political power of the new corporations and Hydro-Québec had been, and still are, very considerable in the territory. The fact is, that these administrations have effectively, at the higher levels of their structures, determined decision-making powers. This abnormal concentration of power was one of the prices that Québec had to pay in order to have the James Bay Project come into being.

The existence of such a powerful corporation and the potential overlapping of jurisdiction of various provincial administrative entities in the James Bay region draws the Cree into a debate in which they are not necessarily in a strong position. In using the Agreement to resolve interdepartmental conflicts, the questions to be debated are the partition of and competition for jurisdictions among Québec entities. In this context, from the point of view of the Cree, there is a real attraction of aligning themselves consistently to the strongest of the competing entities, and this develops a sort of dependence on them in the matter of exercising their own jurisdiction. It is possible to interpret the "continuing negotiations" as the first steps on this new road. One can certainly note the efficiency of both the Cree organizations and Energy Corporation in reaching accommodations on matters which yesterday seemed unresolvable. The long-term implications of such dependency have yet to be determined.

Let us now turn to the Cree organization itself, in the context of its interface with diversified bureaucracies (principally those of Québec). In the new structure, the objective, if not the necessity of the Cree, was to work out a permanent relationship

between the eight Cree bands and the diversified bureaucracies of the province. The Cree have centralized this pivotal role of mediation in the strong executive of the CRA at the regional level, but its representative dimension is not yet well established. The CRA is an administrative, not a political, body. At the regional level, then, Cree political power is exercised by the bureaucrats, a situation which seems to be productive in today's situation and can endure as long as the important achievements are gained through a priveleged relationship with strong bureaucrats of the state. However, this situation cannot be permanent as there is a patent desequilibrium in that relationship. No matter how strong a group of bureaucrats may be in a state corporation or ministry, it is ultimately subject to change in policy by the representative arm of a government, which is primarily public. For the bureaucracies of Québec, or any government, there is a power behind and over any powerful bureaucrat.

For the Cree as well, there is, in the long-run, a necessity for the creation of a forum for regional decision-making in which a clear distinction is made between the political leadership and the administrative leadership of Cree society.

In summary, the changes in the political dependency are firstly, that the Cree, as a whole, transferred their dependency to a diversified bureaucratic structure; and secondly, that at the local level, each band transferred its dependency from Indian Affairs to the administrative executive of the CRA.

Rationalization of the economic dependence of the Cree

When a group is heavily dependent upon government transfer payments to assure their economic well-being, the administration of these transfer payments by the group itself requires subsidization. For the Cree administration, then, the situation is that

they will have to continue for search for sources of funds for two purposes. One, to obtain the maximum amount from governmental programmes in order to deliver the services for which they are now responsible. Secondly, they must find the financial resources to assure the financial operation or health of their bureaucratic structure.

On the economic scene, then, the Cree society continues to be as heavily subsidized as it was previously, except that a certain number of decisions are now taken at the local or regional level while at the same time, certain transfer payment programmes are stabilized and more predictable.

There is a link to be established between the stabilization of transfer payments provided for the Cree population and the organization of the Cree administrative structure. During the period before the development of this structure, one could see very significant fluctuations, both in the numbers of people eligible for social assistance each year, as well as the amount of money provided for them. Before 1973, the Ministry of Indian Affairs experimented with a variety of programmes, the general aim of which was to reduce, in the foreseeable future, the number of individuals depending on social aid. Most of these programmes had as an aim the eventual incorporation of the Cree in the wage labour market, which did not exist then, but which might in the future. The Cree themselves took over these tasks hoping that their own initiatives in their own administration would be more successful. Cree Construction and the opening of Cree-ations in the field of handicrafts are initiatives which have the aim of creating employment.

Since the Second World War , transfer payments have gradually become much more important in the Cree economy. They have taken the form of various programmes, of which social aid is the most

evident. The principle involved is no more than that of distributing certain amounts of money in a variety of guises throughout the community. The housing infrastructure programme, totally subsidized by the Ministry of Indian Affairs until 1976, is of those types (the budgetary provisions were insufficient to construct a complete house, so a variety of other programmes were utilized for this end, the overall product being not so much housing, as the provision of labour). The field of adult education is also one which was used to transfer funds to the community and to individuals. Québec has progressively taken over several of these domains and now subsidizes programmes of health, of education, the Income Security Programme. With the organization of the Cree administration and parallel to the involvement of Québec in financial responsibility for services, this situation changes. Budgetary support is stabilized through a rationalization of the use of public funds for a variety of complex transfer payments which are injected into the Cree economy. In fact, the transitory character of fluctuating transfer payments evolves towards a situation where the receiving of them is defined as normal and permanent in the circumstances.

This change comes about when it is accepted that outside the subsistence economy, the Cree do not have a stable regional economy, and their economic marginality cannot be resolved by simple short-term solutions.

Beyond that, one can see the economic development of the Cree in the context of a partnership between the Cree and Québec interests. It is in this sense that one must understand the integration of the Cree reality through the process of regional development, as defined by the developers of the state. But up to now, this is only a perception, because until the present, nothing concrete has happened at this level. There is not in the region, a major

industrial development, and even if there were one, the Cree would have to organize themselves with new structures in order to get involved, to the extent that their actual relationship with the development corporation in the field of economic development would not permit them, de facto, to integrate themselves in a large-scale industrial development, which would come from the outside. There are not yet the procedures, nor the context, which would permit the integration of the familial occupation of the Cree, that level at which a subsistence economy is based, with the preoccupation of a large-scale developer, to which Québec would be most sensitive.

On the other side, the compensation funds represent, in fact, for the Cree, a possibility of autonomous economic development, of which they would be the sole managers. Up until the present, no decision has been taken on the utilization of these funds. Two possibilities present themselves in the field of productive investments: collective or individual. The management of large amounts of money demands real competence in order to be able to extract the maximum from investments, and simple imvestments would not appear to be very advantageous if one would subtract the rate of inflation from the rate of interest. The utilization of compensation funds could also be directed to productive sectors or to the refinement of administrative procedures the view of taking better advantage of transfer payments.

For the moment though, it must be noted then that the normalization and the stabilization of provincial transfer payment in which the Cree participate, in fact, increases their economic dependence.

Section 3

Rationalizing a Way of Life

The effects of new regional administration at the band level

Introduction

In the previous two papers, we have discussed the development of a regional administration in the James Bay territory, with minimal comment on what has been happening on the community level during this period. In order to give some context to local events, we need a brief assessment of the environment in which the Agreement is operating today. The first two parts of this paper attempt to provide this in a very brief and sketchy way. First we shall review the development of the local administration and incorporate in this discussion the principal changes occasioned by regionalization. Substantially, this covers the last five to ten years. This is followed by a brief comment on how the local communities have evolved since World War II.

We suggest that the principal phenomenon of the last quarter-century has been the gradual sedentarization of the Cree in communities which grew up around the trading posts. An assessment is made of the benefits which the sedentary population has obtained from the Agreement, suggesting that it is mainly in the form of improved community infrastructure and increased job opportunities.

The presentation of the material on the impact of the Agreement on the subsistence sector of Cree society commences with a philosophical assessment of the meaning of the constructs "hunter", "hunter-trapper" and "harvester" which has its roots in conventional anthropological literature. Essentially, we take as given the economic advantages which subsistence hunters derive from the Agreement. Our analysis focuses more on the cultural significance of rationalizing the subsistence economy.

We finally relate this discussion to the changing leadership patterns at the local level to support an hypothesis that a process of class differentiation seems to be developing within the Cree communities.

The increasing complexity of band administration

The James Bay court case and subsequent negotiations occurred at a time when DINA was initiating a policy of giving the Indian bands more control over programmes that formerly had been under the direct supervision of the Department. Under this policy, made explicit in TB submission 725973, Indian bands in general, were offered the possibility of assuming responsibility for programmes such as education, housing, construction, community maintenance, etc. In the Abitibi District, such a policy was being implemented in the Cree communities at the time the sections of the Agreement related to education, health and social services, economic development, etc., were being negotiated and there had already been some increase in band control of these programmes by the time the Agreement was signed. With the implementation of the Agreement, as we noted in the previous report, the Cree took over a far greater level of responsibility for the operation of programmes.

Beginning in the late 1960's, and continuing until the early 1970's, as Indian Affairs began to involve local bands in the delivery of their programmes, a small band administration began to develop, normally comprising a band manager, a welfare officer, and in the larger bands, a secretary-clerk. More important than the small size was the limited nature of their functions. The staff operated essentially as local employees of Indian Affairs, working under the close supervision of district office staff. Even when the bands took over the direct responsibility for certain programmes, starting in 1974, the situation did not change dramatically. There was a small increase in staff directly responsible for new programmes (a total of three in Mistassini), but close coaching from Indian Affairs was still the norm. The major change was that the bands had to take the initiative to officially request programmes and financial support for them from Indian Affairs. The bands did, however, sign their own cheques, hire the local service staff and make contracts

for certain works such as road maintenance or garbage disposal. The supervision of the local administration was technically the responsibility of the chief and councillors, but in fact, supervision was frequently neglected and practically every band has had at least one experience with financial crises since 1974 which resulted in them being placed under joint administration (with Indian Affairs co-signing the cheques) until the situation was clarified.

Part of the difficulty was the assumption of management of local programmes increased the responsibilities of the council just at the moment when the Cree were involved in the court case and negotiations. At that time, the chief and councillors frequently had to be absent from their communities to attend meetings associated with that process. These demands were more pressing than mundane day-to-day band activities such as arranging garbage disposal contracts, and in some bands there was even difficulty in finding sufficient councillors around the communities to make up a quorum for the band council meeting. Throughout 1974 and 1975, there was a tendency for the band councils to leave the operation of band affairs to the manager and staff, and, as they reported in Mistassini, the band council simply rubber-stamped, at "ad hoc" meetings, such band council Resolutions as wer necessary for day-to-day operations.

For the band council, the local administration of programmes meant that discussions became more detailed, involving among other things, staff selection, review of contracts, selection of designs, etc. Following the signing of the Agreement, council meetings had to discuss matters such as land selection or the exercising of options on takeover of outfitting camps. Since 1974, in short, the content of the band council meetings became

much more technical. Because of the precise legal implications of some band council decisions, there was a requirement that some resolutions of this nature be drafted by legal counsel or by the Cree regional staff.

While the responsibilities of the local band council were evolving, there were at the same time many new demands made on the chief to participate fully in the process of band administration. By the early 1970's, the situation had developed that being chief of a band became, in fact, a full-time job. In essence, in the larger bands, it became impractical for a chief to be away from the band office or band affairs for more than a few days at a time. As the bands did not have the funding to pay the chief a salary other than the honorarium available from CORE funding, a solution was found in all bands of having the chief take over one of the full-time jobs relating to band administration. In Mistassini, he became the band manager, or later, an employee of the Grand Council. In other bands, he became, perhaps, a community liaison officer for one of the government programmes, or later for the Grand Council. This produced a situation where the political role of the chief became blurred with his administrative duties. He became directly involved in the process of providing a service to the community.

With the transfer of more complex programmes to band control, the office of councillor also became more pressing. In order to participate fully in the decision-making process, a councillor now had to review programme proposals, contracts, etc., if he were to make a useful contribution to the council deliberations. The problem was to have the documents available in Cree, a necessity for unilingual councillors. This proved to be impractical, and a solution was sought in having parts of the more important aspects summarized orally in the course of discussions. This led to longer and more involved meetings, in which there was,

in any event, a tendency for serious discussions to drift into English. Gradually, unilingual councillors did not stand for office, and the present incumbents are, in all bands, largely bilingual younger people who hold council meetings in English.

A further change in recent years has been to more frequent and regular council meetings. These demand a quorum, which is difficult to obtain if councillors are working away from the community or are in the bush. Today, there is a tendency to seek councillors from among those who work year-round in the community. Effectively, council positions, like that of the chief, are heavily constrained, and effectively, the province of young, educated, bilingual Cree, who work in the community. Since the largest permanent employer in a community is usually the band office, this effectively means that councillors very frequently are drawn on from this group and are in the position of making policy about the programmes they themselves direct. In a sense, they, as public servants, are responsible to themselves as local politicians.

Regional activities at the band level

While these changes were occuring at the level of the band, the Cree regional bodies which were assuming responsibility for programmes formerly under federal or provincial control became more active in the communities. Aside from their local staff, bodies such as the School Board and the Health Board must have local committees which report directly to these boards. These have already been formed, and while they operate within the context of the new organizations, the band councils tend to treat them as committees of the council and thus keep them in touch with what is happening, the more so because individual councillors tend to sit as members on these committees. This provides a means of internal communication and co-ordination of programmes between differing agencies.

Of course, such committees are not totally an invention of the Agreement. In Mistassini, the local school committee was quite active even before the formation of the Cree School Board and was powerful enough to force Indian Affairs to replace a few teachers which the community did not like. The local school committee set up under the Cree School Board is just as active in Mistassini, but we found that in Waswanipi and Eastmain, while they are officially formed, they are more or less passive, because, as one band official indicated, "these committees don't know what they are supposed to do yet." This suggests that the new structures which are supposed to inform the regional bodies are not yet making input into the policy-making at the regional level as it affects the community.

This seems to be a transitional stage and in the interim but Cree chiefs and councillors try to stimulate local committees and also use informal channels to make quite explicit the requirements of the community to the new Boards. Thus, in the case of Waswanipi, which had difficulties during the first year of operation of its school in the new community site, the chief and councillors petitioned directly to the Cree School Board for certain improvements, bypassing the local school committees in the process. In other words, the Cree communities and their leadership can still make their views felt to the new Cree organization through informal structures, but as time passes and the official committees gain experience, it is likely that these bodies will become more autonomous.

Since formal structure of most regional committees and boards which have grown out of the Agreement require at least the physical presence of a local representative, some local people are already in a position to use these channels to learn what is going on at the regional level in matters relating to the implementation of the Agreement. Participation in itself provides training for these people, although, as is normal in most committee

organizations, there are those who do not "pull their weight". In the words of one Cree regional administrator, "there are some local representatives who are along for the ride". The problem here is that the contribution that these people can make depends, to a large extent, on their mastery of the technical discussions that take place in the context of the committees. Time seems to resolve this problem, as for example, was the case with the School Board. During the first few months of its operation, there was practically no input from the local commissioners. However, as they became aware of the issues that were under discussion, their participation gradually increased, and after one year, School Board discussions are reported to be animated and involve the active participation of all local representatives. This would indicate that most of the new committees will probably go through a process whereby the detail in the initial phase is handled by the technical representation coming from the Cree regional staff and through time, as people become aware of the issues involved, local input will be assured.

It appears implicit, however, that not only will the membership of the band council tend to be drawn from the educated English-speaking sector of the Cree population[1], but that the representatives on the various committees will tend to be drawn from the same group as well. This raises the question of the representation that is possible by hunters and trappers on these important bodies. Today, the articulation of community needs to outside agencies is largely made by that sector of the population

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[1] In the bands we studied, the chief and councillors are young, English-speaking and sometimes also band employees or employees of one of the Cree regional agencies. However, we noted that recent elections in at least two other bands have returned a "traditional" council to local power. The extent to which such a council can deal with complex issues without becoming a rubber stamp for the local administration is still open to question, given the constraints mentioned above.

which is not involved in hunting and trapping. The considerable emphasis on the improvement of housing, community facilities, educational services, etc., might be seen not only as reflecting the needs of this group of people for a "modern local community", but also their power to press these matters as the ones of highest priority.

The matter of the limited participation of the hunters and trappers in the band and regional structures was discussed with members of band councils and their comments indicated that they were keenly aware of the problem. They suggested that they would seek a solution by the creation of a "Council of Elders" which would be consulted in matters relating to overall policy. At the same time, some Councils have instituted a regular meeting of the whole band (monthly, in Mistassini), at which the operations of the Council are reviewed, especially issues of interest to traditional people. Here general comments of the population are solicited.

However, it is clear that there is a sharp differentiation at the band level today between those who can participate in, or even have a reasonable understanding of what is happening in the changing political and administrative structures in the Cree region or even at the band level, and that part of the population involved in hunting, fishing and trapping. One of the difficulties, as we mentioned, has been the translation of a lot of the technical material into Cree. Even the James Bay Agreement appears in Cree only as a thirty-page summary, and information on other programmes has come largely through explanations given at public meetings. In other words, one sector of the population has access to information in a written form, while the other must deal with the new information and assess it based upon oral summaries. While the importance of using Cree in administration is frequently mentioned, as is the necessity of making major efforts to translate

material into Cree, there is little concrete evidence that this is about to happen. Even the Cree newsletter is almost completely written in English.

It is evident, then, that there are in the local communities, two distinct groups of people, differentiated at least at the level of language and education. Before proceeding to further discussions of this differentiation, it will be useful first to trace its origins, a presentation which will also give those unfamiliar with the James Bay region, a better picture of the local communities in which the James Bay Agreement is being implemented.

The trend towards sedentarization

Over the last twenty-five years, there has been a gradual decline in the percentage of the population which lives exclusively on the land by hunting, fishing and trapping. Prior to 1940, the operations of the HBC and the Anglican Church accounted for the principal activities in the local communities, which were, for all practical purposes, abandoned by the people during the hunting season, which lasted from late August until mid-June. Few whites had penetrated the region and no more than a dozen or so Cree had been outside the region, those few being children taken by the Anglican Church for a total immersion in white culture in one of their Ontario residential schools for periods ranging from two to eight years. Indian Affairs arrived in 1941 and introduced welfare services gradually expanding them over the years. Medical teams had occasionally visited the area as early as the mid-1920's, but regular health services were available only in the 1950's. Indian Affairs introduced a programme of universal education on a broad scale in the early 1950's, gradually expanding the programme to its present level.

Descriptions of the communities in the 1940's suggest that well over 90% of the population was in the bush for most of the year. By 1975, we find that less than 50% of the families are going to the bush for periods exceeding three months to "live in the old way". In the period between World War II and today, occasional involvement in the wage labour economy combined with welfare support, which gradually expanded in the 1960's to form a symbiosis with bush subsistence which sustained most of the Cree families.

The more important feature of community life in this thirty-five year period has been the gradual development of permanent communities, where we find a sedentarized population first during the summer months, but with an increasingly larger percentage remaining in the community for longer periods of time each year. Whereas in the 1940's and 1950's, it would be more common to find people in the communities only from June to early September and on the family hunting territories for the whole of the winter; today, people go to the bush in October, return to the community a few times during the winter, and in spring, reunite with those family and relations who do not follow the hunting style of life for a few weeks of water fowl hunting. Between 1940 and 1975, there is evidence not only of a slow trend away from the bush (of course, principally manifested in the young people who have been away at school), but also a tendency for those families who maintained the hunting lifestyle to stay in the community for longer periods each year.

This gradual sedentarization led to a demand for housing and community services, which, by the mid-1960's, was being met by the establishment of nursing stations, elementary day schools in larger communites, and a few log houses for the elderly. These facilities could not be considered as adequate, but for people with no basis of comparison, it can be suggested that most

were content with what they got. Up until 1974, there was no involvement of the community in the planning, designing or selection of which programmes or facilities were to be made available in a particular community. Each year, personnel from Indian Affairs or another government department would arrive to offer what was available from their programmes and budgets; the decision as to what existed in the Indian communities being more a manifestation of what a particular group of public servants reckoned would be good for Indians, rather than the desiderata of the Indian population. But, that is not to suggest that the local population felt the programmes or services they received were inappropriate. The principal criticism was that they were inadequate.

It is also important to note that the gradual sedentarization took place in the context of a very insecure and vacillating job market. Occasionally, there would be winter work for a considerable number of people. Some years, there would be adequate summer employment for almost everyone, other times no opportunities at all. It can be generally stated that there were very few year-round jobs in the wage labour sector for any Indian in the James Bay territory up until the decade of the 70's.

For those who were not in the traditional hunting economy, a pattern developed whereby Indian Affairs would provide small welfare payments when the individual was not in the work force. In other words, the overall level of income was low, but there was a constant, periodic income into each family unit, either from welfare or wage labour, but with vast fluctuations over the year and from year to year.

A normal pattern of domestic economy was for the family to run up an account at the local store, pay the debt with the welfare cheque or with the payment from the employment, and then

each month or so, start off a new cycle of buying on credit. The normal traditional system of "debt" between the Indian and the Hudson Bay Company was modernized between 1940 and 1975 to incorporate both welfare and other transfer payments, as well as the wage employment. The debt cycle is shorter but as pervasive as formerly.

At the time of the announcement of the James Bay Project, the picture of the Cree settlements is one of communities having an historical depth of less than two generations. But here one finds half the population as year-round residents living on occasional attachment to the wage labour market and supported by welfare and unemployment insurance in periods of unemployment. The other half of the population is fully involved in the subsistence economy which is also supported by transfer payments in the form of welfare.

During the court case and the subsequent negotiations, the Cree frequently spoke of the importance of protecting a way of life which was threatened by the James Bay Project. In fact, they were talking about two separate groups in their communities. The hunting economy - the subsistence sector - had to be made secure from further erosion. The sedentarized population in the communities also faced a most serious socio-economic situation. Certain provisions of the Agreement are designed for each group. Thos relating to the stabilization of the subsistence sector were the first concrete manifestations of the Agreement to be felt in the communites. We shall first consider briefly the initial effects of the Agreement on the sedentarized population and then return to a more complete discussion of the implications of the recent events on the way of life of the hunter.

Band level gains for non-hunters

The sector of the Cree population not involved in bush activities has not yet seen the dramatic results of the Agreement which benefit the hunters. Benefits for them have largely come about as a result of the activities of the new regional corporations established by the Cree, those involved with the delivery of services. There seems no doubt that efficiency at the regional level has brought about an improvement of the services in certain areas. For example, the establishment of the Cree Construction Company has meant that a significant number of Cree workers now have fairly regular employment in the construction industry at interesting salaries, but also under conditions of work which are much more congenial. They can work under Cree foremen, for a Cree company, in a milieu where the working language on the job can be Cree. Technically of course, the same Cree labourers could have been incorporated in the general work force of the James Bay project (where Cree Construction gets most of its contracts), but realistically, the potential for working in a predominantly French milieu were not promising.

As we have noted in the previous report, the construction of houses and improvements of community infrastructure provided the principal source of wage labour in most communities in this decade. It is not sure to what extent local people would equate the expansion of these activities with the efforts which were made by the Cree regional administration and especially the Cree Housing Corporation, which found new means of financing and established contract arrangements with community planning consultants. We can say, however, that the overall improvement in the quality of houses has been much appreciated by the local population. Our assessment would be that both the quantity and the quality of the houses would have been much lower, had it not been for the efforts of the regional bodies and their professional

consultants. Certainly, at the level of the band administration, this is recognized. The support which the Cree Regional Authority received to commit funds for an accelerated five-year housing programme indicates that modern housing is one of the most pressing demands on local administration. That pressure is for both an increase in the actual number of houses constructed and in the quality and size of the house provided. Given that the non-harvesting section of the local communities spend three to four times more time in the community as the hunters, and furthermore, occupy the houses in the winter, they are more interested in the quality and design than those that use the houses only for four or five months during the summer.

The Income Security Program itself has had some indirect, but important effects on the year-round population. Since there was an increase in the number of people who now go to the bush as a result of Income Security, most school-age children of these families must be boarded in the community during winter months. This means that most families now care for one, two, or three children of a bush family and receive for it a maintenance allowance provided by the School Board. This, of course, has some minor, but not insignificant, effect on the cash-flow in the domestic economy of year-round residents.

Another regionally inspired programme is the Cree Arts and Crafts Association, which has also had important impacts on year-round residents of the community, despite the fact that the association's activities were primarily designed for those engaged in harvesting. Since the corporation actively markets the handicraft production of the whole region, and moreover, solicits its manufacture, many of the sedentarized population are now involved in producing handicrafts for the new Cree outlet.

It is, of course, the sedentarized population which makes most of the input in the local committees dealing with education and health matters, which are now looked after by the Cree School Board and Cree Health Board. The efforts of the Cree School Board in strengthening the Cree curriculum in the primary grades and actually getting the programme in operation was certainly spoken of with some pride by most Cree. However, it is among the sedentarized population that one will most frequently hear a concern that the new emphasis on Cree may affect the performance of the children in learning either French or English. In both Mistassin and Waswanapi, where we interviewed more closely on this matter, it seemed clear that it was the sedentary population that expressed more concern about the quality of the local school - comparing it with white schools in the region. It is clearly this section of the population which makes any representations before the School Board. Certainly, participation in the local school committees comes almost exclusively from the sedentary population, given that most meetings take place in winter, when hunters are in the bush.

The quality of health care services has always been one of the most long-standing and persistent complaints of all the Cree communities. Paradoxically, it is an area in which we hear no comment about the performance of the new Cree regional body. The nature of the general complaints about the quality of services is about the same as it was a number of years ago, but there was no indication that the Cree Health Board was being blamed for this poor performance. There appeared to be an overall lack of interest in the Health Board, which is probably an indication that the local population perceives it as powerless to influence professional health specialists.

The expansion of the Cree bureaucracy, at both a regional and a local level has, of course, provided direct employment opportunities for some local people. Most of the 25 or so Cree at the

Val d'Or office probably would have been lost to the region, had the opportunity not been available there. This might be perceived as a skimming off of skilled manpower from the local communities, but as we noted elsewhere, the fact is that they remain at the service of the region. When this group finally has set up operations in one or more Cree communities, the economic effect will be very significant.

One cannot but be impressed with the increased economic activity in the communities in recent years. The housing programme, the new opportunities for work in the school system or the local administration, and the Income Security payments have significantly increased the cash-flow in the community. Already, there has been some spin-off into the service sector - primarily taxis and transportation. And some people are talking seriously of opening skidoo repair shops or garages to provide local service for the increasing number of vehicles. People are aware that the market is there, but are held back from proceeding due to uncertainty of financial assistance, either from Indian Affairs or the new Cree organizations.

So there are discussions of possibilities of expanding the service sector of the local economy by potential local entrepreneurs. Projects mentioned in informal discussions included everything from movie houses to bakeries and restaurants. But one feature common to all discussions on potential ventures, was that people wished to start fully-articulated businesses with seed capital coming from government or the Cree region in the form of grants or low-interest loans. People appear to hold the opinion that compensation funds should be used to favour band-owned and controlled enterprises, as opposed to privately-owned businesses - especially if they were large (hotels, outfitting or tourism, bus companies, etc.).

As we argued in the previous paper, the long-term economic activity in the communities must be viewed as being dependent upon transfer payments. At the moment, such payments (through housing primarily) are supporting the active local economy, and stimulating the first ventures into the service sector. The immediate impact of the Agreement, which flow from the activities of the Cree regional bodies, are providing the sedentarized population with a comparative boom. When the accelerated housing programme is completed in five years, the condition of the local economies will face a significant depression. The Cree have then, a few years of "breathing space" to design, evolve and initiate new ventures which will have the result of maintaining a stable local economy for a growing sedentarized population. As we shall see in the following section, the needs of the subsistence sector are relatively well-cared for. The major challenge will be to provide for a work-force which will probably double by the end of the next decade.

The hunter, the hunter-trapper and the harvester

If provisions to improve the socio-economic situation of the sedentary populations in the Cree region were only treated in the most general terms in the Agreement, the same cannot be said of the subsistence sector. Probably the most original feature of the Agreement was the fact that in its design and negotiation, subsistence activities remained the essential factor in the discussions. It was not merely a paying of lip-service to a whim of the Cree. There was a new approach to subsistence, involving the following premises:

1) It is accepted by everyone that the core of Cree culture is intimately tied up with hunting and trapping;

2) In the context of a northern economy subsidized by transfer payments, it is possible that hunting and trapping are

viable, both at present and in the future;

3) Given the increasing population and the limited carrying capacity of the land, it is to be expected that, over time, the relative importance of activities relating to hunting and trapping will diminish, even in terms of the Cree;

4) It is theoretically possible to equate conventional scientific conservation strategies with Cree practices and ideology relating to the exploitation of the territory's animal resources;

5) It is feasible for the Cree to share the animal resources of the territory with sports hunters, provided that subsistence has a priority in game management. To ensure this, the Cree must participate in the rational management and the surveillance of the animal populations in the James Bay region through a joint administrative structure with advisory powers in matters of regulations relating to the game management;

6) It is possible to create the conditions which favour the continuity of Cree culture, but in which individuals are free to choose not to be involved in subsistence activities.

Taken as a whole, these premises provide the framework for the discussion of broad principles around which the structures needed to protect the Cree culture had to be organized. We find the most salient feature which flows from such orientations is that the new notion of "sharing" resources is linked with the "protecting" of resources. It was possible for the Cree to accept the notion, for one could argue that the "protection" of resources was an inherent aspect of Cree culture in any case,

and the question of "sharing" could raise no acute problems as long as "the present level of animal harvests" is maintained and the Cree have a priority in the region.

Since, as we have discussed previously, the hunting and trapping way of life - the subsistence economy - had undergone major changes since the 1940's and was, in any case, dependent upon erratic transfer payments, one can certainly ask that if it was critical to rationalize bush life, just what was the "way of life" the Cree sought to preserve, and whose continuity needed to be assured? It is our view, and we shall argue the case in the following pages, that the acceptance of the basic premises necessarily implies a transformation of the "hunter-trapper" into a new entity which we would call a "harvester-manager"[1]. The Agreement, we suggest, provides the conditions for the maintenance of a way of life for the new entity, not that of a "hunter" or a "hunter-trapper".

One might suggest that the main characteristic of the "hunter" is his autonomy. In popular lore, a hunter "is his own chief". He is autonomous and he controls everything that happens in the annual cycle. The hunter-trapper, on the other hand, is the entity much closer to historical reality in the sub-arctic. He acts as if he were in control. Under the fur trade, there continued to be ideological support for traditional beliefs, to the extent that these might even have continued to evolve and gain strength. The question of autonomy and control is never put to the test as long as the outsiders who dispense welfare or services make no excessive demands on the hunter or vice-versa. As long as he controls his demands on the outside society and subordinates them to his activities in the bush, he can act as if he were

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[1]The Agreement is very specific on the definition of "harvesting" (24.1.13), implying the taking of animals by Native people, presumably as opposed to whites. There is also an implication of taking animals for use rather than for sport.

autonomous and he can continue to virtually depend on the traditional and supernatural provider of animal products, the Masters of the Animals.

Now, in the debate surrounding the James Bay project, for ideological and strategic reasons, the starting point of discussions emphasized the "traditional" situation, in which the hunter-trapper "controlled" his universe. There was probably not sufficient consideration of the fact that, while the Cree in 1970 still occupied and exploited their lands in large measure, the conditions of the hunter-trapper had undergone major changes since 1940. He had begun to depend on funds obtained through transfer payments and to lose control over his own needs. One may suppose that between 1940 and 1975, the hunter-trapper had gradually lost control of a large part of his universe and come to depend on the good will of a (white) bureaucracy which distributed money and services which soon became necessities, though they had not always been: schools, health care, housing, transportation, new technologies, etc. Consequently, the dispenser of welfare is no longer the supernatural Master of an Animal, but rather the government, which, it must be said, is an entity as magical and ineffable as the one it supplanted.

In this context, we must go back to the original position of the definers of the Cree situation in 1971-1972, where it is obvious that the Cree on the whole, felt threatened by the James Bay project, not only by its suddenness, but also by the thought of the damage it might do to their special way of life. As we have seen, the term "traditional culture" has been used to characterize the methods of occupation and exploitation of the land that prevailed among the Cree in 1971. But what the Cree were really talking about at this period, was neither the autonomous hunter of days gone by nor the hunter-trapper who

had succeeded in preserving his autonomy, or whose situation allowed him to act as if he still controlled his activities. What they were really talking about was the protection of the way of life of those people who lived in the context of a subsistence economy subsidized by transfer payments. They were talking about a part of their population (the hunters) who had increasingly less control over their lives and increasingly more difficulty in pursuing the activities for which, let it be said, they possessed special affinities and skills.

Throughout the negotiations, then, the Cree made an effort to solve the problem of this group of people caught in a precarious position between unpredictable and erratic payments, and a subsistence activity they could not control. Since the Second World War, the Cree subsistence economy was gradually short of the leaders capable of relying seriously on the Master of the Animals; the dependency shifted to a highly capricious and unstable method of financing. The crisis came to be resolved by rationalizing the subsistence sector of the economy, through the creation of reliable regulating bodies, by programmes to stave up the sinking subsistence economy, by the transformation of the hunter-trapper into a reliably subsidized harvester.

It is not surprising then, that the Cree agreed to consider solutions involving the "sharing" of resources and the acquisition of control over transfer payments. This solution is an administrative one, in that, control is secured through administrative structures. The solution is in the realm of policies of "sharing" and of "protection of species", where control can be entrusted to joint management procedures. Through the notions of harvester and manager, a degree of control over the situation is re-established; furthermore, if transfer payments are rationalized, the survival and continuity of the Cree presence

in the bush is assured. But this assurance is purchased at a price: the hunter-trapper disappears to be replaced by the harvester. The latter is not autonomous, because one does not manage an autonomous hunter. "Sharing" of resources and guaranteeing transfer payments can only be achieved by the management of families in the bush, by monitoring their catches and evaluating their financial status on a regular basis.

The centre of decision-making has thus definitely changed, following upon, and incidentlly solving, the problems raised by the gradual loss of the hunter-trapper's control over his activities.

Let us add that this revolution is irreversible, for it can only lead to the emergence of new forms and cannot reproduce old ones. For we can see alongside the gradual weakening of the hunter's autonomy and power, there has arisen a swelling demand for consumer goods and services, both in the villages and in the bush. Such a development signifies that with the emergence of the harvester, a new form of activity has evolved. Unlike the hunter-trappers, who are people of the bush, harvesters are exploiters of the resources of the bush who are part of the general consumer society. The extensive number of goods and services to which they have access are now necessities.

The new exploiters of the bush, the harvesters, have gained the advantages of radical modernization, a rationalized régime of exploitation, and the stabilization of their sources of funds. In return, they must delegate powers which their predecessors had wholly in their hands, but which, in any case, had been gradually slipping out of their grip since the Second World War.

Control

The autonomous hunter-trapper - or, to be more precise, the man who could act as if he were still autonomous - has surrendered his power of decision (as in the case of a hunter who was his own master) and his control (as in the case of a hunter who knows what he has to do and who is accountable to no-one, except to his peers on the basis of his lifetime achievements). These now belong to a superior authority, that of a Cree regional community. By the terms of the James Bay Agreement and the proposed Cree act, this community exists as a particular governmental and administrative entity. Power now belongs to new leaders, who govern and manage in the name of all Cree - expecially in the name of the harvesters, and for their welfare.

In order to assure that this delegation of power will not mean that the harvester's control - already much diminished - is completely alienated, but perhaps on the contrary, signify the beginning of a repossession of control on the part of the harvesters, a series of procedures and mechanisms have been instituted to give them direct access to the higher decision-making authorities. The procedure established for this purpose is the participation of the Cree within the Co-ordinating Committee on Hunting, Trapping and Fishing. This is the committee which deals with questions of "sharing" and "protection of species". As matters now stand, the contribution of the harvesters to the work of this committee has been extremely limited. As we have seen in the previous paper, Cree participation has been hampered not only by the language of communication, but also by the scientific or biological nature of the subject, which, of course does not correspond with the harvesters' way of seeing things. The committee has not had to seriously deal with issues which closely affect today's harvesters. The fact nevertheless remains, that even if harvesters act as if the committee did not exist, during

the initial period which we are now witnessing, in the final analysis it is this committee which will decide how the region's resources will be allocated.

For the harvester, the concrete achievements of the Agreement lie in other domains: these are the stabilization of income and the rationalization of transfer payments. The administration of the guaranteed annual income scheme is both provincial and regional. At this level, decision-making is clearly delegated to the administrative branch of the Cree community. In view of the technical nature of the administration of such a programme, one cannot expect the harvesters to take an interest in, or have a deep understanding of, the actual mechanisms of the systems and in the final analysis, it is really not important. People can see the results. For the Cree who lived with the permanent uncertainty as to sources of funds to support subsistence activities, the guarantee of an annual amount of money is a considerable gain. The studies in this region over the last decade have given us a better understanding of the symbiosis between wages and welfare and the subsistence economy. What the Cree hunter-trapper wanted was the accumulation of sufficient cash to enable him to pursue his subsistence activities. But as we have seen, this was an uncertain thing since transfer payments and jobs were neither permanent nor guaranteed.

The subsistence sector has been particularly strongly reinforced by the guarantee of financial support inasmuch as it comes in addition to an already-existing positive value accorded to these activities. It is the type of work which is most representative of Cree culture and reality. Hunting, fish and trapping provide cultural, economic and social benefits that make them attractive to many Cree people despite the heavy work load. It is a highly valued activity within Cree communities and successful hunters are highly respected. Nor are the economic benefits insignificant.

Harvesting provides vital components of the community and household economies of the Cree without which the standard of living would be far lower than it is. Harvesting provides a significant portion of the food the Cree consume. Recent studies indicate that approximately 2,000,000 pounds of food may be harvested annually by Cree hunters. While there has been much debate about the relative percentages of subsistence and purchased foods in the Cree diet, a moderate estimate is that harvesting activities produce 50% of the total annual community diet by weight. But it is not just the quantity of food that is important. Bush harvested foods are fresh, protein and vitamin rich, and available relatively equitably throughout the communities. Bush food harvests are critical to the nutrition and health of the communities.

We can assume that the new régime (Co-ordinating Committee on Hunting, Fish and Trapping and The Income Security Program) will effectively support the pursuit of subsistence activities. The nature of the universe they support, however, is profoundly changed. In one sense, the harvester has more control over his activities than the hunter-trapper, but only on the condition that he take full part in the management process and in the newly-established procedures. Such participation will require that harvesters take a prominent role in the Co-ordinating Committee. They would also need to maintain a constant relationship with the Cree administrators so that their interests will be protected at all times. All this leads to one question: are the new structures capable of dealing with such interests as formulated by harvesters?

One must remember that the harvester is primarily family and community-oriented, so that for him, nothing has changed except that he is now assured of being able to continue operating

in the subsistence economy. We do not think that his way of handling problems relating to his activities has changed. He has a tendency to contact the chief or band council, as he has done in the past. This is his real contact with administration. Thus, as an individual, the harvester has, in effect, very limited access to either the new administration which guarantees his income or the group which monitors his harvest, even though technically the offices may be in the community.

It will probably be necessary for the harvesters, if they are to take part fully in the functioning of the new system, to develop a group consciousness, a regional entity, and probably a leadership appropriate to this entity as well. Otherwise, decisions which concern them will always be made in their name by other people, notwithstanding the efforts at consultation which Cree representatives might make.

The emergence of a regional leadership for harvesters could have two possible effects. Either there would be a full and active participation in the new management system, or it would put a spoke in the wheels of the new administrative and regulatory agencies, through the emergence of a system of interpretation appropriate to the harvesters, which would have its source in "traditional knowledge", rather than that of the natural sciences. In sum, it is our belief that the Cree harvesters can effectively control their activities in the future, only on the condition that they act collectively as good managers and learn the idiom of the management (which is, after all, similar to the general conditions in the context in which the Agreement was written).

A final philosophical note might be made: if the Cree do participate in this new process under the terms which are now accepted as current and acceptable, it raises a difficult hypo-

thetical question. Is the way of the life of the hunter-trapper in a final decline, after having tottered on for awhile, and is it being replaced by a subsistence economy which is no longer a "way of life", but rather, a special economic sector - and only one sector - within a broad scheme of Cree socio-economic development?

Leadership: the new division of power in the Cree communities

Political and administrative regionalization have created a situation wherein, for the first time, the possibility has arisen of a leadership developing at a broader level than the band. In the previous paper, we discussed the problem of band representation at the regional level of administration. While it is still too early to comment critically on the effects of this new phenomenon on the local level, we can nonetheless shed light on potential implications by exploring a few theoretical paths in relation to the new division of powers.

The chief is at the centre of a considerable amount of power within the new politico-administrative domain of the Cree. This is because he is ex officio, a member of the regional organization, as well as exercising, as he always had, his powers as chief under the Indian Act. Moreover, he has an increased responsibility in matters under local jurisdiction. Beyond this, it is he who recommends to the Cree regional administration, many of the individuals who will represent the band on boards, committees and commissions. The chief thus has the capability of profoundly affecting the tone of local representation at the regional level. He is thus in an excellent position to manage the potential conflicts between local political interests and regional interests. In this latter sector particularly, he has the opportunity of choosing between alternate attitudes: he may

defend local interests primarily, to the detriment of regional policy (which he can influence as well, in any case), or he can identify himself with regional definitions of a situation to the detriment of local perceptions (over which he also has an influence), even if, in the latter case, there are higher risks, because his is an elective office.

Given this new element of power, the type of chief - that is to say, leadership - chosen by a community, now takes on considerable importance. As the pendulum swings back and forth between local interests and regional priorities, it is the chief more than anyone else who can help one side or the other prevail. Taking one extreme position, the chief could capitulate in the face of opinions held by experienced and talented administrators, such as those in the Cree offices in Val d'Or. He might thus accept regional priorities and policies, and reconcile these with his local responsibilities by integrating them into his own views. At the opposite extreme, a chief could define his priorities to support his local political situation and devote himself ruthlessly to have them prevail. Other combinations between the extremes, of course, are possible.

Within the community proper, we must distinguish among three political elements: the chief, the band council, and the band. In view of the weakening political influence of the band council resulting from the growing importance of chiefs at the regional level, the important question concerns the relationship between the band and its chief. Since there is a continuing tendency - which we think will be the case for the near-future - to accept the necessity of electing a chief who can work out a productive link between the local and regional levels, one may plausibly surmise that even if a unilingual Cree leader of the "traditional" type emerges, purporting to represent the important part of the

population involved in subsistence activities in the bush, he would be most unlikely to be elected chief (although, theoretically, there is nothing to prevent it from happening). The fact that there has been for some time a preference for a chief who can obtain programmes and services for the community, and has some administrative skills, probably means that communities will continue to rely politically on chiefs who come from the sedentary and bilingual side of the community.

Of course, chiefs still claim to represent all sections of their bands without distinction. And one can certainly posit that the harvesters may collectively concede that the chief should rightly be a young bilingual Cree, less familiar with the bush and its animals, but well-informed about administrative structures and bureaucracies, so that everyone's welfare can be looked after. This is not an unreasonable hypothesis; for the new harvester must now consider the quality of life in his settlement as well as of the integrity of his hunting territory.

But there is a gap between what is happening today and what might conceivably happen in the near-future. The eventual election of young chiefs who have not lived through the events surrounding the negotiations might upset the "traditional" approach of the Agreement, with its fused political and administrative universes. Of if a community - most likely a small one - were to elect a chief who was resolutely "traditional" as defined by Cree culture, there might be a similar upset. But the great unknown is the role the band itself will play in determining local policies. Depending on the outcome of the current developments surrounding the definition of the role of the regional government and local government, band members may or may not have a decisive political role in the context of local government in the future.

Conclusions

Subsistence economy sector

One must first conclude that there has been a continuous change of the subsistence sector of Cree life for a very long time, but that the rate of change has accelerated since World War II. There is no doubt about the major impact (in general, very negative) of hydro-development on the subsistence sector of the Cree economy. The protection of this sector was one of the principal goals of the Cree in the negotiations leading up to the Agreement. The Income Security Program is the proof that this claim was accepted, and consequently, that sector of the economy was integrated into the general management plans of the region.

Broadly speaking, it means that starting in 1974 from an initial perception where subsistence was seen as an obsolete economic activity only generating poverty, an activity which any group would be happy to leave given a better access to a job market, it was progressively accepted by government, that not only were the Cree consistent in claiming the great value (social-cultural-economic) of this activity, but that; 1, the sector was viable (court case); 2, it was measurable (Harvesting Research); and 3, it was manageable in the context of the conservation and allocation of resources (the Co-ordinating Committee on Hunting, Fishing and Trapping).

Studies and evaluation of the social and economic changes occasioned by the Income Security Program have already commenced. Their more general focus provides a basis for analysis far broader than this study. Our conclusions relate more to the nature of the impact of the bureaucratic structures on the subsistence sector.

with the interests of hunters, would be an important element in any negotiations involving Cree. The fact that the Cree Trappers Association, which was one of the bodies envisaged in the Agreement as having an important role in protecting the subsistence sector, is now taking on some organizational strength, and may significantly change what we perceive to be a decline in the pre-eminence given to the subsistence sector.

The differentiation of classes

The impacts of the James Bay and Northern Québec Agreement, including not only its implmentation, but the stages of negotiations which led up to it, are numerous and important in more than one area. At the level of Cree society, the Agreement has brought about the development of regional organization, predominantly administrative, which now involves more than a hundred Cree. The organization has grown in complexity since 1974, when it began with the single organism, the Grand Council of the Crees (of Québec), and now constitutes a quite diversified structure, assuming both political and administrative functions. The fact is, that this bureaucratic structure - to refer to its totality - and the people who staff it, now play a major role in the life of the James Bay Cree. We advance the hypothesis that the new group of Cree bureaucrats constitutes, or can constitute, a differentiated group or class. The Agreement belongs to the history of the recent past, and it is still difficult to discern all its features and consequences, but certain clues oblige us to take seriously the hypothesis of class differentiation, even though the differences are not yet clearly marked.

The most obvious distinguishing trait of the bureaucratic group, is its mastery of the technical idiom. It is indispensible that individuals who must deal with the federal and provincial

bureaucrats, with the development corporations, with the consultants and lawyers, be able to communicate in the precise language of the milieu, and must be able to digest the mass of documents which that milieu produces. In the face of the hydroelectric development of James Bay, a situation in which the Cree had virtually no freedom of choice, the Cree developed a stance which required them to speak in the developers' idiom. This was equally true in the negotiations, somewhat less in the court hearings, but certainly so in the process of implementing the Agreement (advisory and co-ordinating committees). These new paths, of course, led to a certain degree of power.

But beyond this, the Cree bureaucratic organization itself, with the help of its consultants, also operates on the basis of a technical idiom. This idiom, we divide into four dialects: the discourse of natural science, in this case applied to environmental matters; the language of routine administrative procedures; the purely technical jargon of the engineers; and finally, the language of the law. Having accepted and learned this idiom, the Cree now use it in the elaboration of their own bureaucratic structures. Nevertheless, very few people in a given community are able to use this idiom effectively. This entails certain precise constraints, which the Cree have not yet been able to overcome, but manage in the interim through the use of consultants who provide assistance which is needed for a limited time.

Putting the Agreement into operation then, has created a group of Cree bureaucrats whose profession is the administration of Cree affairs. As characteristic traits, they share: an understanding of at least one of the technocratic idioms; physical separation from their Cree communities, since the major part of their establishment is situated in Val d'Or; and finally, close

and constant ties with government agencies, public bodies, and their own consultants. Such are the features which mark the members of the Cree bureaucracy. On the other hand, the hunter, now transformed into harvester-manager, is more clearly set apart from the bureaucrats than are the Cree who are permanently involved in the wage labour economy or those who depend on social assistance.

Both for the hunter and for the bureaucrat, the process of becoming competent in his field is slow and irreversible. Just as the child who is expected to become a hunter must undergo a special education requiring a great deal of time and effort, it follows that a child who has spent many years in school can no longer think seriously of being a hunter. The choice of professions is made early, and, in a certain way, it is soon difficult to retrace one's steps. The position of the wage-earners and of the welfare recipients, although it is less drastically opposed to that of the bureaucrats, can also be measured in terms of the acquisition of competence, of a process which limits a child to certain possibilities from the very earliest age. At the social level, the lifestyle of the settlements and the new lifestyle of bureaucrats, are factors which make the contrast to hunters more obvious.

At present, one can only talk in terms of social groups, divided according to particular areas of competence, but this raises the question of social mobility. It seems that each group may tend to reproduce itself exclusively, a fact which might lead us to suspect the emergence of differentiated classes. For, we see evidence that strong differences can already be seen in the matter of education choices which parents make for their children. Hunters seem to be taking care to educate those of their children they wish to become hunters. This implies a lower level of school

education among the children of this group, for among other things, the school year coincides with the hunting season. Besides, the creation of "trappers" classes in school, which are also used for children having learning difficulties, is an indication of how hunters' children are relatively less integrated than others in the school system.

Our very crude survey on three communities, shows that for a given school grade, the trappers' children are older than their classmates on the average. Such data indicating lower levels of schooling - to which one might add the case of children who have hardly attended school at all - clearly indicates the difference between the groups of hunters on one hand, and that of the bureaucrats, or the year-round inhabitants of the settlements, on the other hand. There is little to differentiate the actual performance of the children of bureaucrats from the children of wage-earners and welfare recipients. The main difference might be in the choice which some bureaucrats make in sending their children to French schools, for these children will become trilingual and will have an advantage over bilingual (Cree-English) personnel in the bureaucratic structures. One must be very careful in interpreting a decision to favour French-language education, which may not necessarily be related to bureaucratic aspirations. The question of the quality of local schools also comes into the decision to send one's children to schools outside the communities. And it is a decision that certain other sedentary families have made. But if the children in these white schools out-perform their age mates back in the community, we would have concrete evidence of the potential for class differentiation implicit in education choice.

But what would such a differentiation imply for the Cree as a whole? It is not so much a question of income. The regional decision-makers, aware of the dangers inherent in too great a

difference of incomes, keep the salary scale of clerical and middle-range staff reasonably close to that of other permanent Cree workers, including the hunters, who now receive payments under the Income Security Program. Rather, the division entails unequal access to the decision-making centres. As we have already pointed out, the technical idiom pervades the sphere of regional administration and no Cree can participate actively at this level, unless he has mastered the idiom. Even the fact of being physically present in the settlement is an important element in one's taking part in the decision-making process, particularly in the case of decisions which affect hunters. And since many decisions of concern to the entire Cree community are taken at the regional level, one must ask if the compensation funds will be totally managed by the regional bureaucratic authorities?

At the band level, the duties of a chief and of the councillors now require a great deal of time, which means that hunters who spend many months in the bush are essentially excluded from these offices. Since proficiency in English is implicitly demanded, for it is really the language of the administration, unilingual Cree persons tend to be excluded or ineffective. It is increasingly evident that those most removed from the centres of decision-making are the hunters and the aged, who often speak only Cree. The Cree bureaucracy itself does not easily communicate with them for the purpose of making decisions. The ties between the regional bureaucracy and the community don't really touch the grass roots level. The decision-making process, as with the white society at large, excludes a large part of the population.

Class differentiation then, can be seen in the concentration of political power and administrative activities at the level of regional structures, which are essentially controlled by a group

which is tending to close itself off, at least as far as one can judge from the data on education. This situation might lead to the sort of contradiction which has occurred in Micronesia where the bureaucratic group has set about protecting its own position, this task having been facilitated by its exclusive links with external decision-making powers. We certainly do not impute such motives to the Cree bureaucrats. There is no doubt whatsoever, that they have served their people at considerable sacrifice and in good faith. Evidently, they intend to serve the best interests of their people, even if in order to do this, they must deal with the obvious contradiction that the management of certain sectors - such as the subsistence economy - take responsibilities away from those who traditionally held them.

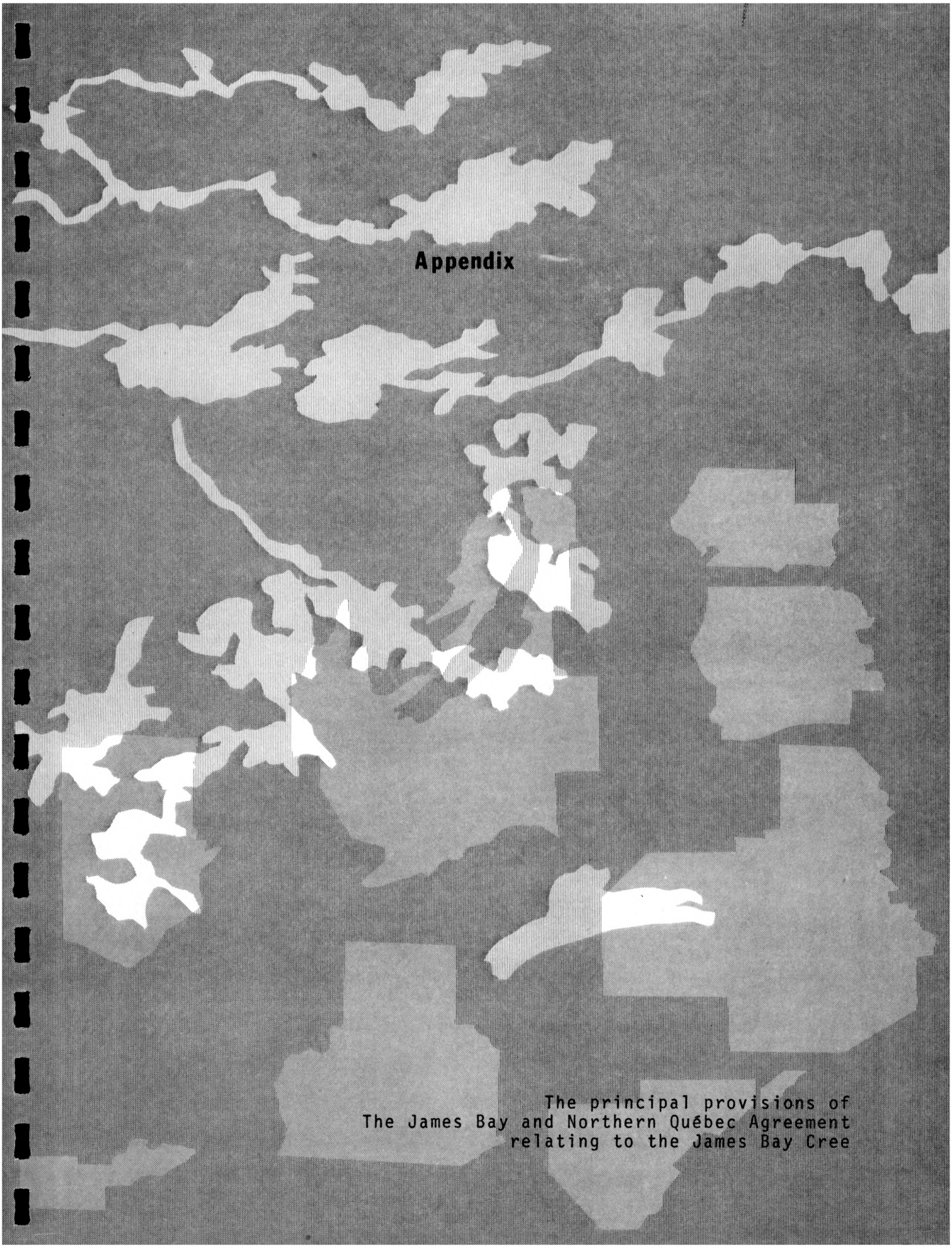
In the context of the Agreement, the question of subsistence is dealt with by establishing, to the satisfaction of regional planners, the viability of harvesting, or at least by assessing its importance in a technical idiom. Then, programmes to support these activities can be put into place. The implication of this process was that the Cree accepted that harvesting activities, in which hunters previously had been more or less autonomous, came under at least joint management by technicians - the Native Harvesting Study or the Income Security Program being the most important initial examples.

On the other hand, from the perspective from that half of the Cree population which lives on the land, the broader implications of a managed subsistence sector have not yet been evident. The early manifestation of that phenomenon has only resulted in the requirement that each year, several records must be kept and, with the help of the new Cree bureaucrats, transferred to official forms cataloguing data on the number of animals taken and the money earned by the hunters. This is, at most, a minor annoyance. The fuller implications of joint management of this sector will only be felt when matters such as re-organization of traplines and sharing the harvest with sport hunters come up for negotiation.

One must conclude from certain events which occurred over the past few years, that the initial pre-eminence given to the subsistence sector is undergoing a re-thinking by the Cree. The emphasis in the Agreement on making new developments subject to environmental and social impact assessment, and providing remedial works, can only be seen as the principle safeguard to the interests of the subsistence sector over time. Yet, the fact that modifications to the James Bay project were made the object of negotiations, rather than the subject of assessment in consultative committees, suggests a rather significant change in emphasis

(which we discussed in the previous paper). If the new strategy of re-negotiations can be seen as a trend, then the principle of conservation, which is perhaps fundamental to assure the prosperity and continuity of subsistence activities, is somewhat under a cloud. The re-negotiations have implied a loss of productive zones, however minor they may have been, which have been traded for substantial compensation, in the form of a cash settlement, or a contribution to community upgrading. This new view of reality may result from a reassessment of rates of change in the subsistence sector within the Cree economy. The strategies followed during negotiations, definitely imply that the subsistence sector was perceived as a numerically stable, but declining fraction of the total population. Hunters themselves, made this clear when they told the planners that the carrying capacity of their hunting territories in terms of groups, is more or less fixed and that increases in population would have to be accomodated in other sectors of the economy. It is evident to everyone, then, that the subsistence sector must gradually become more marginal, and that a majority of the Cree must be involved in other sorts of economic activities.

Thus, while from the perspective of the harvester there is ample evidence that the Cree subsistence economy is in a healthy state today, the shift in Cree policy, which emphasizes monetary compensation at the expense of environmental bargaining, may indicate that some Cree are able to perceive the relative decline in the importance of the subsistence sector coming about much more quickly than previously anticipated. From this point of view, the betterment of the community infrastructure would justify the sacrifice of certain territory. What is certain, however, is that the fact of bringing subsistence activities under the purview of managers also transforms them into an item that can be negotiated between Cree and senior governments. The countervailing force of an organization which deals exclusively



Appendix

The principal provisions of
The James Bay and Northern Québec Agreement
relating to the James Bay Cree

This brief overview of the contents of the James Bay and Northern Québec Agreement as it applies to the Cree, does not purport to be exhaustive. It is simply a summary of the main provisions for the information of the non-specialist. Those who must know the details of the Agreement will have to consult the document itself and those who wish to compare it with other Canadian treaties or the more recent Alaska settlement will use this summary with caution. The Agreement itself is a rather intimidating document. Its size (a book of almost 500 pages in English), and its administrative complexity have contributed to a situation in which an understanding of the Agreement is generally limited to those who have worked directly in negotiating and implementing it.

Our approach to simplification is to group the provisions of the Agreement into six broad themes. The Agreement itself is divided into 30 sections about 10 of which deal exclusively with Inuit matters. The other 20 sections we have categorized under the same headings which were used at the negotiating table. In a sense, the following areas reflect a response to the main problems which had to be resolved by the Agreement.

1 - Hunting, fishing and trapping rights; environmental and social protection. (The problem of protecting the traditional cultural base)

2 - Lands and the land régime; the subdivision of land into categories and the administrative régimes applicable to them. (The problem of providing a land base for the Cree)

3 - The organization of local and regional government. (The problem of providing for Cree involvement in government structures)

4 - The modifications to the James Bay hydro-electric development. (The problem of legitimizing the work in progress and projected)

5 - Compensation, royalties, taxation and economic development. (The problem of securing a firm economic base for the Cree and indemnification for damages)

6 - Health, education and community services. (The problem of transferring the administration of government services to the Cree).

Two sections of the Agreement merit our attention as a preface to an examination of the more detailed provisions of the Agreement. Firstly, the general provisions of Section 2 set out the global purpose of the Agreement as the extinguishment of claims based on aboriginal rights. Section 2.1 provides:

> In consideration of the rights and benefits herein set forth..., the James Bay Cree and the Inuit of Québec hereby cede, release, surrender and convey all their Native claims, rights, titles and interests whatever they may be, in and to land in the Territory and in Québec, and Québec and Canada accept such surrender.

After specifying the terms under which the Agreement will enter into force, and a number of transitional measures pending such entry (including an agreement to suspend all legal proceedings relating to the James Bay project), the Agreement spells out the rights and benefits exchanged for extinguishment of claims. The rights of the natives as citizens and their rights to continued federal and provincial funding are reaffirmed.

The second section of particular interest is that relating to the eligibility provisions of the Agreement. These are spelled out in Section 3. They go well beyond the definitions

of Indian status contained in the Indian Act. The Agreement provides that not only all persons enrolled under the Indian Act are included, but also any "person of Cree or Indian ancestry who is recognized by one of the Cree communities as having been on such date (November 15, 1974) a member thereof". Moreover, the natural and adopted descendents of persons so eligible will continue to enjoy benefits of the Agreement. Thus, the benefits of the Agreement are not only extended to non-status Indians and Métis, but the provision which gives the community the right to recognize particular people as beneficiaries, in effect leaves the definition of beneficiaries largely to the local community.

Protecting the traditional cultural base

With over half of the Cree population intimately involved in subsistence hunting of wildlife in the James Bay area, there was a very obvious need for the Cree first to secure this way of life from further erosion. Although the Cree did maintain the exclusive right to hunt and fish on an area of the territory somewhat larger than the Province of New Brunswick, this was only about 20% of what they were already using and additional land base was required to support the subsistence economy. In essence, this additional land had to be shared with the white population and two sections of the Agreement - 22 and 24 - more or less deal with the issues of shared use.

Section 24, Hunting, Fishing and Trapping, sets out the conditions for access to the animals. The Cree are given "the right of harvesting" over all their traditional territories. The notion of "harvesting" is an innovation in the Agreement; it is essentially a way to describe the taking of animals by native people as opposed to whites, and carries the implication of hunting for use rather than for sport. That right is for all beneficiaries

of the Agreement which includes non-status as well as others who meet eligibility criteria (set out in Section 3) which are significantly broader than the Indian Act. While the animals outside the Cree "reserves" may eventually have to be shared with non-Cree, the Cree will have priority and any such allocation will be on the basis of present Cree use. That is, the Cree are guaranteed levels of harvesting equal to that of the mid-1970's. The actual level of present "harvest" is to be established by a research group (of which the Cree are members), which is intensively studying Cree animal kills between 1972 and 1979. Priority means that as long as game populations permit, the Cree will be allocated a level of harvesting for each species at a guaranteed level, with the remainder allocated between Cree and non-Cree users. Also, on this territory, the Cree have the exclusive rights to take certain species which in general are of no interest to sports hunters.

The Agreement establishes the Hunting, Fishing and Trapping Co-ordinating Committee, an advisory body charged with wildlife management in the territory. The native people have an equal number of seats on this committee as the government. The committee is the "preferential and exclusive forum" for consultation between Cree and government on wildlife management, allocations, laws, regulations etc. The committee advises the Minister, except in one area - that of establishing the upper limit on the kill of black bear and moose, two animals of particular interest to the Cree - where its decision "shall bind the responsible Minister or government".

Among other significant provisions of Section 24 are those which require that Cree be hired as game wardens and auxillary game wardens; that the governments of Québec and Canada undertake to alter existing legislation wherever possible so that Cree harvesting activities will be legal (essentially the Native spring goose hunt, which is in conflict with the Migratory Birds Convention); and that the Cree get priority in getting outfitting camp permits in Category III land.

The basic purpose for Section 22 of the Agreement (Environment and Future Development Below the 55th Parallel) is to protect the traditional base from environmental degradation or the communities for untoward social impacts which might be occasioned by new development projects in the region. After outlining a range of broad principles to which the responsible governments are to give "due consideration", Section 22 describes a series of consultative committees and administrative procedures under which they will operate. The principal body established by this section is the "James Bay Advisory Committee on the Environment" which is set up to operate very much as the Co-ordinating Committee on Hunting, Fishing and Trapping referred to above. Like it, the committee is the "preferential and official forum" for consultation with governments - in this case, in matters relating to environmental and social protection. It is made up of four representatives each from Cree, Canada and Québec.

Both government and the Cree are supposed to consult with this Committee in matters relating to the formulation of environmental or social protection regulations. The Committee may recommend new laws or regulations or changes in existing ones. It is also to oversee the implementation of the provisions of the Agreement on these matters. The functions of the Committee are advisory, and the senior government may choose to ignore it. Prospective developers of the Territory, including Cree, must, however, submit their proposals for evaluation and impact assessment. Given that Québec did not have impact assessment procedures at the time of the drafting of the Agreement, a considerable part of Section 22 is the elaboration of the administrative protocol for such procedures. Modalities ensure that Cree have equal standing on committees at each level of government, and that the assessments of projects determine whether there will be a "significant impact on the Native people or the wildlife resources".

Section 30 of the Agreement, which sets up an "Income Security Program of Cree Hunters and Trappers is, in effect, a rationalization of the social aid which hunters and trappers had been receiving over the past few decades. It is a guaranteed annual income scheme for those Cree who spend more than four months in the bush in "harvesting" activities. Benefits are indexed to the cost of living and depend both on family size and the amount of time spent on the land. For the first year of the programme (1975), both husband and wife received $10.00 for each day spent on harvesting activities, up to a maximum of 240 days per person. Besides this per diem, a basic amount is added which takes into account the size of the family and the amount of earnings of the family during the year. For the year of 1975, the basic amounts were:

For the husband	$1,000
For the wife (consort)	1,000
For the family unit	445
For each child under 18	445

The basic amount is reduced by 40% of the earnings of the family, including the amount paid under the per diem (i.e. per diems are considered earnings). Certain exemptions are made for income from fur sales.

The Department of Social Affairs administers the Program through a Board on which the Cree have equal representation. At the community level, Cree employees of the Board run the Program. Payments are made four times a year to accommodate the traditional annual cycle.

Providing a land base

Section 5 of the Agreement sets out the "Land Régime" for the Cree. Four categories of lands are provided for, each category reflecting the nature of rights and access of Cree and non-Cree. They can be described as follows:

Category 1 A - Lands transferred to Federal jurisdiction for the use of the Cree bands - reserves in the conventional sense.

Category 1 B - Lands transferred to Cree Village Corporations - essentially "reserve" lands but under provincial jurisdiction.

Category II - Lands on which the Cree enjoy exclusive hunting, fishing and trapping rights, as well as priority in certain development activities.

Category III - Lands on which the Cree have a priority to animals in their harvesting activities - essentially unoccupied Crown lands on which "development" is to take place.

These lands are indicated on the map in the frontpiece, and the areas of Categories 1 A and 1 B, and II are noted in the statistical summary in the Prologue (p. x). The total area of all Category I lands would be about the area of Prince Edward Island, while the total of Category II would be slightly larger than the province of New Brunswick.

Both types of Category I land are similar to reserves in the conventional sense. The total amount of land involved was that which the province originally had offered in negotiations as territory for the exclusive use of the Cree, but under a provincial

jurisdiction. When the Cree chose to remain under the Indian Act in matters relating to land administration, the province refused to transfer the totality and seems to have limited the amount actually transferred to federal jurisdiction to that which had traditionally been used in previous treaties with Canadian Indians, that is, one square mile per family of five. The remainder of the land originally offered is owned by the Cree, but under provincial jurisdiction.

Category I lands may not be seized or sold, the general public is restricted in its access and if expropriated or subjected to public servitudes, the lands taken in this way must be replaced by equivalent tracts. The province retains ownership of all subsurface rights but a prospective developer must obtain the consent of the Cree community before undertaking exploration of exploitation of these resources.

The principal difference between the sub-categories 1 A and 1 B relates to the role of the federal or provincial government. On Category 1 B lands, the Cree are subject to provincial law, although they are regarded as full owners of the land.

Category II lands are more extensive and are generally contiguous with Category I lands. On Category II lands, the Cree have the "exclusive rights of hunting, fishing and trapping" and the rights established in the hunting, fishing and trapping régime described previously, principally the right to set conditions under which non-Cree sports users may have access. These lands are under provincial jurisdiction and may be readily appropriated for development activities. However, lands taken for development must be replaced by equivalent lands, or if the Cree choose, monetary compensation. The remainder of the territory is classified as Category III, which are lands governed by provincial legislation

and regulations concerning public lands. While the Cree have important protection for their "harvesting" activities on Category III lands, the general public, including sports users, have access and the province may undertake development activities without restriction but consistent with the Environment and Social Protection Régime discussed above.

Thus, as a result of the Agreement, the Cree now have access to certain lands which are generally similar to those of conventional Indian reserves and Cree hunters have certain exclusive rights on the remainder of the territory. The land régime confirms Québec jurisdiction, including ownership of the subsurface minerals and rights of expropriation.

Regional and local government

The somewhat intricate structure of local and regional government established by the Agreement results both from the necessity of interfacing local jurisdiction with that of Canada, Québec and the Crown Corporations, and the fact that the Agreement sets up four categories of land on which the Cree have differing rights.

On Category 1 A lands, band councils under Indian Act jurisdiction have responsibility. However, Section 9 of the Agreement also provides that the Cree in Canada will work out special legislation clarifying the extended powers of the band councils. This legislation is still in the drafing stage.

As noted above, the administration of Category 1 B lands is under provincial jurisdiction. There is provision for a mayor and councillors of a village corporation to manage these lands, but since at the moment there are no residents on this category of land, the function of a mayor and councillors is filled by the same group

which governs Category 1 A lands, that is, the chief and band councillors. In essence, the band council changes hats when it deals with issues relating to Category 1 B lands. The powers granted to the village corporations are substantially those of other local municipalities in accordance with the Cities and Towns Act of Québec, though the application of many aspects of this law is modified to take into account the communal nature of land holding and the lack of local land taxation power. The council is also granted powers not generally extended to municipalities, principally the right to affect environmental and social protection and the right to pass regulations regarding the protection and use of natural resources.

The Agreement also provides for the establishment of the Cree Regional Authority (which we have discussed in some detail in the second section of this report) which may co-ordinate administrative programmes on Category I lands. It also has the responsibility for naming Cree representatives to the various consultative committees created by the Agreement, and for giving a legally valid consent, on behalf of the Cree, in matters involving the amendment of the Agreement. However, the Agreement itself is very sketchy on what the Cree Regional administration actually looks like in operation. The modalities were worked out later with the provincial government in subsequent negotiations in connection with drafting legislation to provide for the incorporation of the CRA and the creation of the legal entity to manage the compensation funds flowing from the Agreement. The body as it is now constituted, is a hybrid corporation with some of the character of a municipal corporation and some similarities to a private development corporation. The legal entity for the management of the compensation funds is known as the Board of Compensation.

In summary, the Agreement itself sets up the bare bones of a Cree regional administration and the subsequent negotiations (which, to some extent are still going on in relation to the pro-

posed Cree Act) provide the actual detail of the structures which emerged. It is especially important to note that the Agreement is not clear on any separation of powers between the band and the region. However, the Agreement, as it treats local and regional government, clearly sets out the principle that the Cree shall control their regional administration, and sets up the modalities whereby this can be done. We shall return in the last section of this appendix, to the matter of the regional bodies which provide specific kinds of services, such as education and health. If there is a distinction to be made between the operation of the Cree Regional Authority or the local bands and the entities such as the School or Health Boards, it would be that the latter operate as regional administrations of specific provincial bureaucracies, but with Cree participation and involvement in the direction and control of regional policies.

The James Bay Project

It must be recalled that the James Bay Agreement is, in part, an out-of-court settlement of the injunction litigation. The whole of Section 8, in essence, constitutes an authorization for the Energy Corporation and Hydro-Québec to proceed with the development. It contains a formal technical description of the project and sets out certain terms and conditions which the Energy Corporation is expected to meet. A remedial works corporation (called SOTRAC after the French acronym) is provided, for the purpose of executing certain remedial engineering projects and programmes aimed at reducing or offsetting the impacts of the Project on the Cree.

While the details of Section 8 are largely only of interest to the parties involved in them, a general principle should be noted. The nature of the James Project, as described in some detail in Section 8, and the references to future developments, was done at a

time when the projects themselves were clearly in a preliminary stage of planning. It was clear from the beginning that there would be modifications to the plans set out in the preliminary descriptions. Section 8 provides that these changes be the subject of future negotiations between the Cree and the developer. In the text of our report, we have noted that such negotiations to date have been in the form of bi-lateral agreements between a particular band and the developer. Thus, Section 8 is of considerable importance to the Cree, in that it sets out the basis for a negotiating position with the Energy Corporation.

Compensation, royalties, taxation and economic development

The compensation provided in the Agreement takes a number of different forms. The sums are payable to the Native population as a whole and then divided between the Cree and Inuit on the basis of their respective populations. The ratio of the split is approximately 60:40, with the Cree receiving the larger amount because of the larger population. The actual amount of compensation totals $225 millions. Of this, $150 million is considered the basic compensation and an additional $75 million considered as compensation for future development.

The first $150 million might be considered as compensation for the surrender of aboriginal title. It is sub-divided into two blocks of $75 million. The "first $75 million" might properly be regarded as compensation for loss of title in a strict sense for Canada contributed $32.75 million to this payment (in consideration for surrender of title in the region south of the Eastmain River). The "second $75 million" takes the form of a royalty payment calculated as a reference to installed hydro-electric generating capacity in the territory. The "third $75 million" in consideration of future development, is paid by Québec

in the form of province of Québec debentures issued over the five years following the signing of the Agreement. And additional payment of $3.5 million was made to cover the cost of negotiations, and $4 million was also paid in compensation to take into account the non-status Indian population in the James Bay region. The total compensation payable to the James Bay Cree then, amounts to $137.4 million. The compensation amounts are exempted from taxation for an unlimited period, but interest or earnings from the compensation is subject to tax laws of general application. They must be used for community purposes and under no circumstances can the funds be distributed to individuals in the form of gifts or dividends.

For the Cree, a non-profit corporation is established to receive, administer and invest the compensation funds. The corporation is called the "Board of Compensation" and is made up of two representatives from each Cree community and during the first ten years, two representatives of Québec and one appointed by Canada. Three other members of the Compensation Board are appointed by the Cree Regional Authority, who must not be members of the board of that body. In the Agreement itself, it appears that the Compensation Board is an administrative arm of the Cree Regional Authority. However, in the subsequent legislation setting up both the Compensation Board and the CRA, there have been some changes which in general, provide for more independence for the Compensation Board from the CRA.

The Board is subject to general restrictions on the kind of investments it can make. These are set out in Section 26 of the Agreement. For ten years, 75% of the captial due to the Cree from the first two blocks of $75 million are to be invested in such a way as to protect the capital from over-reliance on any one source of investment. This percentage is reduced to 50% in

the next ten years, after which there is no restriction on the investment policies used in the management of the funds. The balance of these sums may be invested in local economic development or in "education, community or other charitable activities of the Crees", or in some combination of the two. The third $75 million does not enter into consideration here, because the debenture issues mature between 1995 and 1999, twenty years from their date of issue. The Board of Compensation, however, has access to the interest payable on these debentures.

The Agreement also provides for the Cree to negotiate jointly with the James Bay Development Corporation for a fund for native development. SODAB (from the French acronym) was eventually incorporated as a subsidiary of the Development Corporation with a total working captial of $15 million to be invested in Cree enterprise or in joint ventures with Cree entrepreneurs.

Section 28 contains a series of short sections which describe, in effect, the pre-conditions for the establishment of associations to co-ordinate the trapping industry, outfitting and handicrafts. The Cree had sought specific assistance for these programmes but the Cree were unable to negotiate committments for funding from the Department of Indian Affairs, which was unwilling to give the Cree or Inuit any obvious advantage vis-à-vis other Indian bands. Québec was unwilling to commit funds without some agreement on cost-sharing with Ottawa and as a result, the provisions of the Agreement call for the parties to participate in a series of "feasibility studies" which, if successful, would lead to negotiations for a cost-sharing formula in specified areas of economic development. The assumption which appears implicit is that the formation of formal associations for trapping or outfitting or handicrafts would be accompanied by an economic develop-

ment programme in that field, subject to the results of the feasibility study.

Other provisions of Section 28 deal with the continuing undertaking of the federal government to study and (if justified) participate in the financing of community centres, access roads and all season air-strips. The CORE - funding for local government will continue and take into account, to some extent, the requirements of the Cree Regional Authority; and the system of Friendship Centres will continue to be supported. There are also a number of important but rather indefinite statements of principle for the encouragement of Cree participation in the labour force to permit diversification of the local wage economy and for the recruitment of Cree into the civil service. For the purpose of overall co-ordination of government activities in the general area of economic development, a tripartite "Joint Economic and Community Development Committee" was established with representation from Québec, Canada and the Cree. Nevertheless, this section of the Agreement is more a statement of good intentions than a statement of local economic development strategies.

The administration of local services

The Agreement contains four detailed sections concerning health and educational services for the Cree communities, the establishing of new police forces and the administration of justice. These sections relate not so much to the implications of the hydro-electric development in northern Québec, as a general policy which had been already well-established when negotiations began, which was leading to the involvement of Natives in the administration of local services and the assumption by the province of responsibility for the provision of services which formerly had been provided by the federal government. The sections

reflect the necessity of providing transitional measures in the switch from federal to provincial responsibility and the cost-sharing arrangements between the federal and provincial governments.

The system for the provision of these services follows the provincial policy of decentralization into administrative regions with the delegation of a certain amount of administrative responsibility to the regional level, while at the same time providing for some representation from the population affected in formulating and implementing administrative policies. School boards, regional health councils and regional units of the Québec Police Force are all examples of Québec's trend towards regional administrative decentralization. The Agreement, in effect, sets up Cree administrative regions for the provisions of these services in their territory.

The form which the School Board and the Health Board take, reflects the normal organizational form used elsewhere in the province. The Health Board is made up of commissioners from each village and representatives of the professional staff of hospitals and clinics in the region. It has some of the character of a Regional Council (which is an advisory board to hospital administrations in the province), but also has some of the administrative responsibilities of a Local Community Health Centre. In this latter capacity, the Board is to be involved directly in the administration of the main hospital in the region at Fort George as well as the nursing clinics. The Cree Board then, has the advisory responsibilities normally associated with the Regional Council, but in addition, has an administrative branch with a significant role in the routine operation of health care institutions in the territory. It is a hybrid approach responding to the unusual administrative problems associated with remote northern health care institutions.

The School Board similarly follows the normal provincial model. It has nine commissioners, one from each of the Cree communities and one from the Cree Regional Authority. There is no teaching staff represented on the board. The Agreement provides for a measure of administrative discretion in hiring policy and in curriculum planning which goes beyond the powers normally associated with other school boards in the province.

The Agreement provides for the creation of two types of police force - a regional unit of the Québec Police Force, with jurisdiction throughout the James Bay territory and a network of local police constables, who, in effect, provide a community service for the individual bands, acting where necessary as game wardens or as justices of the peace. The approach in the Agreement to the reform of the administration of justice follows closely a series of recommendations made in a study commissioned in 1972 by the provincial Minister of Justice (the Choquette Report). The underlying principle of the new régime is that northern Québec should be consolidated into one judicial district and that an itinerant court should be set up to visit the communities in turn with the combined functions of a Social Welfare Court, the Provincial Court and the Court of the Sessions of the Peace. The Agreement provides for the hiring of native court workers and for the modification of the criminal code to facilitate the use of Cree language in court proceedings and to take into account Cree custom when necessary when dealing with offenders. In order to avoid detention of Cree in southern cities, provision is made that wherever possible, offenders should be held in small institutions in the communities themselves. The Agreement also establishes a Judicial Advisory Committee, with representation from Québec and Cree communities, to oversee and make recommendations with respect to the implementation of the Agreement as it deals with the administration of justice in northern Québec.

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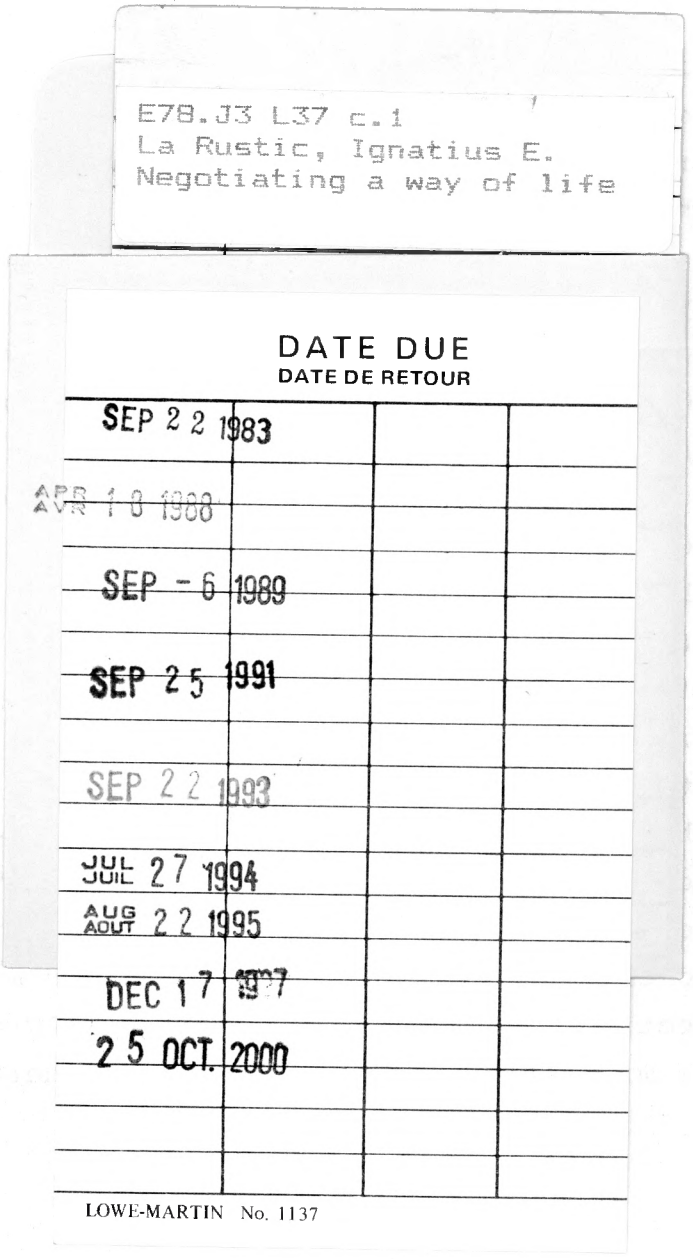
In summary, it is important to note the different approaches to decentralization of services. While the new Health and School Boards take as their basis, the laws of general application, there are certain important modifications made. The new Boards established have a predominantly ethnic character without being ethnically exclusive. On the other hand, in the matter of police and the administration of justice, the approach has been to alter the current practice to ensure greater responsiveness of normal provincial entities to the circumstances of the Cree, and to ensure the Cree a greater participation in the provision of these services.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