

*The North*



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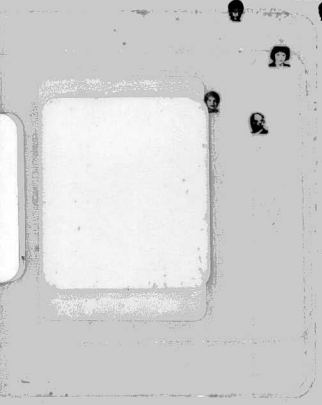
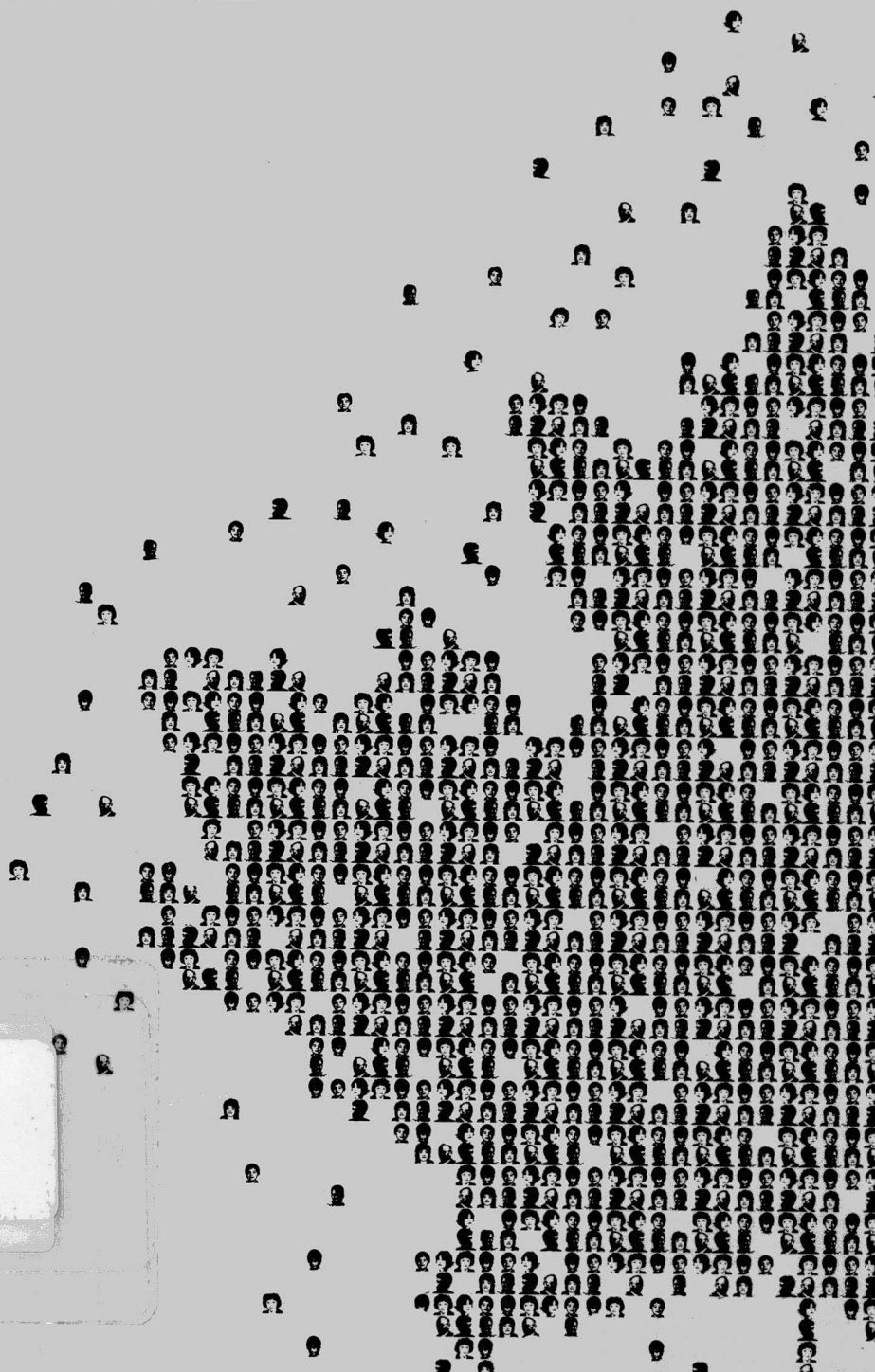
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**MICHAEL S. WHITTINGTON, Coordinator**

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# The North





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MICHAEL S. WHITTINGTON  
Coordinator

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When the members of the Rowell-Sirois Commission began their collective task in 1937, very little was known about the evolution of the Canadian economy. What was known, moreover, had not been extensively analyzed by the slender cadre of social scientists of the day.

When we set out upon our task nearly 50 years later, we enjoyed a substantial advantage over our predecessors; we had a wealth of information. We inherited the work of scholars at universities across Canada and we had the benefit of the work of experts from private research institutes and publicly sponsored organizations such as the Ontario Economic Council and the Economic Council of Canada. Although there were still important gaps, our problem was not a shortage of information; it was to interrelate and integrate — to synthesize — the results of much of the information we already had.

The mandate of this Commission is unusually broad. It encompasses many of the fundamental policy issues expected to confront the people of Canada and their governments for the next several decades. The nature of the mandate also identified, in advance, the subject matter for much of the research and suggested the scope of enquiry and the need for vigorous efforts to interrelate and integrate the research disciplines. The resulting research program, therefore, is particularly noteworthy in three respects: along with original research studies, it includes survey papers which synthesize work already done in specialized fields; it avoids duplication of work which, in the judgment of the Canadian research community, has already been well done; and, considered as a whole, it is the most thorough examination of the Canadian economic, political and legal systems ever undertaken by an independent agency.

The Commission's research program was carried out under the joint direction of three prominent and highly respected Canadian scholars:

Dr. Ivan Bernier (*Law and Constitutional Issues*), Dr. Alan Cairns (*Politics and Institutions of Government*) and Dr. David C. Smith (*Economics*).

Dr. Ivan Bernier is Dean of the Faculty of Law at Laval University. Dr. Alan Cairns is former Head of the Department of Political Science at the University of British Columbia and, prior to joining the Commission, was William Lyon Mackenzie King Visiting Professor of Canadian Studies at Harvard University. Dr. David C. Smith, former Head of the Department of Economics at Queen's University in Kingston, is now Principal of that University. When Dr. Smith assumed his new responsibilities at Queen's in September, 1984, he was succeeded by Dr. Kenneth Norrie of the University of Alberta and John Sargent of the federal Department of Finance, who together acted as Co-directors of Research for the concluding phase of the Economics research program.

I am confident that the efforts of the Research Directors, research coordinators and authors whose work appears in this and other volumes, have provided the community of Canadian scholars and policy makers with a series of publications that will continue to be of value for many years to come. And I hope that the value of the research program to Canadian scholarship will be enhanced by the fact that Commission research is being made available to interested readers in both English and French.

I extend my personal thanks, and that of my fellow Commissioners, to the Research Directors and those immediately associated with them in the Commission's research program. I also want to thank the members of the many research advisory groups whose counsel contributed so substantially to this undertaking.

DONALD S. MACDONALD





At its most general level, the Royal Commission's research program has examined how the Canadian political economy can better adapt to change. As a basis of enquiry, this question reflects our belief that the future will always take us partly by surprise. Our political, legal and economic institutions should therefore be flexible enough to accommodate surprises and yet solid enough to ensure that they help us meet our future goals. This theme of an adaptive political economy led us to explore the interdependencies between political, legal and economic systems and drew our research efforts in an interdisciplinary direction.

The sheer magnitude of the research output (more than 280 separate studies in 72 volumes) as well as its disciplinary and ideological diversity have, however, made complete integration impossible and, we have concluded, undesirable. The research output as a whole brings varying perspectives and methodologies to the study of common problems and we therefore urge readers to look beyond their particular field of interest and to explore topics across disciplines.

The three research areas, — *Law and Constitutional Issues*, under Ivan Bernier; *Politics and Institutions of Government*, under Alan Cairns; and *Economics*, under David C. Smith (co-directed with Kenneth Norrie and John Sargent for the concluding phase of the research program) — were further divided into 19 sections headed by research coordinators.

The area *Law and Constitutional Issues* has been organized into five major sections headed by the research coordinators identified below.

- Law, Society and the Economy — *Ivan Bernier and Andrée Lajoie*
- The International Legal Environment — *John J. Quinn*
- The Canadian Economic Union — *Mark Krasnick*

- Harmonization of Laws in Canada — *Ronald C.C. Cuming*
- Institutional and Constitutional Arrangements — *Clare F. Beckton and A. Wayne MacKay*

Since law in its numerous manifestations is the most fundamental means of implementing state policy, it was necessary to investigate how and when law could be mobilized most effectively to address the problems raised by the Commission's mandate. Adopting a broad perspective, researchers examined Canada's legal system from the standpoint of how law evolves as a result of social, economic and political changes and how, in turn, law brings about changes in our social, economic and political conduct.

Within *Politics and Institutions of Government*, research has been organized into seven major sections.

- Canada and the International Political Economy — *Denis Stairs and Gilbert Winham*
- State and Society in the Modern Era — *Keith Banting*
- Constitutionalism, Citizenship and Society — *Alan Cairns and Cynthia Williams*
- The Politics of Canadian Federalism — *Richard Simeon*
- Representative Institutions — *Peter Aucoin*
- The Politics of Economic Policy — *G. Bruce Doern*
- Industrial Policy — *André Blais*

This area examines a number of developments which have led Canadians to question their ability to govern themselves wisely and effectively. Many of these developments are not unique to Canada and a number of comparative studies canvass and assess how others have coped with similar problems. Within the context of the Canadian heritage of parliamentary government, federalism, a mixed economy, and a bilingual and multicultural society, the research also explores ways of rearranging the relationships of power and influence among institutions to restore and enhance the fundamental democratic principles of representativeness, responsiveness and accountability.

*Economics* research was organized into seven major sections.

- Macroeconomics — *John Sargent*
- Federalism and the Economic Union — *Kenneth Norrie*
- Industrial Structure — *Donald G. McFetridge*
- International Trade — *John Whalley*
- Income Distribution and Economic Security — *François Vaillancourt*
- Labour Markets and Labour Relations — *Craig Riddell*
- Economic Ideas and Social Issues — *David Laidler*

Economics research examines the allocation of Canada's human and other resources, the ways in which institutions and policies affect this allocation, and the distribution of the gains from their use. It also

considers the nature of economic development, the forces that shape our regional and industrial structure, and our economic interdependence with other countries. The thrust of the research in economics is to increase our comprehension of what determines our economic potential and how instruments of economic policy may move us closer to our future goals.

One section from each of the three research areas — The Canadian Economic Union, The Politics of Canadian Federalism, and Federalism and the Economic Union — have been blended into one unified research effort. Consequently, the volumes on Federalism and the Economic Union as well as the volume on The North are the results of an interdisciplinary research effort.

We owe a special debt to the research coordinators. Not only did they organize, assemble and analyze the many research studies and combine their major findings in overviews, but they also made substantial contributions to the Final Report. We wish to thank them for their performance, often under heavy pressure.

Unfortunately, space does not permit us to thank all members of the Commission staff individually. However, we are particularly grateful to the Chairman, The Hon. Donald S. Macdonald; the Commission's Executive Director, J. Gerald Godsoe; and the Director of Policy, Alan Nymark, all of whom were closely involved with the Research Program and played key roles in the contribution of Research to the Final Report. We wish to express our appreciation to the Commission's Administrative Advisor, Harry Stewart, for his guidance and advice, and to the Director of Publishing, Ed Matheson, who managed the research publication process. A special thanks to Jamie Benidickson, Policy Coordinator and Special Assistant to the Chairman, who played a valuable liaison role between Research and the Chairman and Commissioners. We are also grateful to our office administrator, Donna Stebbing, and to our secretarial staff, Monique Carpentier, Barbara Cowtan, Tina DeLuca, Françoise Guilbault and Marilyn Sheldon.

Finally, a well deserved thank you to our closest assistants: Jacques J.M. Shore, *Law and Constitutional Issues*; Cynthia Williams and her successor Karen Jackson, *Politics and Institutions of Government*; and I. Lilla Connidis, *Economics*. We appreciate not only their individual contribution to each research area, but also their cooperative contribution to the research program and the Commission.

IVAN BERNIER  
ALAN CAIRNS  
DAVID C. SMITH



One of the challenges, and one of the privileges, given Canadians is the need to confront fundamental questions about the very nature of the political community within which we live, and to balance compelling, but often conflicting, definitions of ourselves. One such set of questions arises from the role of the northern territories — Yukon and the Northwest Territories — in the Canadian political, social and economic fabric. In the northern environment, we find, reduced to their essence, many of the questions that have arisen throughout our history: the rights of small, peripheral communities to survival, autonomy and self-preservation versus the rights and claims of the majority community; ecology versus economic growth; individual versus community rights. Working out answers to these and other questions in the context of northern development represents a challenge both for northerners themselves, and for all other Canadians. The answers we give will not only determine the future of the territories, but they will also tell us something important about the values we all hold as the Canadian people. Decisions about northern economic development and its relationship to the ecology and traditional economies, or about how best to manage resource development in a world of fluctuating commodity prices and in a setting calling for massive capital needs and long lead times differ only in degree, and not in kind, from the decisions taken by Canadians as a whole about their economic development. We have much to contribute to the future of the north and at least as much to learn from it. It is these questions of philosophy and analysis which underlie the essays in this volume.

As the three coordinators of the Royal Commission's Federalism and the Canadian Economic Union theme, we and Jacques J.M. Shore, of the Law and Constitutional Issues research stream, were called upon by the

directors of research to prepare a research initiative on the North. We decided that a seminar would be the most productive way of proceeding. The papers in this volume are the result of that seminar organized by the Commission in July 1984. In the introduction of this volume, Michael Whittington sets out the seminar's accomplishments and summarizes its important findings. We believe that, together, these papers, written by some of Canada's leading scholars working on northern development issues, provide a careful, sensitive analysis of the issues confronting northerners and all other Canadians. The conclusions drawn are thoughtful, provocative and sometimes contradictory. They also provide further evidence that additional work and supplementary research are required to determine the best approach to be followed in paving the way for the future growth and development of Canada's northern territories.

It is our hope that the Commission's research will serve as a foundation for future tasks in this area and provide some assistance in understanding current problems and realities concerning our land north of the 60th parallel.

We are grateful to Michael Whittington, not only for his own contributions, but also for his valuable assistance in organizing and summarizing the seminar. We are also grateful to Jacques J.M. Shore for his devotion to this project in all stages of its evolution.

MARK KRASNICK  
KENNETH NORRIE  
RICHARD SIMEON

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The Commission wishes to take this opportunity to thank the following individuals for having attended our research seminar on the North; without their participation the seminar would not have been a success.

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William Watson  
Michael Whittington

Many thanks are also extended to Donald Wilson of the Institute for Research on Public Policy for his professional assistance in handling the many details that required attention in organizing the seminar. His work was greatly appreciated.



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## **Introduction:** *Northern Studies*

MICHAEL S. WHITTINGTON

On September 9, 1983 the Royal Commission on the Economic Union and Development Prospects for Canada began hearings in Whitehorse, Yukon. Hearings were being held across Canada in order to test the attitudes and interests of the Canadian public. This first northern swing took the Commissioners to Whitehorse and Yellowknife, and a later, more extensive tour took the hearings to Frobisher Bay, Rankin Inlet, Cambridge Bay, Inuvik and Tuktoyaktuk. During these northern hearings the Commissioners heard 57 presentations by various groups and individuals and were impressed by the intensity and complexity of the issues that were addressed. Recognizing that neither the Commissioners nor the Commission research staff had extensive background in northern issues and problems, the Commissioners decided to hold a research seminar on the North, as a supplement to the information presented by concerned northerners at the public hearings. Known specialists on the North from universities, government and the private sector were invited to a two-day conference in Ottawa. This volume is based on the papers and proceedings of that conference.

Since the seminar was held before the Commission had drawn up its own recommendations, much of the discussion was couched in the form of suggestions to the Commission. Equally, they can be taken as suggestions for the consideration of Canadians as a whole, as the economic and political development of the northern territories unfolds over the coming years.

The seminar was held July 5 and 6, 1984 at the Château Laurier and was structured in such a way as to encourage maximum participation by a wide range of northern specialists. In total there were 45 participants at the seminar. The first day featured two major theme papers, which addressed, respectively, northern economic development prospects and

political/constitutional development issues. It also featured five formal discussants, who were to lead off the round-table consideration of the issues raised in the theme papers. On the second day the focus of the discussion was provided by five perspective papers, each of which addressed the North from a different viewpoint. As well as the more formal sessions, there was also an informal discussion, or *causerie*, held on the evening of the first day and led by members of the Commission research staff. All in all, the seminar stimulated lively and wide-ranging discussion of northern issues from many different perspectives and from many academic disciplines.

The theme paper that formed the focus of the first morning of the research seminar was prepared and presented by Professor Jack Stabler of the University of Saskatchewan. In this paper, entitled "Development Planning North of 60: Requirements and Prospects," which is included in its entirety as the first study in this volume, several important points are raised. First, Professor Stabler describes the economies of the N.W.T. and Yukon as undeveloped or immature in that there is but a small number of what are referred to in the regional development literature as basic industries. Stable economic growth in the two territories in the future, therefore, will depend upon the development of these basic industries. Based on the past experience and upon two specified development scenarios, Stabler predicts that in both Yukon and the N.W.T. "the greatest comparative advantage for additional job creation rests with non-renewable resource extraction of high-grade deposits and the first-stage processing of these resources," and he points out that in the N.W.T. there is additional economic development potential in oil and gas exploration and extraction. Moreover, because of the dominant role that governments play in the North and because of the likelihood of an expanding role of government in the provision of services and infrastructure to the basic industries, the public sector will continue to be the largest employer in the two territories.

The second major problem addressed by the Stabler paper is the wide disparity between natives and non-natives in the northern wage economy. The former are underrepresented in the northern labour force in both territories, and Professor Stabler offers as an explanation for this the lower levels of education and training and the lower mobility of the northern native people. As a partial solution to this problem Stabler suggests that "the major equity requirement of a northern development policy would be an enhanced education-training program, coupled with a commitment to provide jobs in the North for natives now in the labour force or aspiring to join it."

In concluding his presentation Professor Stabler reiterated his conviction that the future development of the northern economies will depend upon non-renewable resource extraction. However, he was careful to point out that "there does not seem to be any reason for further forcing



the pace of economic growth in the North. When additional northern resources are truly needed, the market can be counted on to ensure their development, with governments only required to play a facilitating role.”

Two discussants commented upon the Stabler paper. Professor Michael Asch, an anthropologist from the University of Alberta, pointed out that the greatest weakness of the Stabler approach was that, as with most traditional economic analysis of the North, it failed to account adequately for the significance of the subsistence economy in the economic life of northern native people. He argued that the traditional hunting and gathering activities are as much a complement to the industrial sector in the North as is agricultural production a complement to industry in the South. Moreover, argued Professor Asch, the presumption that the subsistence economy of the native people is “an evolutionarily superseded activity” has led to “false conclusions about its future.”

The most significant of these false conclusions is that “the difficulties such people face now are related to mobility and educational level.” While this may be true, given the existing framework of the northern political economy, “it is inevitable that this framework will change. Hence, rather than considering programs to shape individuals to the current regime, I would argue that we examine how changes will affect the problems Stabler now describes.” In sum, Asch concludes that:

The economy of the N.W.T. today is dominated by a framework that is organized to benefit non-native people who are short-term residents. These people have, by and large, extremely high educational qualifications and, obviously, a willingness to be mobile.... In my view, the primary difficulty facing long-term development for native northerners stems not from individual gaps in achievement level but rather from the structural framework that the non-subsistence sectors of the economy are likely to take.

As a recommendation, Professor Asch suggested that:

It is issues such as the development of the hunting/trapping economy and the creation of structural accommodations between native and western economies and not simply educational attainment, mobility and the need for jobs in the non-renewable sector that will determine the course of northern development.... Without detailed information on the myriad topics that feed into these issues, I simply cannot see how the Commission can begin to grapple with the complex questions that face the future of the northern economy.

The second discussant for the Stabler paper was Professor James Dean, an economist with the University of Manitoba. His basic critique was that the theme paper failed to address adequately the “uniqueness” of the northern economy. One such factor that was not dealt with by Professor Stabler was the potential “spillover effects” on the rest of Canada:

Southern Canadians have a real interest in [these mega-projects], independent of the interest of northerners and independent of the energy supplies that will then be made available. It is appropriate for the Commission to consider these interests.

The second unique factor identified by Dean is the different level and potential for mobility between sectors in the northern economy in contrast to the southern economy. In the North, the assumption made by Stabler that such mobility between sectors is both feasible and desirable for the great majority of the population is open to serious challenge. For it to be effective, argued Professor Dean, policies such as preferential hiring for natives vis-à-vis non-native northerners and also for northerners generally vis-à-vis southern Canadians, will have to be formulated. However, one problem is that a native hiring preference is unfair to non-native northerners:

There are a substantial number of non-natives with both a long-term residency and a commitment to the North. They have as much right to any preferential hiring of northerners as do natives. For this reason, I think it is questionable to single out native northerners for preferential hiring. To do so is to assume a major affirmative action program is desirable, and I do not find the case made for such a program in the Stabler paper.

On the other hand, while the

... preferential hiring of northerners, already permitted in the Constitution for provinces, would presumably be permitted for the territories ... the issue of preferential hiring for residents of a province threatens the common market and free movement of people within our federation and should be questioned by the Commission.

The second reservation expressed by Dean with respect to the assumption of the feasibility of intersectoral mobility in the North is that it is unlikely native people can be induced to take the jobs in the non-renewable resource sector at all. In the past, in the N.W.T. and Yukon, economic growth has always occurred in precisely the sectors identified by Stabler as offering growth potential in the future, and very few of the new jobs created were ever filled by native people:

Yet, it is precisely these same sectors that Stabler suggests provide the potential for new jobs over the next 20 years. I am not as optimistic that appropriate training or retraining programs combined with good intentions, or bad ones for that matter, will be any more successful in substantially improving labour market participation by native northerners. In the N.W.T., where natives comprise a majority of the population, this is even less likely.

Hence, Professor Dean argued that "it is important to address the issues arising from social, cultural and economic barriers to natives accepting these same types of jobs in the past." One of the critical barriers is, as

identified by Stabler, the relatively low educational achievement of natives. One of the reasons for this is that completion of school dictates that students must leave their home communities, something with which few native people are truly comfortable. In fact, the same factors that make native people less mobile than non-natives in the labour force also inhibits their attainment of the educational levels necessary in order to qualify for the community-based employment opportunities in the social services and health services programs. As Dean stated:

Indeed, so long as students in remote communities cannot finish high-school education without leaving their communities, they will be disadvantaged in acquiring the education and training needed to occupy professional jobs in the health and education sectors. With modern communications technology, it is possible to bring the best in modern education, culturally relevant, to remote communities in the N.W.T. Native northerners can be trained to provide the necessary social services in the North. It is a significant waste of human resources not to provide the appropriate opportunities for northerners to develop these skills.

Thus, a basic conclusion of Professor Dean is that for native people the problem of underemployment will not be solved by major development in the non-renewable resource sector. However, a partial solution may lie in community-based training programs to qualify native people to occupy the professional and semiprofessional, but community-based, jobs in social services, health services and education.

Finally, Dean's critique identified three important factors that make the economy of the North different from the economies of the southern provinces, each of which must be considered if the Commission is to address effectively the unique problems of northern political and economic development. The first of these factors, identified by Stabler as well, is the existence of "different ethnic groups with a different scale of commitment to the mainstream economy." When this is viewed within the context of Professor Asch's argument regarding the strength and vitality of the traditional economy to native northerners, Dean concluded that:

Immobility is normally considered a barrier to economic development, but in the case of the N.W.T. it may mean that greater mobility from southern Canada should be expected and projects planned to minimize the damage to the chosen lifestyles of northerners.

The second factor identified by Dean is the high cost of transportation in the North. While this has obvious implications for the profitability of northern mega-projects, it also has broad implications for the quality of life and level of services in the more remote communities. "Distance is not simply a barrier to resource development; it is a constraint on the feasible scale of services for many communities."

Finally, the third unique factor in the northern economy is the relatively high cost of living. The significance here is that "the cost-of-living differential affects the real value of all nominally fixed quantities." One important example of this phenomenon can be seen in the operation of the federal income tax system. As pointed out by Professor Dean:

The federal income tax structure should tax equally individuals with the same real taxable income. In the N.W.T. an individual will have a higher nominal income to maintain the same real income as an individual in southern Canada. Consequently, the N.W.T. resident will pay greater nominal taxes. By itself, there is no distortion in this result, since the N.W.T. resident is expected to pay higher nominal taxes if real tax burdens are to be the same as in southern Canada. This is because the real value of the tax liability is also affected by the cost-of-living differential. However, since the income tax structure is progressive, the N.W.T. resident is forced into a higher nominal tax bracket, and so the percentage of income paid in tax is greater... Since the federal government is considering the tax status of northern allowances, this discussion is timely and the Commission could contribute to it.

A second example of the manner in which the cost of living affects the North is the system of federal-provincial transfers, and more specifically the equalization program. While the equalization program does not currently apply to either of the northern territories, it is not likely that it would benefit Yukon or the N.W.T. if it did apply. The reason for this is that under the current formula the northern territories would likely rank as "have" provinces in terms of per capita revenues. As Dean stated:

This is absurd for any observer who has seen the level of services available in the North. The problem arises because the high cost of living influences the nominal value of the tax bases included in the equalization formula. If a correction for the cost of living were made, then the tax bases in the North would become comparatively poorer, and this might enable the territories to become "have not" jurisdictions.

Professor Dean thus argued that the formula should be applied to the N.W.T. and Yukon but that adjustments should be made to take into account the per capita costs of delivering various standard provincial-type services, as well as the nominal per capita revenues in the various jurisdictions.

As a concluding remark, Professor Dean suggested that revenues generated by the development of non-renewable resources in the two northern territories should be shared by the territorial governments and the federal government. Moreover, he emphasized that all considerations of the development prospects for the northern economy must be seen within the overall context of political and constitutional development:

In this regard it is difficult to divide the discussion of economic development from political development and such attempts should be questioned. This is one area where the study of political economy has much to recommend it.

The theme paper that formed the focus of the discussion in the afternoon session of the seminar was presented by Professor Michael Whittington of Carleton University. (This paper is the third study in this volume.) Entitled "Political and Constitutional Development in the N.W.T. and Yukon: The Issues and the Interests," the paper presents an historical overview of the process of political development in the two territories, and identifies the basic stakes and competing interests:

Basically what northerners, both native and non-native and in both the N.W.T. and Yukon, want is greater control over their destinies. They want a say in determining the pace of development and the form that the development takes; they want assurances that development will proceed in a manner that does not destroy the existing social fabric or the natural environment; and they want a piece of the action — a fair share of the economic rents and job opportunities that will flow from the resource development projects.

Thus, any decisions as to the future development of the N.W.T. and Yukon must be taken in the full knowledge of the competing claims of the national and northern interests. The engine that forces the pace of political and constitutional development is the need of the southern economy for the resources of the North. However, development must proceed within the context of the rights of the people who view the North as a homeland, not a hinterland.

The basic issues identified by Professor Whittington are of three different types. First, is the settlement of native claims, which has become a precondition for other aspects of northern development. The Whittington paper discusses the four major claims in the N.W.T. and Yukon and concludes that the claims must be settled if the economic development of the North is to proceed in an orderly fashion. However, the author emphasizes that a just settlement is important as well, in terms of our national conscience and international reputation:

A nation is defined internationally and in terms of its own national conscience by the way it treats its minorities and, specifically, how it deals with its aboriginal peoples. If Canadians wish to maintain the international reputation of living in a just society through the coming decades, it is essential that the government of Canada settle the legitimate claims of the northern native people fairly and without undue delay.

The second set of northern political development issues are the constitutional ones. These include the establishment of full responsible government in both territories and the continued devolution of power from the federal level to the territorial. The former is well on the way in Yukon, although the practice in that territory should be formalized. In the

N.W.T., the office of the commissioner should be reduced to a role analogous to that of a lieutenant-governor of a province, and the executive authority in the territories should be exercised by the elected members of the executive councils of the territories.

The logical end of devolution, according to Professor Whittington, is provincehood. However, provincehood should be seen as an ultimate end only. In the meantime, northerners and the federal government alike should proceed to develop options between what is in place now and the ultimate goal. In fact, there is no reason why many of the provincial-type responsibilities now exercised by the Department of Indian Affairs and Northern Development cannot be transferred to the territorial assemblies almost immediately.

The third basic issue area discussed in the Whittington paper is the division of the N.W.T. and the creation of an eastern Arctic territory of Nunavut. While there are a number of conditions to be met before the split can proceed, the most significant of these is the settlement of the boundary between the eastern and western territories. In the event that an agreement on the boundary cannot be worked out by the people of the North themselves, Professor Whittington suggests a neutral boundary commission appointed by the federal government as a means of breaking the deadlock.

As a conclusion, the Whittington paper discusses the difference between the processes of assimilation, in which the cultural identity of a minority is absorbed into the mainstream, and integration, in which the minority can be a part of the mainstream without loss of cultural integrity. Institutions that can play a role in the process of integration, identified by Whittington, are the legislative assemblies of the two territories, the political party systems, the Constitutional Alliance of the N.W.T. and the native development corporations. The key is to build bridges between the North and the South and to build bridges between native and non-native communities in the North. As the Whittington paper concludes:

The key is not to find ways for the North to deal with the Canadian mainstream but to integrate fully the northern territories into the federation and to make the uniqueness and the internal diversity of the North a part of that mainstream.

Three discussants commented on the Whittington paper. The first, Professor Gurston Dacks of the University of Alberta, began his presentation with the identification of four principles of constitutional development in the North:

The first principle is that all Canadians share a right to political self-determination. Two corollaries follow from this proposition. The first is that those Canadians who enjoy this right less fully than do the majority of Canadians should be brought to a position of full equality with all reasonable speed.

The second corollary is that, subject to the constraints of constitutional law, all Canadians should enjoy the maximum freedom to structure their own local and regional governments, rather than to have them imposed by an external authority.

The second principle identified by Professor Dacks deals with the place of the native people in the North:

The processes of northern governments must reflect and respect the special position of native peoples as peoples, collective entities, in northern society.

In order to do this effectively, we may have to come to grips with some apparently significant questions of conflicting political values. As Dacks pointed out:

It may be that the logic of individualism fundamental to southern Canadian political philosophy will have to give ground to the kinds of consociational solutions which have integrated different ethnic groups within individual polities. Such an approach may seem a radical departure from the logic of Canada, hence dubious and suspect. In reality, however, it is at the base of the special arrangements which acknowledge the French fact in Canada. The only innovation being suggested is the extension of recognition of collective entities to native peoples. In this important sense, native people do not seek more rights than other Canadians. They do, however, seek to relate to governmental institutions in a fashion somewhat different from that chosen by many Canadians, the anglophone majority, although not different from that required by the francophone minority.

Dacks' third principle is that northern governments should be designed to foster integration rather than assimilation:

Recommendations regarding the political future of the North must pursue as fundamental the goal of social and political integration. As much as possible, northern governments should be structured to give a higher payoff to groups pursuing cooperative and mutually respectful, rather than conflictual and ethnocentric strategies in their relations with other groups. The point is that there is a great difference between institutional development (evolution in the direction of self-government), and political development (the ability effectively to perform the political task). The former does not necessarily produce the latter. Recommendations which merely anticipate governmental forms similar to those of the governments of southern Canada, regardless of their assimilationist implications for the northern societies upon which they may be imposed, are likely to spark irreconcilable conflict.

The fourth principle identified by Dacks is simply "good government." He emphasized that, whatever the ultimate forms of government that emerge in the North, they must provide high standards of "legitimacy, respect for and effective protection of rights, stability, cost efficiency and fiscal autonomy."



While declaring that “it would be totally inappropriate for the Commission to recommend specific models or structures of government for the North — to do so would be to usurp a function which legitimately rests with northerners themselves,” Dacks proceeded to suggest five recommendations that the Commission might make with respect to the relations between the North and the rest of Canada:

1. Responsible government should be granted to both territories immediately, conditional upon the implementation of recommendations two and three below.

2. The territorial governments must feature structures which make the accommodation of the rights and interests of native peoples a much more intrinsic part of their processes than has been the case in the provinces.

3. The legislated establishment of responsible government in the North should be made conditional upon, and proceed apace with, the entrenchment within the northern governments of structures and processes which adequately bring the native collective interest to bear on all the activities of these governments.

4. Devolution of subjects of jurisdiction to the territorial governments should proceed with the maximum reasonable speed and should not be unreasonably delayed on fiscal grounds.

5. The government of Canada should initiate discussions with the provinces to establish the principle that the territorial governments have full status at federal-provincial conferences within the limits of the Constitution Act, 1982 and to remove paragraphs 42(1)(e) and (f) from the Act.

Most of these recommendations followed automatically from the principles outlined by Dacks in the earlier portion of his presentation. However, he did offer a few qualifications. With respect to the first recommendation he stated that the absence of a party system at the territorial level should not preclude the establishment of full responsible government in the N.W.T.:

The history of parliamentary systems has been that the parties follow rather than precede the appearance of responsible government. Alliances of politicians may be found before the attainment of responsible government, but only the prize of executive authority is likely to transform them from loose and shifting cliques to disciplined parties.

With respect to the fourth recommendation, Professor Dacks urged that the process of devolution include a formula for the sharing of non-renewable resource revenue between the federal government and the territories and stated that:

Where questions of the national interest are overriding in their importance, creative approaches should be explored for maximizing the territorial role. Possibly relevant here are delegated jurisdictions or concurrent jurisdictions with federal paramountcy.



Finally, the significance of the second part of the fifth recommendation is that, as the amending formula stands today, the existing provinces can be extended into the territories without the participation or consent of the people who live there, and the creation of new provinces in the North requires the consent of two-thirds of the existing provinces as well as the agreement of the federal government. Professor Dacks feels, quite justifiably, that these provisions place the people of the North in an unjustly subordinate position within the federation and that the offending clauses should be removed from the Constitution.

The second discussant in the afternoon session of the first day of the research seminar was Peter Jull, a consultant working with the Nunavut Constitutional Forum. He expanded the scope of the deliberations, on the one hand, by reminding the participants that the Canadian North included more than the two territories:

Let us not forget that, in addition to the two federal territories in the North, there are also vast northern areas situated in the provinces. These provincial "norths" include the worst social conditions and most desperate communities in Canada. These areas, too, are the homelands of aboriginal peoples.

On the other hand, Jull's comments expanded the debate in another direction by bringing to bear his knowledge of the circumpolar regions as a comparative reference point for the understanding of the northern development issues. When understood in the broader context, he pointed out:

We may see that the situation of northern peoples is not idiosyncratic, nor ephemeral. It is not the work of some adventurous or bloody-minded youth but is grounded in basic questions of livelihood and economic self-interest. It is not a slap in the face to the dignity of national authorities but a question of the survival of cultures and communities. It is a fundamental matter of national politics, although governments tend to relegate it to the smothering efforts of non-accountable officials.

Mr. Jull was particularly concerned that, in various national forums and even in the present seminar discussion:

There is an overriding concern with the integration of the North into national norms, the national system. There is precious little talk about the value of regional identity, uniqueness of regional circumstances and vitality of aboriginal cultures; these things are seen, rather, as problems to be overcome on the way to a homogenized Canada.

The point is that Canada shows many signs of being concerned about national sovereignty in the North and in assimilating the aboriginal people everywhere to the present system, lock, stock and barrel. But to date the government has shown little regard for the other half of the federalist equation — the respect for, and reinforcement of, regional and cultural differences.

The Government of Canada and southern Canadians have to be more open to institutional options which deviate somewhat from the liberal status quo. As Jull stated:

The regional and cultural interests of the North must be taken into account and accommodated by the new political structures, just as new structures will allow northern peoples to integrate more fully into the network of opportunities and obligations, which accompany Canadian citizenship.

Moreover, Jull pointed to the conciliatory attitude of the native people in the North:

The northern peoples have made it easy for Canadians to accommodate them. They have made clear that, unlike some aboriginal groups participating in the national constitutional work, Dene and Inuit fully accept the desirability of institutions of government open to all residents, whether aboriginal or other. They are also working to tailor their proposals to the norms and conventions of Canadian political structures.

With these points in mind, Jull identified the “significant elements” that should go into a political settlement with northern peoples:

- the reinforcement and expression of indigenous language and culture through public institutions;
- the resolution of disputed land and resources rights and recognition of the rights of the indigenous peoples;
- equitable participation by the indigenous people in the environmental protection and development of economic resources on- and off-shore; and
- responsible government structures enabling the indigenous people to exercise their political rights and opportunities to allow for genuine collective survival.

By way of conclusion, Peter Jull stated that:

If the northern peoples cannot be accommodated by the Canadian political system and tradition when they stand at the door and knock, then they have no choice but to seek for redress through other institutions and by other means. It does seem like a great opportunity squandered, but Canadians should not be surprised by such developments. On the other hand, they might well ask what sort of priorities and practices are in vogue in federal Ottawa and whether these are in the best interests of Canada, of Canadian federalism or of Canada’s northern peoples.

The final discussant in the afternoon of the first day was Professor Frances Abele of the University of Calgary. She pointed out that, while the Whittington paper spoke of the assimilative mechanisms of the past, such as the Bay, the Church and the RCMP, those mechanisms, in fact, failed to work. Assimilation may have been the unconscious aim of such institutions, but the native culture survived that period to reassert itself

in the political consciousness and mobilization of the 1970s. However, as Professor Abele pointed out, the new awareness of the native people and their new consciousness of political clout in the process of political development are only the first steps to the achievement of their goals:

The important point here is that the process of political adjustment to give northern native people a measure of self-determination commensurate with liberal democracy, as we know it in the rest of the country, is far from complete.

Thus the basic problem in the North today is that:

Citizens of the two northern territories enjoy less than the full measure of self-government afforded to the citizens of the provinces . . . . This situation in the first instance involves a question of political justice. In the end, surely, residents of the territories are entitled to the same rights as other Canadians.

A secondary but still important problem in the North, according to Abele, is that the territories are “overgoverned and underpowered.” The essential question of “Who governs?” has yet to be answered for the North. One of the problems attendant on this “overgovernment” phenomenon is a lack of coordination, of one bureaucratic hand being unaware of what the other is doing. As Professor Abele put it, “there are various federal departments and agencies not necessarily all guided by a common policy and much more powerful than the counterpart branches of departments in the provinces.” To add to the confusion, there are territorial agencies, local and regional governments, native organizations and myriad southern-sponsored research task forces and commissions all seeking a piece of the action. This “fractionalization” of governmental power in the North “leads to very real frustration in the lives of northerners and to failures by all of the organizations to operate effectively and to spend their public funding wisely.”

Professor Abele developed this theme with a look at the case of the Norman Wells pipeline and expansion project, demonstrating that even funds specifically dedicated to assist the native people to adjust to the impacts of the project have gone unspent because the guidelines set by the Treasury Board in Ottawa are too restrictive. This problem is in turn complicated “by the problem of bifurcated regional authority and duplication of federal and territorial services.”

As a conclusion, Professor Abele emphasized that “in general there should be a recognition that special arrangements must be made within confederation for the North.” Simple provincehood is not a viable option today, partly because the federal government is unlikely to cede control over non-renewable resources and also “because the indigenous societies are fundamentally different from the mainstream Canadian society.” The chief problem, as she sees it, is that “normal political rights for individuals in the North are practically and morally bound up with political rights for indigenous societies.”

In the open discussion that followed the formal presentations, a number of themes emerged. One of the most fundamental of these questioned the legitimacy of the Commission as an advisory body to make recommendations about the North. As the Hon. Warren Allmand, MP and a past minister of the Department of Indian Affairs and Northern Development, put it:

Whenever I am in a discussion like this, I become quite uneasy, and the reason I become uneasy is that we are overwhelmingly southerners around the table, and we are discussing what should be done about the northern economy. We discuss it as though the North was some sort of an appendage to the South ... our backyard garden.

Professor Asch made a similar point, criticizing the fact that there were no native people present at the research seminar "to speak for themselves."

However, the participants at the seminar were by no means unanimous on these points. A contrary view was articulated by Professor Peter Russell of the University of Toronto, who argued that southern Canadians have every right to be involved in the discussions of the future of northern Canada:

In the end the discussion about the future of the North has to be bilateral. It is not just a matter of northerners deciding the future of the North — and here I speak as a southerner. The North is a part of my country. I'm not prepared to be totally passive. The remedy to the imperialistic system of the past is not to exclude totally the southerners from making decisions about the North in the future.

Because he recognized the importance of bilateral discussions between the North and the South, Professor Russell emphasized the importance of having responsible and representative institutions in place in the territories to argue the northern case:

It is important to get in place as quickly as possible effective, democratic and responsible government institutions in the North, so that decisions on the fundamental value conflicts are made in an open and democratic fashion, rather than through the private power of economic forces.

There was a general consensus among the participants that the northern territories should evolve toward greater political autonomy. Professor Asch pointed out that at the root of all debates about the future of the North and, more specifically, about the role of the native people in that process was the rigid value-set of southern Canadians. He argued for a greater openness in contemplating self-government options that fall outside of the normal liberal-universalistic institutions of southern Canada. Others, such as Peter Usher, a consultant on northern development, backed up Asch's point by arguing that to address effectively the issues of constitutional development, Canadians would have to address

the related issue of special representation for native people in both national and territorial institutions. This, in turn, would require a focus upon the fundamental clash of values that exists between the individualistic and universalistic assumptions of liberalism and the collectivist values implicit in special-status models.

An informal after-dinner session held in the evening of the first day of the conference was, for the most part, a continuation of this discussion of basic political values. A sort of symbolic polarization emerged between the Yukon position of "One government for all Yukoners" and the kinds of "special-status" options suggested by the Penner Report. The discussion centred on the concept of citizenship which, it was argued by Professor Alan Cairns of the research staff of the Commission, is at the root of a democratic polity. To accede to demands for a "citizenship-plus" status for native people is necessarily to create a status of "citizenship-minus" for non-natives. It was argued that to alienate permanently the unitary nature of the concept of Canadian citizenship, even for the admirable motive of redressing the wrongs done to native people in the past, would constitute a great disservice to future generations of Canadians of all ethnic origins. While there was a lively discussion about whether non-native Canadians were motivated by ancestral guilt in attempting to give aboriginal people special political status in the federation, there seemed to be a consensus that temporary, rather than permanent and entrenched grants of special status, would not have the same detrimental effect on the unitary nature of citizenship in Canada.

While a true consensus did not emerge, the participants generally seemed to agree that a rigid adherence to the political ideology of liberal universalism and individualism had not worked in the past with respect to native peoples and that the discussion of the value conflicts might be an important contribution that the Commission could make to the future development of the North.

Where consensus among the participants did emerge was with respect to the relative timing of economic and political development. Because major economic development in the North was likely to have profound effects there, it was generally agreed that political and constitutional development should preferably precede massive non-renewable resource development projects. As the Hon. Warren Allmand stated: "What must be done is that we must first decide on the political and constitutional questions of the North and then discuss the economy." Once the political structures are in place, it is then possible to proceed with the bilateral (North-South) discussion of economic development issues.

Another theme which emerged in the discussions at the seminar emphasized the importance of recognizing the internal diversity of the North. The representatives of the government of Yukon were perhaps the most outspoken in this regard. As Doug Spray of the government of

Yukon pointed out on more than one occasion, "You have to stop and realize that you are dealing with two different locations, and if you get that first set in your mind, then you can begin to understand the North." However, in making a point with respect to the special situation of the eastern Arctic, Ron Doering, a constitutional advisor to the Nunavut Constitutional Forum, stated:

The people from Yukon constantly point out that there is more than one North. However, there is also more than one N.W.T. The economy of Baffin Island is so different from the Mackenzie Valley that we can't even talk about it in regional economic terms.

Furthermore, the economies of the various regions are also extremely diverse internally. As Professor Asch pointed out so effectively in his paper, the subsistence economy must be seen as complementary to the wage economy in the North. Moreover, Professor Richard Simeon of the research staff of the Commission, reflecting a view taken in the Whittington paper, took this point one step further:

In making the dichotomy between the traditional and the modern economies, we've not paid enough attention to a third economy in the North, the welfare economy.... The complementarity and interaction of that economy with the traditional and the modern sectors seems to be very important.

Another point that reinforced the diversity theme was that there are significant numbers of non-native northerners in both territories who look at the North as their home. Hence, while it is inevitable that discussions of northern political and economic development will tend to focus on the problems of native northerners, the legitimate aspirations of non-natives in Yukon and the N.W.T. must also be protected in any future economic policy initiatives affecting the North.

This point was emphasized by Professor Dacks. While admitting that the native people generally have a lot to lose if development proceeds along southern lines, he added that, "Committed non-native northerners, as well, need to be served by economic strategies based on considerations other than the southern-driven non-renewable resource marketplace."

The stakes, however, are still highest for the native people in the North, and recommendations regarding the future economic prospects for the two territories have to be sensitive to the unique demography of the North. Peter Usher, a consultant with long northern experience, carefully explained to the seminar that the distribution of population in the North is extremely different from that of the South. The fact must be recognized that natives tend to live in the smaller and more remote traditional communities, whereas the whites tend to live either in the government-dominated administrative centres or in the mining towns. The end result of this distribution of population is that non-renewable

resource development projects may well provide jobs, but it is unlikely that these jobs will be in the traditional communities, and as a result, the whites, who are more mobile, will be the primary beneficiaries of such development. As Usher put it, "Looking for either mega-project (or even mini-project, such as mining) development as the solution for native employment is barking up the wrong tree." Moreover, he argued that "there is absolutely no evidence that native people are longing to move out of their communities to a few points where economic opportunity is so much greater." The inappropriateness of the mega-project approach to the economic future of the North was also emphasized by Dacks, who stated "You just can't rely on the energy appetite of the rest of the world; but, you have to support and encourage locally originated economic development planning ... a northern-generated economic development process."

As economic development alternates to mega-projects in the North, participants at the seminar mentioned specifically the community-based cooperatives (COOPs) and the native development corporations (NDCs). As Ron Doering pointed out, the cooperatives are the "largest employer after government in the N.W.T. ... And, if we are talking about the future of northern economic development, what we really need to do is get rid of the 'big-A' and start looking at a lot of 'small-a' answers to the problems."

While most discussants agreed that these institutions play a significant socioeconomic role, their weaknesses were also identified. Participants cited impediments in the tax system that hinder the operation of the NDCs and the COOPs, but it was also pointed out that there are significant regulatory impediments to the competitive success of native economic enterprises. Examples of the latter are agencies such as the Fish Marketing Board, which was set up to assist maritime fisheries and is institutionally biased against the marketing of northern fish products in the South. A further limit on the success of the NDCs is that they have mixed goals; they are expected to function as a social and political force as well as an economic institution. As a result, considerations of strictly economic success are sometimes foregone in the interest of political or social benefit. Again, Peter Burnet of the Canadian Arctic Resources Committee:

The NDCs have to respond to the political and social situation of their members in terms of the type of development, environmental sensitivity, etc. So they have mixed goals. They have to juggle a lot of goals in their investment decisions that normal, solid profit-making institutions don't have to."

This, coupled with the fact that much of the money in the possession of the NDCs is only trust money (only the interest can be invested), means that their investment policy must be extremely conservative. They are undercapitalized organizations to begin with, and this disadvantage is



exaggerated by the fact that there are no banking institutions in the North. (Small business loans are awarded only out of banking centres in the South, which employ the same criteria for lending on northern enterprises that they do with southern corporations.) Finally, in contrast to the situation in the provinces, where a small business can obtain a variety of financial assistance from provincial programs, the northern enterprises have only very limited access to such programs.

This relative disadvantage of northern enterprises was aptly described by Ron Doering:

Business enterprise in the North has no access to the normal financing structures. Their bank is in Montreal; they can't borrow money on a mortgage; they don't have the normal kinds of provincial aids to small business, and they simply lack that whole commercial infrastructure that southern small businesses have. And so, they are beginning with some serious problems that the normal small businesses in the South don't have.

Out of the discussions of the participants on the first day of the seminar there emerged a shopping list of possible policy recommendations and some cautionary suggestions with respect to the economic and political development of the northern territories. These major points are as follows:

1. Political and constitutional development should proceed before, or simultaneously with, large-scale non-renewable resource development projects.
2. The constitutional and political development recommendations should focus on the more general value conflicts and avoid specific institutional prescriptions.
3. The traditional economy should be built into economic models of the North, and, at the national level, the harvesting of wild game should be viewed as a complement to the other economic sectors in the North in the same way that agriculture is viewed vis-à-vis the industrial sector in the South. (A federal department of hunting and gathering was even suggested, but half in jest.)
4. Infrastructural development should be fostered as a national priority. Upgrading of transportation facilities and a change in the southern-based approach of the Northern Canadian Power Corporation were mentioned specifically, but a caveat was registered by some of the participants to the effect that the social impact of opening up remote communities to southern access must be accounted for first.
5. Education and training of northerners should be a priority, and it should not be limited strictly to preparing natives for entry into the wage economy but should also assist natives in improving the yield and sustainability of the traditional sector.
6. The regulatory impediments to the development of the commodity dimension of the traditional economy should be removed, e.g., the Fish



Marketing Board should give the northern producers a fair share of the market. The caveat here was that, while the "commoditization" of the traditional economy with respect to furs, fish, and some exotic specialty products should be encouraged, the northern ecosystem would not tolerate the massive production of wild meat for southern tables, and the resource should be reserved for a sustainable yield in the North.

7. The political and philosophical impediments to the development of the traditional economy should also be countered at the national level. People in Canada and elsewhere in the world must be educated to see the logical and legitimate relationship between hunting and trapping and subsistence economy. Ethnocentric attitudes vis-à-vis seals, fur-bearing animals and whales must not be permitted to influence government policy to the detriment of the native people.

8. Corporate policies should be adjusted to ensure that there is not an unfair competitive relationship in the North with northern business. Northern purchasing policies and the concept of using northerners at least as ancillary employees should be fostered in major development and exploration activities.

9. National economic strategies of the Commission should build in the special place of the northern economies in the Canadian economy. Issues such as special taxation privileges for northern businesses and individuals should be addressed. (The participants were divided over the advisability of differential tax systems for the North.)

The focal point of the morning session of the second day was a panel discussion of the significance of the North to the future of Canada. Five panelists each addressed a different aspect of the significance of the N.W.T. and Yukon to the future of the federation. All five of these are included in their entirety in this volume.

George Braden, a past leader of the elected executive in the N.W.T., started off with a northerner's perspective on the importance of the North to the country as a whole, emphasizing the importance of allowing political institutions and processes in the North to evolve through historical evolution in the same way that they have in the rest of Canada. Imposed solutions will inevitably fail to take into account some significant variables and, thus, perhaps end up creating more problems than they solve.

Gordon Robertson, a fellow of the Institute for Research on Public Policy and past secretary to the cabinet looked at the constitutional development of the North and Canadian federalism. He particularly emphasized the importance of the amending formula entrenched in the 1982 Constitution Act. He argued that the fact that the creation of new provinces in the territories would require the agreement of two-thirds of the provinces as well as the political will of the federal parliament would render the attainment of provincehood for the N.W.T. and Yukon unlikely, if not impossible. However, Robertson also emphasized that

there are innumerable self-government options that do not involve southern-style provincehood and that these should be a focus of future development strategies in the North.

Peter Burnet of the Canadian Arctic Resources Committee addressed the significance of the North to Canada within the perspective of the preservation of a rare and endangered ecosystem. He emphasized the fragile nature of the northern environment and pointed to the incompatibilities between that environment and large-scale non-renewable resource development projects. As a solution to this problem, Burnet argued for immediate devolution of such responsibilities to the territorial level, where there is a political will and a balanced sensitivity to both conservation and development needs.

Professor Donat Pharand of the University of Ottawa discussed the significance of the economic and political development of the North for the affirmation of Canadian sovereignty over the Northwest Passage. An important point raised by Professor Pharand was that legal control must be supplemented by actual control. In other words, Canada must have the technological capacity to exercise its northern sovereignty if that sovereignty is to be effective.

Finally, Professor Bill Watson of Queen's University discussed the significance of the North for the economic future of Canada. While not overly optimistic, even about the likelihood of rapid non-renewable resource development in the North, he argued that, in economic terms, it is only the non-renewable resource sector in the North that will ever be a significant factor vis-à-vis the Canadian economy.

While there was not a lot of time left for open discussion during this session, the topic of the likelihood and advisability of provincehood for the northern territories tended to dominate the debate. The point was made that in discussions of the appropriate relationship between Canada and its northern territories, the bottom line was greater autonomy. While northerners at the conference attested to the fact that the N.W.T. and Yukon were not pressing very hard for provincial status at this time, it was argued that there are a number of important and desirable steps on the road to fuller local control over northern affairs short of provincial status. Here the discussion coalesced on the point that most provincial-type powers still exercised by the federal government in the North are severable and that their devolution, from the federal perspective, is likely negotiable. Moreover, the point was made that Yukon is closer to *de facto* provincehood right now than the N.W.T. The key question in this regard, however, in both territories is the issue of control over non-renewable resources and control over lands that are required for the development of the resources. Most of the participants at the conference agreed that the issue of who should control non-renewable resource development in the North should be addressed by the Commission. Even if it should be concluded that it is currently in the best interest of

Canada as a whole to retain control over non-renewables, the Commission should at least address the question of how long into the future such control should be maintained.

As in previous sessions, in the final session many participants again emphasized the symbolic importance of the North in the broader evolution of the federation. They reiterated their feeling that one of the most significant roles of the Commission should be to educate Canadians as to the issues at stake in the North and to foster the continuing dialogue between northern and southern views respecting the pace and the direction of development in the two territories.

### *Note*

This Introduction was completed in December 1984.

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## **Development Planning North of 60: *Requirements and Prospects***

JACK C. STABLER

### **Introduction**

Two different and sometimes competitive philosophies have influenced the formulation of regional economic development policies in the advanced market economies of the Western world. One philosophy emphasizes the maximization of efficiency, and policies designed within this framework encourage the allocation of production to those locations where net returns are greatest. The other takes interregional equity as its immediate concern, and programs developed in this context allocate production to lower-income regions as a means of narrowing regional income disparities.<sup>1</sup>

Efficiency maximization requires the commitment of capital and labour to those industries in those locations where their employment results in the greatest contribution to market-determined output. If successful, this approach moves the economy toward maximum feasible production and will, in the process, produce the highest attainable national per capita income. A likely corollary of this approach, however, is uneven growth, with some regions expanding rapidly and others growing more slowly or perhaps not at all. Implicit in this approach is the requirement for a high degree of population mobility, particularly from slower- to faster-growing regions. Many economists and policy makers retain an affinity for this approach in part, perhaps, because this is the direction that an adaptable and highly competitive market economy would move on its own, and alternatives to the competitive market are characterized by a certain amount of dead-weight loss occasioned by lower efficiency. Specific programs devised in this context would be facilitative: removing impediments, enhancing the prospects for mobility through education, training, relocation grants, etc. Transfer payments to less mobile individuals and governments of less developed

regions would also be consistent with the objectives and policies of this approach.

Critics of this approach argue that it attaches too little weight to the social costs of large scale migration; that migration is selective, taking better trained and younger people from slow-growth regions, thus creating an additional impediment to future development; and that in any case, decades of substantial outmigration from some low-income regions has not been accompanied by elimination or even substantial narrowing of interregional income disparities.<sup>2</sup>

At the opposite extreme, primary concern with interregional equity or disenchantment with the market may foster programs that entice industry through incentives (or coerce industry through controls) to locate in low-income regions. Creation of employment by this means would be expected to reduce regional unemployment and possibly to increase the labour force participation rate directly. It could also induce additional expansion in production or final demand-linked activities, further increasing employment, and, perhaps, the participation rate. In the process incomes should rise and, if the increase is rapid enough, lead to a reduction of interregional income disparities. Emphasis on migration is thereby reduced under this approach.

Critics point out that the placement of industry in locations that it would not voluntarily choose can result in a lower total net output. Thus, although interregional disparities might narrow, average incomes for the nation as a whole would be lower than what could otherwise be attained. A secondary concern involves the methods used to choose the types of incentives offered since allocative efficiency can be affected by the way in which subsidies are given.

The dichotomy implicit in these alternative philosophies has led to the regional policy problem being viewed as involving a trade-off between aggregate efficiency and interregional equity, although this need not be so in every case. The policy maker's task then becomes that of determining society's point of preference on the equity-efficiency trade-off map and devising policies to move from wherever the economy happens to be toward the preferred point.

The programs chosen to implement the regional development policy should be based on each region's comparative advantage in production as well as its requirements in terms of the criteria chosen to measure relative equity. Within this framework the package selected for each region would probably be unique in detail, though compatible within the overall policy framework.

The preceding synopsis is not meant to be a description of the way in which any particular nation has formulated its regional development policies. Rather, it is a concise summary of the way in which the theoretical literature has evolved and an indication of the direction in which actual policy development appears to be moving.

In Canada, expenditures of public funds for regional development programs, whether explicitly, as in the case of the Department of Regional Industrial Expansion (DRIE), or implicitly by departments such as Indian Affairs and Northern Development (DIAND), have historically been primarily equity-oriented. However, as a result of the various internal reviews, along with external criticisms and evaluations, these equity-oriented programs have become increasingly efficiency conscious.

In the future there will likely continue to be funds available for regional development programs in Canada, and these programs will probably maintain an equity orientation. But in a period of slow economic growth and multi-billion-dollar public deficits, these funds are also likely to be limited, and the emphasis on efficiency, or at least the cost-effectiveness of the equity-oriented programs, is bound to increase. It is in this context that the development prospects for Yukon and the N.W.T. are considered in the remainder of this paper.

## **Characteristics of the Northern Economies**

The assessment of the development prospects for the North begins with a review of the characteristics of these two territories: their people, their economies, and their sources of past growth. Taken altogether this information should provide both an identification of the requirements of future development programs and an indication of how these requirements might best be realized.

Before proceeding, it should be observed that in several respects Yukon and the N.W.T are very different. Size, geography and climate obviously differ. There are also differences in composition of the populations and perhaps, therefore, social structures. Political evolution appears to have followed somewhat different paths, and probably the political aspirations of the inhabitants of the two territories differ. Some of these differences will become apparent in the discussion of the characteristics that follow. However, having acknowledged these differences, there is, at the same time, much that the two territories have in common, particularly with respect to their economic structures, sources of past growth, and constraints on future development.

### ***Population***

The enormous expanse of the northern territories is probably the first characteristic that attracts the attention of southern Canadians or visitors from other countries. The second, perhaps, is the very small population that inhabits these vast landscapes.

According to the 1981 Census, the population of the N.W.T. was 45.5 thousand while that of Yukon was 23.0 thousand.<sup>3</sup> In both territo-

ries, although the distributions differ, the small populations are concentrated in a few communities (Table 2-1).

People of native ancestry make up 58 percent of the total population of the N.W.T. while the corresponding figure for Yukon is approximately 18 percent. In Yukon, the native people are status and non-status Indians (the latter category includes the Métis), divided approximately 70 – 30.<sup>4</sup> In the N.W.T. the Inuit are the largest native group, comprising approximately 57 percent of the native population while status and non-status Indians (including Métis) account for approximately 27 and 15 percent, respectively. Although differing in relative size, the non-native populations of the two territories are virtually identical in absolute numbers, differing by only 75 people in the 1981 Census (19,105 in the N.W.T.; 19,030 in Yukon). The non-natives comprise two distinct groups: the “long-term” residents and the “transient” residents. Long-term non-native northerners are those who definitely prefer to live in the North and have made the commitment to do so. They are small-business people, professionals, and long-time territorial government employees or, perhaps less likely, federal government employees. Many have invested in their own businesses and many own their homes. Quite a few of the long-term residents have moved back and forth between the private and the public sectors during their working careers. Most are actively interested in territorial politics. Employment is less of a problem for long-term residents than for natives or transient non-native residents, even during recessions. Their knowledge of the economics and politics of the territories and the skills and contacts acquired in the northern setting are unique and valuable assets which are attractive to potential employers, public or private. In a very real sense these people are the leaders and managers of the territorial economies. Transient non-natives, on the other hand, are those whose stay may run from a few months to five or six years but whose long-term commitment is elsewhere. They are more likely to be employees of mining or oil companies or junior- to middle-level civil servants in either the territorial or federal governments. A few are branch managers of national corporations. Few buy their own homes or invest in territorial businesses. They are likely less interested in territorial politics. When they receive a competitive offer from “outside,” or lose their jobs, they leave and probably never return. Many simply quit their jobs after a time and return to the South to search for another job. No one really knows what percent of the non-natives are long-term northerners but it may be in the neighbourhood of 20 percent of the non-native territorial populations, more in Yukon, fewer in N.W.T.

There are a great number of comparative statistics that could be generated, but of these, those relating to economic conditions are the most useful for the task at hand. In Figure 2-1 the unemployment rate is shown by ethnic origin and age group. These comparisons are based on

TABLE 2-1 Population of Urban Places, Yukon and N.W.T., 1981

Yukon			N.W.T.		
Centre	Population	Cumulative Percentage	Centre	Population	Cumulative Percentage
Whitehorse	14,814	64	Yellowknife	9,483	21
Faro	1,652	71	Inuvik	3,147	28
Watson Lake	748	74	Hay River	2,863	34
Dawson	697	77	Frobisher Bay	2,333	39
Mayo	398	79	Fort Smith	2,298	44
Haines Junction	366	81	Pine Point	1,861	48
Teslin	310	82	Rae-Edzo	1,378	51
Carmaks	256	82	Rankin Inlet	1,109	54
			Eskimo Point	1,022	56
			Fort Simpson	980	58
			Baker Lake	954	60
			Pangnirtung	839	62
			Cambridge Bay	815	64
			Coppermine	809	66
			Cape Dorset	784	67
			Tuktoyaktuk	772	69
			Aklavik	721	71
			Pond Inlet	705	72
			Fort McPherson	632	74
			Fort Providence	605	75

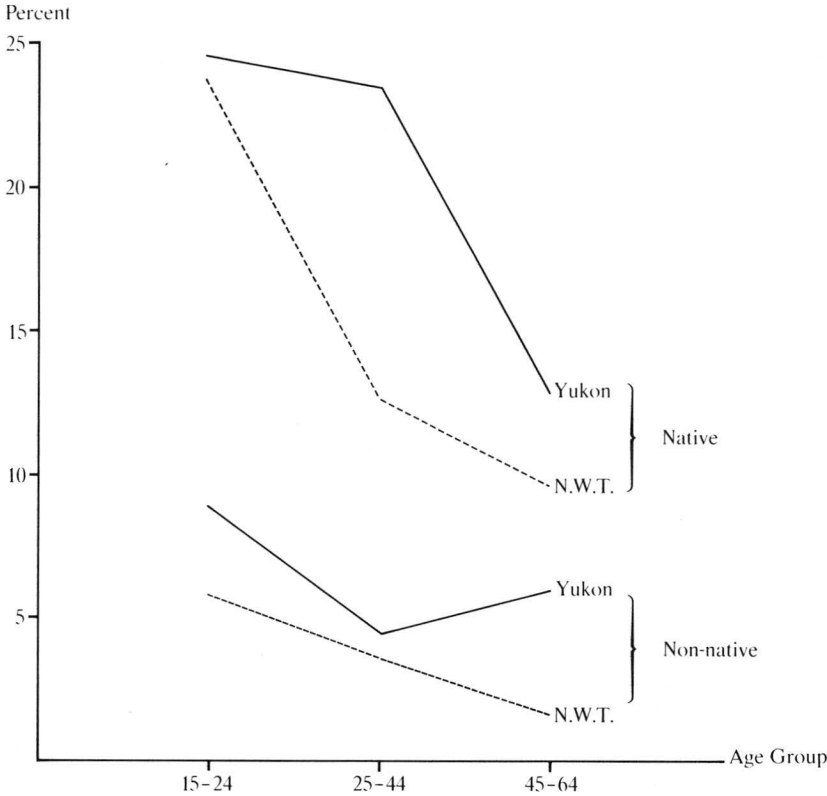
Source: Statistics Canada, Census of Canada, 1981.



the conventional definition of the unemployment rate, i.e., number unemployed divided by number of people in the labour force. Comparisons such as this are most useful when the groups under study have similar participation rates. In this case, however, participation in the labour force differs substantially between the native and non-native groups. For non-natives between the ages 15 and 64, the Census reported that 82 percent were in the labour force in Yukon in 1981 while 84 percent were in the labour force in the N.W.T. For natives, however, the figures reported were 60 percent in Yukon and 50 percent in the N.W.T.

While both unemployment and participation rate comparisons are technically correct, both give somewhat misleading impressions of native involvement in productive activity. Thus the average native unemployment rate is calculated at “only” 16 percent in the N.W.T., 21 percent in Yukon. Taken by themselves, however, these percentages understate the extent to which natives are excluded from productive activity

**FIGURE 2-1 Unemployment by Ethnic Origin and Age Group, Yukon and N.W.T., 1981**

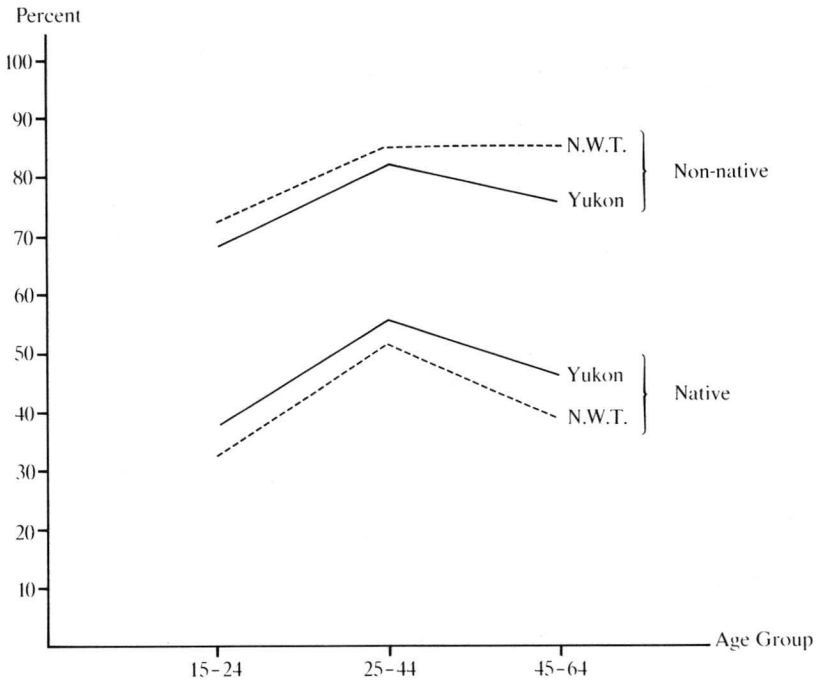


Source: Statistics Canada, Census data, 1981.

because these calculations are made on a base which includes only 50 percent of those natives of labour force age in the N.W.T. and 60 percent in Yukon. Participation rate figures are misleading in the opposite direction because they omit at least a portion of those (primarily native) people who are systematically engaged in the seasonal harvesting of traditional foods, which, while clearly producing income-in-kind, does not provide for continuous involvement or give rise to wage income.

Nevertheless, these conventional measurements can produce one very useful statistic. This is the percentage of the population of labour force age holding jobs in the market economy. Thus in Yukon 78 percent of all non-natives between ages 15 and 64 were employed in market activities, and in the N.W.T. 82 percent were so employed. For natives the figures were 48 percent in Yukon and 42 percent in the N.W.T. The percentage of people with jobs in the market economy in 1981 is shown by age group and ethnic origin in Figure 2-2.

**FIGURE 2-2 Percent of Population Employed, by Ethnic Origin and Age Group, Yukon and N.W.T., 1981**

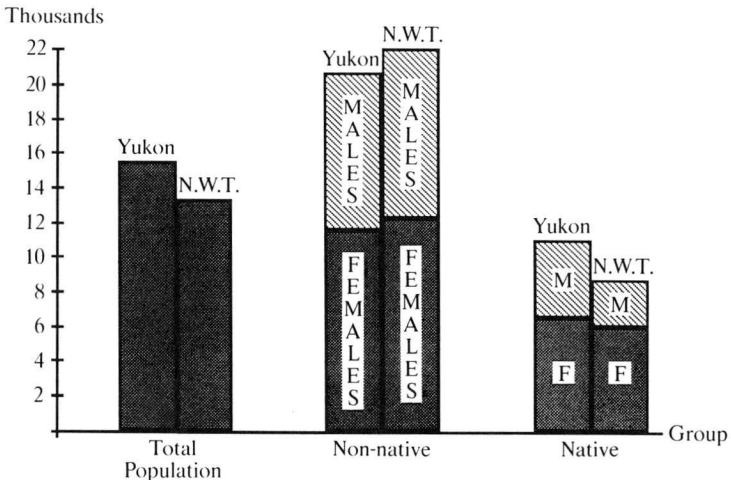


Source: Statistics Canada, Census data, 1981.

Average incomes for natives and non-natives are a reflection, in part, of the proportions of each group holding jobs. Thus average incomes for non-native families at \$34,099 and \$35,941 in Yukon and the N.W.T., respectively, are higher than those of native families at \$21,283 and \$17,701.<sup>5</sup> Again there is undoubtedly some understatement of native incomes in that any net income, in the form of income-in-kind for example, obtained from traditional or subsistence activities, should be added to these figures.

A more direct comparison is provided by looking at the average incomes of income earners in each group engaged in market activities. This comparison is made in Figure 2-3, where it is revealed that native incomes are approximately 53 percent of non-native incomes in Yukon and 44 percent in the N.W.T.

**FIGURE 2-3 Average Incomes of Income Earners, by Ethnic Origin and Sex, Yukon and N.W.T., 1980**



Source: Statistics Canada, Census data, 1981.

One of the explanations for the lower participation rates, and for the lower earned incomes of native groups, is found in the dissimilar levels of educational achievement. The statistics in Table 2-2 indicate that 36 percent of Yukon's native population has had less than eight years of formal education; in the N.W.T. the comparative figure was 63 percent. By comparison the non-native populations of Yukon and the N.W.T. included only 9 and 7 percent, respectively, in these two categories. At the upper end of the achievement level, 3 percent of natives in Yukon and 2 percent in the N.W.T. had attended university, whereas 23 percent and 28 percent of non-natives in the respective territories had some university. With respect to educational achievement, the level of training

TABLE 2-2 Percent of Population 15 Years and Older by Highest Level of Schooling, 1981

Level	Yukon				N.W.T.			
	% Native	Cumulative Percentage	% Non-Native	Cumulative Percentage	% Native	Cumulative Percentage	% Non-Native	Cumulative Percentage
0 <sup>a</sup>	12	12	1	1	25	25	1	1
1-4	4	16	1	2	8	33	1	2
5-8	20	36	7	9	30	63	5	7
9-13	34	70	35	35	20	83	25	32
HSG	5	75	47	47	2	85	11	43
T <sup>b</sup>	22	97	77	77	13	98	29	72
U	2	99	87	87	1	99	10	82
UG	1	100	100	100	1	100	18	100

Source: Statistics Canada, Census of Canada, 1981.

a. Includes kindergarten.

b. Other non-university certificate or diploma.

of natives that appears most closely to approach that of non-natives is the completion of technical programs. In this category 22 percent of Yukon and 13 percent of N.W.T. natives have received "other non-university certificates or diplomas." About 30 percent of non-natives in both territories have completed some form of technical training.<sup>6</sup>

There are at least three historical reasons why the gap in educational achievement appears so large. Prior to the early 1950s many of the native people lived "on the land" in a much more dispersed pattern than at present. Access to educational institutions was largely through boarding schools, where the students lived away from their families for extended periods. For many youngsters this was apparently not an altogether rewarding experience, and few persisted. As the people moved into communities, and schools did likewise, access was considerably improved. Still, for many years the introduction to formal education was through a curriculum that did not identify with local cultures. It was not until the mid-to-late 1960s that Dick, Jane and Spot, and tricycles, automobiles and locomotives were replaced by characters, equipment and institutions that native children could identify with. For too long there was too little evidence that increased education was directly associated with enhanced participation in the economic or political life of the territories. Since the early 1970s, however, it has become increasingly obvious that access to better and more interesting jobs requires a formal education.

Another factor contributing to the disparities between native and non-native incomes is the enormous difference in mobility between these groups. The migration data in Table 2-3 describe a highly mobile non-native population and a virtually immobile native population. Through mobility, highly qualified non-natives are able to ensure that their incomes in the North compare favourably with incomes they would earn in the South. Natives, the bulk of whom are poorly qualified, are generally unable to exercise this option.<sup>7</sup> Between Yukon and the N.W.T., migration flows are very small. Only 120 non-native and 40 native moves from Yukon to the N.W.T. were recorded between 1976 and 1981, while 410 non-natives and 110 natives moved in the opposite direction.

**TABLE 2-3 Migration Between Yukon and N.W.T. and Rest of the World, 1976-1981**

	Yukon				
	Total	Non-native	Inuit	Status	Métis and Non-status
In	6,160	5,860	15	195	80
Out	7,055	6,580	-	175	275

	N.W.T.				
	Total	Non-native	Inuit	Status	Métis and Non-status
In	8,720	7,985	305	210	300
Out	10,420	9,525	365	160	390

Source: Statistics Canada, Census worksheets, 1981.

Note: Migration figures for non-natives appear to be too high to be consistent with the Census populations for 1976 and 1981. As an indication of relative mobility, however, the absolute figures are not critical.

### *Economic Structure*

Both territorial economies are what might be called undeveloped or immature, where these terms are used as references relative to the economic structures of most provincial economies. In both territories there is a small number of what are referred to, in the regional development literature, as "basic" industries. In the private sector such industries generate products or services that are sold to buyers outside the territorial economies. The income received from these sales pays the costs of labour and other factors of production employed in the basic industries. When this money is spent locally, it provides support for the cluster of everyday trade and service activities found in just about all locations where there is a basic industry to support them.<sup>8</sup> The mining industry is the dominant basic industry in the private sector of both territorial economies. Tourism is also important in both territories, as are some activities in the traditional sector — fishing, trapping and hunting.<sup>9</sup> In the public sector the territorial governments display characteristics similar to the basic industries of the private sector in that they bring a net increase in income into the economies; that is, substantial expenditures in excess of their own revenues have been systematically financed by federal government transfers.<sup>10</sup>

In Table 2-4 the structures of the territorial economies are compared with the national economy. A more revealing comparison is provided in Figures 2-4 and 2-5. In these diagrams the labour force in each sector of the territorial economies is shown expressed relative to the national labour force in the same sectors. The calculation used to develop these comparisons is: labour force in industry *i* in the region as a proportion of

the labour force in industry *i* in the nation is divided by the total labour force in the region as a proportion of the total labour force in the nation. If all economic activity were uniformly distributed throughout the nation, each region would have the same proportion of its labour force in each industry as existed at the national level and the result of each calculation would equal 1.00. Coefficients in excess of 1.00 indicate more than a proportional amount of the region's labour force in the industry in question, and thus relative specialization, while coefficients smaller than 1.00 reflect a less than proportional amount.

**TABLE 2-4 Distribution of Labour Force by Industry, 1981**

Industry	Yukon	N.W.T.	Canada
Agriculture	0.64	0.13	3.92
Forestry	0.53	0.38	0.82
Fishing/Trapping	0.30	1.19	0.30
Mining (including oil and gas)	10.00	10.88	1.71
Manufacturing	2.26	2.08	18.09
Construction	6.88	4.98	6.13
Transportation, Communications and Utilities	11.99	10.60	7.63
Trade	12.82	10.65	15.96
Finance, Insurance and Real Estate	3.76	3.51	5.06
Community, Business and Personal Services	23.31	24.02	27.71
Public Administration	19.21	25.29	7.23
Undefined/N.A.	8.42	6.28	5.44

*Source:* Statistics Canada, Census of Canada, 1981.

From the figures, mining and government in both territories and the traditional sector in the N.W.T. reflect considerable specialization and confirm the conventional wisdom of the importance of these sectors in the territorial economies. (Tourism does not show up explicitly in this presentation because it is part of the trade and service industries.) Relative specialization, however, is not the best indicator of absolute support because a small sector, such as fishing and trapping, may have a greater relative specialization than a large sector such as government.

A very rough attempt to identify the absolute importance of the basic industries is provided in Table 2-5. Essentially the numbers in the table correspond with the bars of Figures 2-4 and 2-5. Generally everything above the coefficient 1.00 from Figures 2-4 and 2-5 appear as "basic" in Table 2-5 unless otherwise indicated in the footnotes to the table. In addition, other information is used to identify the tourist industry, as explained in the footnotes. Crude as these calculations are, they are sufficient to indicate that government is the largest basic industry in both

territories, followed by mining and then tourism. Transportation, communications and utilities (TCU) are combined into a single sector and also show some specialization relative to the nation in both Yukon and the N.W.T. in Figures 2-4 and 2-5. This indication of relative specialization is more a reflection of the transport and communications requirements of remote, small centres than of production for external demand, and TCU is treated as non-basic in Table 2-5. Employment in the remainder of the sectors is considered totally non-basic.

**TABLE 2-5 Basic Labour Force, Yukon and N.W.T., 1981**

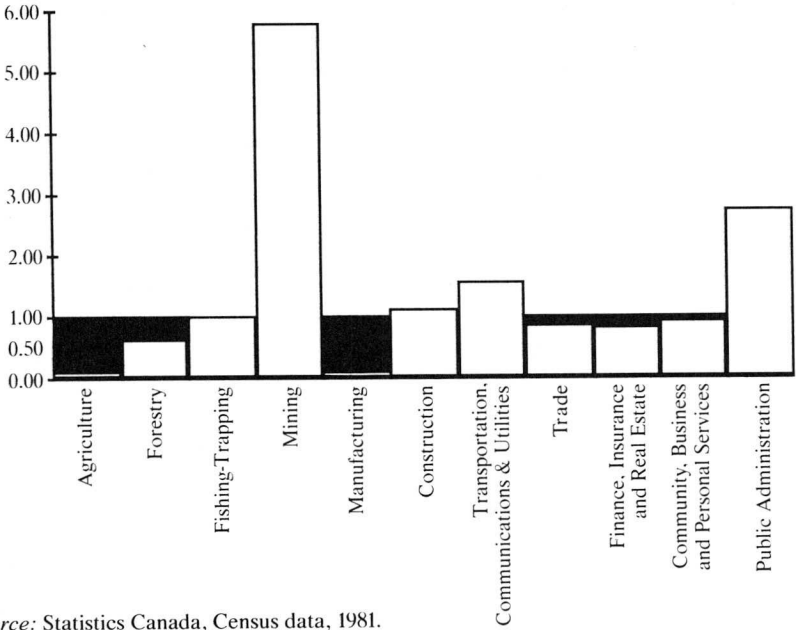
	Yukon		N.W.T.	
	Sector Labour Force	Basic Labour Force	Sector Labour Force	Basic Labour Force
		Public		
Administration <sup>a</sup>	2,555	1,595	4,975	3,555
Mining <sup>b</sup>	1,330	1,330	2,140	2,140
Tourism <sup>c</sup>	—	1,060	—	915
Fishing/Trapping <sup>b</sup>	40	40	235	235
		Total Basic		
Labour Force	—	4,025	—	6,845
		Total Labour		
Force	13,300	—	19,670	—
		Ratio Non-Basic:		
Basic		2.30		1.87

*Note:* The procedure employed in generating the figures for this table ignores indirect exports and thus overstates the amount of non-basic activity supported by the basic activity.

- a. The basic figure is arrived at by assigning to the basic category all labour force in excess of what would be required for proportional employment at the national allocation.
- b. It is assumed that all mining and all fishing and trapping are basic activity.
- c. Tourism is a part of the trade and service industries. Basic labour force for Yukon was developed by taking the ratio of trade and service sales to tourists and non-residents as a percentage of total sales and allocating labour force accordingly. For the N.W.T. it was assumed that the ratio of final demand sales to total sales was the same as in Yukon and was allocated as for Yukon.

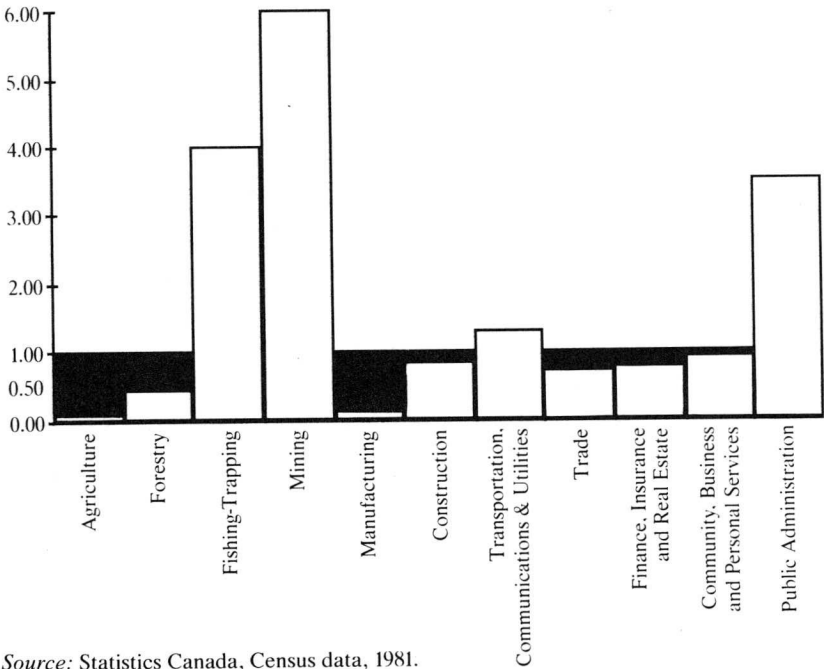


**FIGURE 2-4 Yukon Labour Force Relative to Canada, 1981**



Source: Statistics Canada, Census data, 1981.

**FIGURE 2-5 N.W.T. Labour Force Relative to Canada, 1981**



Source: Statistics Canada, Census data, 1981.

One other characteristic of the northern economies needs to be mentioned. This is the extent to which urban places in the North do not interact in the way that centres in a developed region in the South do. In a provincial economy the urban centres will typically constitute a hierarchy in which there is substantial commercial interaction among them. The larger centres will provide numerous goods and services to the smaller communities through well-developed production and distribution channels. The smaller centres may provide labour for the larger places and may develop producing facilities in manufacturing or processing that are linked with parent activities in the major cities. Such channels are very weak or even non-existent in much of the North, where the typical pattern is for each northern centre to develop its own linkages with some large southern city, rather than with the larger northern centres. This is particularly evident in the N.W.T. The pattern is explained by both location and market potential. In terms of proximity, Winnipeg is more accessible to Hudson Bay communities than is Yellowknife, while Montreal is more accessible to communities in the eastern Arctic. The market potential of the territories accessible from either Yellowknife or Whitehorse is so limited as to preclude almost any production for regional markets. Thus, income does not circulate as it would in an urban hierarchy in the South, and both income and employment multipliers are correspondingly lower.<sup>11</sup>

### *Sources of Past Growth*

The territorial economies grew rapidly between 1971 and 1981. Major extensions to the road network, such as the construction of the Dempster Highway, were made; exploration and drilling activities in the Beaufort Sea were intensified; mining activity that began an upswing in the late 1960s continued to expand into the middle 1970s; population increased rapidly; and Whitehorse and Yellowknife added businesses, schools and subdivisions. One net result, of what must have seemed to long-time northerners as a very hectic decade, was an increase in the N.W.T.'s labour force of 78 percent and an increase in Yukon's of 61 percent. Growth rates in both territories exceeded the national increase of 39 percent by substantial margins.

In spite of the impression of a great deal of activity in the producing sectors, the pattern of growth during the decade strongly reflected historical influences. The government sectors in both territories led in the expansion, accounting for 30 percent of the net increase in the labour force in Yukon and 29 percent in the N.W.T., greatly exceeding the growth of the public sector at the national level where only 7 percent of the increase in the Canadian labour force was attributed directly to governments. This government-led expansion was associated with the creation of a provincial-type public service in the N.W.T. during the

1970s, following the move of the territorial capital to Yellowknife in 1967, and the substantial expansion of territorial and federal government employment in Yukon during the 1970s.

The second most important basic industry, mining, also expanded between census dates. In the N.W.T., mining employment nearly doubled as Pine Point (which was developed in the late 1960s) expanded; Nanisivik mine on Baffin Island began operations; and Polaris mine on Cornwallis Island followed in the early 1980s. In Yukon, mining employment increased by only 15 percent as the Yukon mining industry expanded in the late 1960s through to the middle-to-late 1970s and then declined substantially in the late 1970s and early 1980s. Clinton Creek asbestos mine operated between the late 1960s and 1978; Cyprus Anvil expanded into the early 1970s but closed (temporarily?) in 1982, as did United Keno Hill (temporarily) and Whitehorse Copper (permanently).

Trade and service employment also expanded substantially in response to the growth of the basic sectors and also in response to the increased concentration of the territorial populations. Over three-quarters of the net gain in Yukon population was concentrated in Whitehorse, and nearly one-third of the N.W.T.'s gain was added to Yellowknife.<sup>12</sup>

The other sectors remained weak. In net, fewer than 200 jobs were created in the combined agriculture, forestry, fishing and trapping, and manufacturing sectors in all of the North between 1971 and 1981. Labour force growth by sector is shown in Table 2-6.

**TABLE 2-6 Labour Force Growth by Sector, 1971-1981**

Yukon		N.W.T.	
Sector	Change	Sector	Change
Public Administration	1,520	Public Administration	2,500
Community, Business and Personal Services	1,290	Community, Business and Personal Services	2,455
Trade	815	Trade	1,190
Transportation, Communications and Utilities	430	Transportation, Communications and Utilities	970
Construction	365	Mining (including oil and gas)	960
Finance, Insurance and Real Estate	310	Finance, Insurance and Real Estate	575
Mining (including oil and gas)	170	Construction	530
Manufacturing	150	Manufacturing	85
Agriculture	80	Agriculture	10
Fishing/Trapping	15	Forestry	-25
Forestry	-5	Fishing/Trapping	-135
Undefined/N.A.	-75	Undefined/N.A.	-470
<b>Total Change</b>	<b>5,065</b>	<b>Total Change</b>	<b>8,645</b>

Source: Statistics Canada, Census of Canada, 1981.

## **Development Prospects for the Northern Economies**

### ***A Major Requirement***

On the assumption that the question of development prospects for Northern Canada is raised with a concern for the welfare of its inhabitants, rather than being simply a query as to what the probability is of increasing the volume of economic activity in the North, we should ask, "What are the requirements of this population?" Then we should attempt to ascertain whether these requirements are likely to be satisfied by the expansion of market activity, and if not, what the best way is of satisfying these requirements.

In the section on population characteristics it was shown that the native people of both territories are generally poorly prepared to participate in today's job markets when compared with their non-native compatriots. Inferior academic skills and the substantial cultural differences between life in a remote northern village and that in southern cities greatly limit the possibility for most natives to improve their economic status through migration to the South. Consequently, natives participate less in labour force activities than non-natives and, although a clear improvement over the past, nearly two-thirds of the natives employed in both territories hold lower-skilled jobs in government or the trade and service industries. Native employment is thus complementary to non-native employment. In contrast, northern non-natives are well educated, a large portion of them are highly mobile, and as historic migration flows suggest, they are sensitive to differences in economic opportunity between the North and the South.

Because of the inferior economic status of the natives and their lack of mobility, future development planning for the North will obviously require an equity component that focusses on the causes of the inequality. Continued emphasis on academic preparation and upgrading is clearly called for, but this is likely to be a rather long-term process. In the meantime the majority of young natives, those entering or now in the labour force, have poor educational qualifications. In the 15- to 24-year age group, 52 percent in the N.W.T. and 19 percent in Yukon have attained a grade 8 education or less. In the same age group, 87 percent have less than a high school education in the N.W.T., while for Yukon, the figure is 73 percent. Further, while the incentive to obtain an education has now been established through increased participation in the labour force and encouraged by the attainment of a native majority in the N.W.T. Legislative Assembly, the magnitude of the task is such that, even with the best of efforts, the majority of the native people presently under age 15 likely cannot be prepared to compete fully when they enter the labour force during the next several years.

The major equity requirement then of a northern development policy would be an enhanced education-training program, coupled with a com-

mitment to provide jobs in the North, for natives now in the labour force or aspiring to join it, as well as for the majority of those under 15 years of age who will enter the job market between the present time and the end of the century.

Education and education-training programs are primarily the responsibility of governments. The role of governments in the process of ensuring sufficient jobs to satisfy the equity component of northern development planning, however, depends on the magnitude of these equity requirements and the extent to which anticipated market activity and scheduled government spending can satisfy them.

The employment requirements of such a scenario are developed in Table 2-7. At the existing ratio of native employment to native population, approximately 4,000 new jobs would be required in the N.W.T. by the end of the century just on the basis of the present native population moving into and out of the labour force at existing participation rates. If the ratio of native employment to population were to increase to the 1981 non-native ratio, the requirement would be for nearly 13,000 new jobs. Comparable figures for Yukon are 600 and 1,500. If a median point between these upper and lower figures is arbitrarily taken as a reasonable objective, the requirement would be for 1,050 new jobs for Yukon natives and 8,500 for N.W.T. natives.

### *Development Scenarios*

At this point it might be useful to attempt to determine whether historic sources of growth would provide the impetus necessary to satisfy the job requirements identified in Table 2-7.

As indicated previously, the single most important source of employment in both territories has been the public sector. Between 1975 and 1981, federal government operating, maintenance and capital transfers combined grew in nominal dollar terms at an average of approximately 17 percent per year in Yukon and about 15 percent in the N.W.T. Discussions presently under way between the territorial and federal governments would greatly reduce the rate of growth of these transfers. Although specific agreements have not been reached, the likely outcome would limit the growth of territorial government revenues to the lagged three-year average growth of provincial-municipal expenditures in Canada. Between 1975 and 1981 provincial-municipal expenditures increased, again in nominal dollar terms, at an average annual rate of 11.6 percent. In general the difference between total revenues calculated with this formula, and territorial own-revenues generated within agreed-upon territorial tax structures, will constitute the federal general purpose transfer.

**TABLE 2-7 Job Requirements for Native Population, 1981–2001**

Yukon				
Age	1981		Jobs Required in 2001	
	Population	Employed	Existing Ratio	Non-native Ratio
Under 5 <sup>a</sup>	415	0	157	282
5–14	1,010	0	575	828
15–24	975	370	556	800
25–44	1,015	580	477	761
45–64	430	200	0	0
Totals		1 150	1 765	2 671
New Jobs Required			615	1 521

N.W.T.				
Age	1981		Jobs Required in 2001	
	Population	Employed	Existing Ratio	Non-native Ratio
Under 5 <sup>a</sup>	3,660	0	1,171	2,598
5–14	7,385	0	3,840	6,277
15–24	5,925	1,925	3,081	5,036
25–44	5,685	2,980	2,217	4,832
45–64	2,750	1,070	0	0
Totals		5,975	10,309	18,743
New Jobs Required			4,334	12,768

Source: Population figures are from Statistics Canada, Census of Canada, 1981.

Notes: Existing ratio refers to the ratio of native employed to native population. Non-native ratio refers to the ratio of non-native employed to non-native population.

The calculations have not considered normal mortality.

a. No projection is made for those born between 1981 and 1985, who would be over 15 in 2001.

To obtain an indication of the possible influence of reduced federal transfers, base-line development scenarios were produced for both Yukon and the N.W.T. using economic simulation models of the territorial economies.<sup>13</sup> Essentially these models are used to forecast what employment, population, incomes and migration, for example, would be under specified circumstances regarding government expenditures, mining development, tourism, and so forth. These base-line scenarios were developed by assuming that by 1985 the territorial economies would have completely recovered from the lingering recession of the early

1980s. Aside from this major basic assumption, which has already been satisfied in the N.W.T. but which may be rather optimistic in the case of Yukon, only the most likely future expenditures are included in the base-line simulation. Specifically it is assumed for both territories that the level of mining activity postulated for 1985 remains unchanged for the rest of the century; that tourist expenditures resume their historical rates of growth by 1985; that the traditional sectors operate at their 1985 levels; and that investment expenditures of a routine variety for road construction, municipal infrastructure, airport expansions, and so forth be augmented by the expenditure for new investment of one-half of the funds received as cash payments under the COPE (Committee for Original People's Entitlement) and the impending CYI (Council of Yukon Indians) land claim settlements. (Other pending settlements are not considered because of lack of information regarding the potential outcomes.) For Yukon the upgrading of the Alaska Highway through 1988 is incorporated, and for the N.W.T. the current expansion of the oil field and refinery at Norman Wells, along with the pipeline from Norman Wells to northern Alberta, is also included. Continued government spending is assumed but in accordance with the formula discussed above, which would limit the rate of increase of territorial revenues to the forecast growth of provincial-municipal expenditures.<sup>14</sup>

The outcomes of these base-line simulations, as they relate to job creation, are shown in Table 2-8. The rate of growth in Yukon would exceed the rate in the N.W.T. under these assumptions, although the absolute increase would be greater in the N.W.T. For both territories the number of new jobs created during the ten years between 1985 and 1995 would be fewer than the number created during the decade between 1971 and 1981. For Yukon the increase would be about 45 percent of the

**TABLE 2-8 Base-Line Employment Simulation, Yukon and N.W.T., 1985-2000**

	Net Increase in Employment	
	Yukon <sup>a</sup>	N.W.T. <sup>b</sup>
1985-1990	2,200	1,100
1990-1995	100	1,300
1995-2000	1,000	1,750
Totals	3,300	4,150

a. For Yukon, the simulated employment gain is divided as follows: government, 28 percent; tourism, 12 percent; mining, 9 percent; trade, service and all other non-basic, 51 percent.

b. For the N.W.T., the simulated increase is divided: government, 46 percent; tourism, 7 percent; mining, 2 percent; trade-service and all other non-basic, 45 percent.

1971–81 increase, but for the N.W.T. the increase would be only about 30 percent of that of the 1971–81 decade.<sup>15</sup>

The growth rate would be more rapid in Yukon because Yukon is somewhat less dependent on federal transfers than the N.W.T., since the tourist industry is larger than in the N.W.T and is growing more rapidly; as well, the proposed cash settlement with the CYI is larger than that with COPE. In the case of Yukon, growth at the simulated rate would easily satisfy the requirement for additional jobs for native people, given appropriate hiring policies, and provide for several additional jobs as well, assuming that recovery from the current recession does occur as postulated.<sup>16</sup>

Even in the event of a partial recovery, which would see the complete resumption of activity at United Keno Hill but the failure of Cyprus Anvil or the White Pass and Yukon railway to reopen, another simulation projects an increase in employment of approximately 2,000 between 1985 and 2000.<sup>17</sup> This number would conceivably still satisfy the job requirements identified in Table 2-7, although it would mean an increase in non-native population of only about 1,300 people, a circumstance that would require substantial net out-migration of non-natives. For the N.W.T. the additional employment simulated in the base-line projection would not meet this requirement.

If these simulations are plausible, it is necessary to ask what additional activities could be developed for Yukon in the event that recovery from the current recession does not materialize, and for the N.W.T. in any case.

### *Additional Sources of Growth for the North*

At Watson Lake on the Alaska Highway, there is a large collection of signposts. These signposts inform travellers that they are thousands of kilometres from any other place in North America that they have ever heard of. Therein lies an important message for the development planner: location is an important determinant of regional growth. To the extent that access to inputs and proximity to markets favour a region's development, remoteness is anathema to that process. The importance of location is forcefully captured in a concise diagram produced in a study of regional development some two decades ago. It is reproduced here as Figure 2-6 because this message is particularly important in the northern context. In this diagram the Roman numerals indicate the number of favourable access dimensions, ranging from (the non-Roman numeral) 0, which is least favourable, to IV, which is most favourable. The Arabic numbers identify specific regions. Thus region 4 with poor access to all inputs and all markets would have little prospect for growth, while region 13 would have excellent growth potential.



There can be little doubt that virtually all locations in both Yukon and the N.W.T. are characterized by circumstances portrayed in the upper right-hand portion of the diagram. Certainly access to external regional and national markets and to external regional and national inputs is, in the general sense, unfavourable. Whether access to basic inputs locally or to local markets is good is somewhat immaterial since the local populations are so small that the size of these markets is insufficient to support more than the everyday variety of trade and service industries already found there. Further, high production costs and the absence of substantial linkages between northern centres limit the possibility of producing even for territorial markets.

**FIGURE 2-6 Input-Output Access**

		Good access to basic inputs* from external regional and national sources		Poor access to basic inputs* from external regional and national sources	
		Good access to basic inputs in home region	Poor access to basic inputs in home region	Good access to basic inputs in home region	Poor access to basic inputs in home region
Poor access to external regional and national markets	Poor access to markets in home region	#1 II	#2 I	#3 I	#4 0
	Good access to markets in home region	#5 III	#6 II	#7 II	#8 I
Good access to external regional and national markets	Poor access to markets in home region	#9 III	#10 II	#11 II	#12 I
	Good access to markets in home region	#13 IV	#14 III	#15 III	#16 II

\*Not only basic resources but important intermediate sources need to be considered.

Note: Roman numerals indicate number of "good" access dimensions, and suggest relative overall locational advantages or disadvantages.

Source: H. Perloff, et al., *Regions, Resources and Economic Growth* (Baltimore, Johns Hopkins University Press for Resources for the Future, 1960).

What can be efficiently produced in such settings are items that are either unique or unavailable elsewhere, or are high enough in value per unit of weight so that transportation costs to distant centres do not put them out of competition. The products of the relatively traditionalistic sector — carvings, paintings, wall hangings, furs, fur or skin clothing, fabric goods, canned arctic char, and reindeer horns — fall into this category. Certainly encouragement to producers engaged in these pursuits should continue, but clearly the potential for job creation is extremely limited.

The greatest comparative advantage for additional job creation rests with non-renewable resource extraction of high-grade deposits and the first-stage processing of these resources. A variety of minerals is known to exist in both Yukon and the N.W.T. Lead, zinc, nickel, silver, tungsten, molybdenum, tin, copper, gold and asbestos have been identified in varying quantities, and some of these have been or are being mined. In addition to minerals, there is a locally important petroleum development at Norman Wells in the N.W.T., and the potential of the Beaufort Sea petroleum has been the focus of major exploration for many years. Large quantities of natural gas have been discovered in the N.W.T., and much smaller amounts in Yukon.

It should not be supposed, however, that non-renewable resource extraction is purely market-determined. Mining and petroleum development have been fostered with considerable government support and incentive. Once begun, however, many of these activities have continued with minimal, if any, continued support. They also develop commercial and industrial linkages with other sectors of the territorial economies, which create secondary employment.

To obtain an indication of the job-creating potential of non-renewable resource development in the North, an additional simulation was made for each territory. For Yukon, three medium-sized mining developments were added to the base-line simulation with their start-up times spaced at 1987, 1992 and 1997. These reflect the simulated opening of what might be called Yukon's three best bets at this point in time. They are Mactung (tungsten deposits at Macmillan Pass), and two of the six most promising zinc deposits for future production (Grum, Howard's Pass, MEL, Vangorda, Tom and Jason). These prospects are not directly dependent on the recovery of Cyprus Anvil or United Keno Hill, as the type or composition of their ores differs from that of the existing mines. For the N.W.T. simulation we have added the development of the Beaufort Sea petroleum fields beginning in 1987. The level of production simulated was 200,000 barrels per day with transportation by means of a 24-inch pipeline up the Mackenzie Valley. Beaufort Sea discoveries appear to have established sufficient reserves to make possible small-scale production toward the end of the decade, even in the absence of further Petroleum Incentive Program (PIP) grants — assuming that oil prices do

not fall in real terms. A petroleum development of 200,000 barrels may be optimistic, but one of one-half the simulated size, coupled with three medium-sized mines in the area of zinc-silver-gold deposits which stretch north and east of Yellowknife, would have a roughly similar impact.<sup>18</sup>

The results of these simulations, again in terms of employment, are shown in Table 2-9. For Yukon the addition of three medium-sized mines, which increases mining employment by approximately 1,000 workers, causes total employment (including the miners) eventually to increase by approximately 2,750 workers over the base-line simulation (shown in Table 2-8). Such a turn of events would easily accommodate native employment requirements and provide numerous additional jobs as well. For the N.W.T. the impact of the Beaufort Sea development would be to increase employment by 6,600 over the base-line by the year 2000. With affirmative action hiring policies, the job requirements for natives in the N.W.T. might be met with the increased employment projected under the mineral development scenario, depending upon the skills required for this work, and how rapidly the native people acquire them. For this approach to succeed, education and training programs must advance some natives from a complementary employment status to a competitive one.<sup>19</sup>

**TABLE 2-9 Mineral Development Employment Simulations, Yukon and N.W.T., 1985-2000**

	Net Increase in Employment	
	Yukon	N.W.T.
1985-1990	2,250	6,700
1990-1995	1,800	500 <sup>b</sup>
1995-2000	2,000	3,600
Totals	6,050	10,800

a. The distribution of the simulated gains are as follows. Yukon: government, 23 percent; tourism, 7 percent; mining, 16 percent; trade, service and other non-basic, 54 percent. N.W.T.: government, 23 percent; tourism, 2 percent; petroleum development, 25 percent; trade, service and other non-basic, 50 percent.

b. This calculation was based on three-year averages centred on 1990 and 1995 to minimize the influence of temporary fluctuations in the construction labour force.

Alternatively, a similar expansion of employment in the N.W.T. could be achieved by direct increases in government employment. Such action would apparently not have to be considered for Yukon, however, since even the base-line projection provides for more than enough employment to meet the equity requirement discussed above. For the N.W.T., direct employment of approximately 4,000 additional people by govern-

ment could produce a total increase in employment of 10,500–11,000. In the recent past, combined government spending at all levels for all purposes in the N.W.T. has been approximately \$130,000 (\$1983) per government employee per year. In the unlikely event that this figure were to remain constant in real terms, then an additional expenditure by government of \$500 million (\$1983) per year by the end of the century would lead to an increase in employment similar to that produced in the Beaufort Sea development simulation. A third possibility for employment generation is tourism, of course. However, expansion of this sector is much less subject to policy initiative than either resource extraction or expansion of government employment.

## **Conclusions**

A number of additional simulations could be made of alternative resource developments. Essentially, they would all produce the same message: resource extraction could likely provide the direct plus indirect stimulus to development to satisfy the employment requirements of native people and to create several additional jobs as well in both Yukon and the N.W.T. Sufficient government spending could also accomplish the same objective. Aside from these two sources, however, both history and theory indicate that the potential for job creation is extremely limited in the North. With the projected decrease in federal government transfers to the territorial governments, increased reliance on non-renewable resource development is indicated.

The cyclical nature of economic growth based on resource extraction is often noted and is acknowledged here. Nevertheless, most people would probably agree that an upward, though cyclical, growth path is preferred to no growth at all, or growth based on a continuous increase in transfer payments. Attention does need to be focussed on how to minimize the cyclical aspect of resource development. An investigation of the feasibility of staging unrelated developments so that they do not bunch together in time, and of the possibility of lengthening either the build phase or the operation phase, or both, might be conducted. If governments are not going to fund the expansion of the territorial economies directly in the future, the most cost-effective means of encouraging resource development and smoothing its cycles might well be looked into. Dropping the idea of taxation of northern benefits might be considered, since this practice collects virtually no tax revenue but does raise the cost of companies operating in the North. A holiday on mining resource fees and royalties until desired employment objectives are met might also be considered. Again, such taxes produce little revenue, but to individual mining operations, they could make the difference between development or no development. The costs and benefits of governments

underwriting additional expenses incurred by private companies participating in phasing or stretching-out of projects could also be reviewed.

Undoubtedly, governments would have some additional role to play in facilitating each new resource development, but this participation is likely to differ from one project to the next. What does seem clear is that there are certain employment objectives that will have to be met in the North between now and the end of the century, and that these requirements could be satisfied by sufficient new projects in the resource sector. Perhaps the most appropriate development policy for governments to follow in the North would be to search for ways to bring at least this amount of resource development about in the most cost-effective manner.

Aside from ensuring that these employment objectives are met, there does not seem to be any reason for further forcing the pace of economic growth in the North. When additional northern resources are truly needed, the market can be counted on to ensure their development, with governments required only to play a facilitating role. Further, the position of long-term non-native northerners is relatively secure in any development scenario short of economic depression. Their numbers are small enough and their particular skills great enough that their expertise will be required under any positive economic development scenario. The majority of the transient non-native population is highly mobile and is responsive to employment and income differentials between the North and the South. Aside from possible isolated cases, it is primarily the native population that faces a potentially difficult economic future, and it is their situation which justifies an equity-based regional development policy for the North.

## *Notes*

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1. In this paper a great deal of summarizing and generalization was necessary in order to keep the paper to a manageable size. Each of the major arguments could be expanded or elaborated, and many would require qualification under certain circumstances. Rather than pursue these extensions in the notes I have included a fairly extensive bibliography so that the interested reader can follow up any of the points which are appealing.
2. For a general discussion of the Canadian experience with regional income disparities see Economic Council of Canada (1977).
3. Unless otherwise noted, all of the numbers describing the territories are taken from the 1971, 1976 and 1981 Censuses. Territorial data for some of these series sometimes differ.
4. There were also 15 Inuit listed in the 1981 Census as residing in Yukon.
5. By comparison the average family income of non-natives in Canada was \$26,922 and for natives was \$18,244 in 1981.

6. Variation in quality and length of training is likely to be substantial in this category, however. For example, someone who has completed a four-week government-sponsored training program at Fort Smith, which produces a certificate, is included along with the graduate of a two-year technical school program.
7. A side effect of the land claims settlements might well be to retard migration further.
8. The basic/non-basic dichotomy, as explained in the text of this paper, is completely relevant only in small or newly developing economies. A more complex classification is required for mature economies.
9. Statistics for the fishing, trapping and hunting sector understate the actual importance of these activities. For example, as previously mentioned, many natives obtain a substantial amount of food from hunting, fishing and gathering — a major portion of which goes unrecorded in the census statistics. More significant, perhaps, is the importance of hunting, fishing and trapping in establishing a person's or a group's identity or self-esteem. Finally, success in the pursuit of traditional activities is often a good indicator of a person's potential as a participant in market-oriented occupations.
10. Depending on what is included in the calculations, upward of one-half of Yukon government's total revenue is obtained from direct transfers from the federal government, while upward of two-thirds of the N.W.T.'s revenue is similarly obtained.
11. Some linkages in the trade sectors have developed with Whitehorse, Yellowknife, Inuvik, Tuktoyaktuk, Frobisher Bay, and Rankin Inlet, for example, providing a limited distribution function for some items to smaller "adjacent" communities. Some of these businesses are native owned, either by individuals or cooperatives.
12. Larger or more concentrated populations satisfy additional demand thresholds for trade and service activities, causing an increase in per capita employment in these sectors.
13. These models were originally developed by J.C. Stabler and M.R. Olfert under contract for the territorial governments. Our models have been respecified and reestimated since and now differ somewhat from the models retained by the territorial governments, which have also evolved along separate lines.
14. In a recent study prepared by Alaska Economics (1984) for the Yukon government, a similar type of recovery from the lingering recession is assumed in the development of a "base case" projection. The authors describe events incorporated in the base case as "those which we view as being most likely to come to pass" (p. 68).
15. The increase in employment projected over this period in the study referred to in note 14 is approximately 1,800. The difference between this number and the one produced in the text (3,300) is largely the result of differences in assumptions. Alaska Economics assumed no increase in real per capita federal spending over the projection period (p. 51), that no new net investment would follow from a land claims settlement (pp. 58-61), that Cyprus Anvil mine would close in 1994 and United Keno Hill would close in 1988 (p. 49), and that per capita incomes would decline after 1988. Our assumptions were more optimistic in all of these respects.
16. In a "Low But Positive Growth" projection which essentially assumes that the mining and tourist industries do not recover from the current recession this century but incorporates the remainder of the assumption for its base case, the study referenced in note 14 nevertheless projects an increase in employment of approximately 1,600 between 1985 and 2000 (pp. 55 and 71).
17. Both Cyprus Anvil and United Keno Hill are major producers of lead, a product for which demand forecasts are not optimistic because, in part, of the health concerns associated with the use of this metal. United Keno Hill, however, produces much more silver per tonne of ore than Cyprus Anvil and its prospects for continued operation are much better. Further, it is probably the case that the White Pass and Yukon railroad will not reopen unless Cyprus Anvil does because of its need for the ore shipments. However, even the full resumption of activity at Cyprus Anvil would not ensure the reopening of the railroad. The ore could be moved by truck.
18. Surface transportation would have to be developed in order to exploit the zinc deposits.
19. With the traditional division of employment between natives and non-natives, the 10,800 jobs identified in Table 2-9 would be shared 65 percent non-native, 35 percent native or 7,065 non-native, 3,735 native.

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## **Political and Constitutional Development in the N.W.T. and Yukon:** *The Issues and the Interests*

MICHAEL S. WHITTINGTON

### **Introduction**

Although less than one-third of one percent of the population of Canada lives in the two northern territories, in a number of significant ways the future of the Canadian union is inextricably linked to the future development of the North. It takes but a cursory glance at a map of Canada to recognize that almost 40 percent of our total land mass is found north of the sixtieth parallel. The Canadian economy, based to the extent that it is on the extraction of resources, will ultimately prosper or languish depending on future non-renewable resource development in the N.W.T. and Yukon. However, the North is significantly more than simply a resources storehouse for Canadians living within three hundred miles of the U.S. border. On the contrary, it is a homeland for most of Canada's Inuit, a large number of our native Indians, and many long-term white residents. Hence, while the North is important to the future of Canada, any development in the N.W.T. and Yukon must be fostered in such a manner as to take into account and to provide for the hopes and aspirations of northerners; the future of the North should not be sacrificed to the future of Canada, but rather these two futures have to be viewed as mutually interdependent.

The aim of this paper is to identify the main areas of conflict, the central competing interests, and the most important issues that will come to dominate the debate over the fate of the Northwest Territories and Yukon in the years to come. Because one of the problems in the relationship between the people of the northern territories and the people of southern Canada has been a lack of awareness, understanding and sympathy with the northern point of view in the South, any discussion of the issues and actors in the debate over the future of the North must be prefaced with a substantial elaboration of the nature of the

northern social, economic and political institutional environment, and a clarification of the differences between that environment and the so-called Canadian mainstream.

## **Population**

The population of the two northern territories, while tiny numerically, is exceedingly diverse. The total population of the N.W.T. is approximately 46,000 of which about 17 percent are Dene, 35 percent Inuit, 6 percent Métis and the remaining, about 42 percent, non-native. The population of Yukon is approximately 23,000, of which slightly more than one-quarter are Indians or Métis. One error that is commonly made by newcomers to the North, and one that is resented by northerners, is the attempt to generalize about the people of the North. Not only are there the obvious differences between the whites and natives of the North, but there are, as well, significant differences *among* the natives, between the Dene and the Inuit, and even *within* each of these major groupings of northern native peoples. Finally, even within the non-native population, there are significant differences; for instance, between Yukoners and residents of the N.W.T. as well as in the political and social aspirations and economic situation of various non-native interests within each territory. Hence, in order to ensure that this diversity is recognized from the outset, it is necessary briefly, and in fairly general terms, to attempt a description of the various segments of the many and varied sub-populations that reside in the N.W.T. and Yukon.

## ***The Indians***

With the exception of a very small group of people in the southwestern corner of Yukon (the Tlingit), the native Indians of the N.W.T. who refer to themselves as "Dene," and those of Yukon all speak languages which share the Athapaskan root. In the Mackenzie Valley, the languages spoken are Chipewyan, Dogrib, Hare, Slavey and Loucheux (or Kutchin). These are all related to each other, much in the same way that the Romance languages of Europe are related to each other; and while the different language groups have difficulty in communicating, most Dene will state that they can pretty well understand the gist of what is being said in the sister languages. In Yukon, the dominant Dene language is Loucheux, and while there are regional variations in dialect, for the most part Yukon natives all speak the same language.

Traditionally, the major cultural differences among the various Indian groups can be explained, in terms of the geographical range of the tribe or band and the economic base of the regions that the various tribes inhabited. There was virtually no intertribal warfare, there was some commerce between the adjacent groups, and apparently there was some

intermarriage. Hence, while anthropologists tell us there was status differentiation among the Athapaskan language groups — an inter-band “pecking order” — there is considerable validity to the current claim of Dene leaders that they comprise sufficiently homogeneous and economically and culturally interdependent communities to be classed as a nation. Today, any problems in communication that might have existed in the past because of language differences among the Athapaskans have been overcome, in part, through the common use of English by the younger and more educated native people, and by the necessity to work together in the pursuit of common political and economic goals. If there are significant differences among the Indians of the North, they are less related to traditional tribal distinctions than to lifestyle variations such as those between the “urban” natives of Yellowknife, Fort Smith, Whitehorse and Dawson, and the residents of the more remote communities such as Old Crow, Fort Good Hope and Fort Norman. Related to these lifestyle differences there is also a growing awareness among the native leadership of a generation gap between the older people in the communities who continue to live a more traditional life based on an economic relationship to the land, and the younger people who have forsaken the older ways (albeit often out of necessity) to become part of either the wage economy or the welfare economy.

The Métis of the N.W.T. are often viewed as a group separate from the Dene, although the federal government’s policy on land claims has forced the Dene and the Métis to bargain as a single group. In fact, as a mixed racial product of the white encroachment on native lands, from the period of the fur trade onwards, the Métis of the N.W.T. have a reasonable claim to being a distinct cultural group in their own right. In both territories, there has been difficulty in coming to a suitable definition of who is and who is not an Indian and, hence, eligible for benefits in the land claim settlement. Being Métis, it seems, is much more than simply the fact of mixed blood, for many of the Dene themselves are of mixed racial background and yet have “Indian” status in Canadian law and with respect to eligibility for land claims. The problem of defining *Métisness* is still more complex in the southern Mackenzie – Great Slave Lake region of the N.W.T., where there is a significant population of Métis whose native ancestry is Cree, rather than Athapaskan. The issue of eligibility for the land claims benefits for these people has been a divisive one, both within the Métis community and between the Métis and the Dene.

Ultimately, what distinguishes the Métis from the Dene is a different attitude to the appropriate relationship between the native community and the non-natives, the former having been more easily reconciled to urbanization, the wage economy and to major resource development projects in the North. However, the Métis leaders are outspoken in their claim to being a distinct cultural group, different from both their native

and white ancestry and, as such, seek guarantees for that distinctiveness within the context of any future development in the North.

In Yukon, the mixed racial group generally does not identify itself as Métis, but rather the important distinction is simply the administrative one between “status” and “non-status” as defined by the Indian Act. In this territory the two groups merged voluntarily and participated in land claim negotiations from the beginning as a single entity.

### *The Inuit*

The Dene and the Inuit have very little in common and, in fact, sometimes fought in the past, when they came into contact. The Inuit inhabit the land above the tree line as far north as the southern tip of Ellesmere Island. While there are some Inuit in both northern Quebec and Labrador, the majority of the Canadian Inuit are residents of the N.W.T. (There are no Inuit in Yukon, although the Inuvialuit of the Mackenzie Delta region traditionally hunted along the northern coast of that territory.) The Inuit, circumpolarly from Greenland to the U.S.S.R., share a common language, Inuktitut, and while there are several distinctive dialects, these are similar enough that communication is possible among the members of the various dialect groups. The Inuit were traditionally a nomadic hunting and gathering society, for the most part taking advantage of the abundance of the sea. However, one major dialect group subsisted primarily on the vast caribou herds of the Keewatin. Today, all of the Inuit of the N.W.T. live in settlements close to the sea, and while all are accessible by scheduled air service, and supplied by annual sealift or barge, the Inuit communities for the most part are more remote than the native communities of the Mackenzie Valley and Yukon (many of which are accessible by highway). This remoteness from the South has to some extent buffered the cultural disruption of contact with white society, and has given the Inuit the opportunity to make the transition from traditional ways in a more ordered and gradual manner than was possible either in the Mackenzie Valley or Yukon. While the lifestyle and generational differences that present problems for the Dene exist in the Inuit communities, the latter remain more homogeneous and with a broader consensus than is possible among the Dene and Métis of the N.W.T., or among the Yukon Indian people.

### *The Non-natives*

The non-native or white population of the North is virtually as diverse as the population of southern Canada. The same ethnic, linguistic, socio-economic and cultural differences found in Canada generally can be found in the two northern territories; but within the context of Yukon or N.W.T. societies, the single most significant variable is temporary or

short-term versus permanent long-term residence. One of the most significant sources of conflict between the white and native communities in both territories is the native perception of the non-natives as outsiders who are only in the North to exploit its resources and people before returning home to the South. While it is true that a large percentage of the white community in the North was not born there, and while a large percentage of these will, in all likelihood, return to the South at some time in the future (possibly only on retirement), the fact remains that there is also an increasing number of whites in both territories who sincerely hope to make their homes in the North.

In order to understand the white population in the North, it is essential to differentiate among different levels of permanence. At one extreme, there are people who clearly must be seen as transients, and whose stay in the territories will be very short. The most transient are the non-resident workers who are flown in for two- or three-week shifts, remain in a camp or on a drill rig during their entire stay, and are returned to their southern homes for their days off. These people, while working in the North physically, are for the most part isolated from the northern society and do not make any impact on either the economy or the social structure. A second order of transients includes the people, mostly male and mostly young, who migrate up the highways to seek work in resource development projects, mines, or in the bars and hotels of the larger centres. While some of these end up staying in the North, most of them return to the South after a couple of years. Finally, there is also an amorphous class of transients who have come to the N.W.T. or Yukon for reasons of lifestyle or because they wish to "experience the North." These are often university-educated and sometimes seek employment with native organizations, community development projects, and the like. In Yukon particularly, many of these latter types do stay on for extended periods, seeking a style and quality of life unattainable in the more developed South. Often referred to as "bush hippies" by the long-term white Yukoners, most of them eventually drift back South when their personal goals are met or when their northern experience has lost some of its magic.

A second major category of non-permanent residents in the North includes those whose stay in the N.W.T. or Yukon is limited but indefinite. These "indefinites" include federal public servants, RCMP personnel and the employees of banks, chain stores and other southern-based industries with offices in the North. For the most part such people live in the major urban centres in the two territories, and while some of them end up staying for extended periods, most are eventually transferred back to southern posts. Territorial public servants can also be included in this category, although this group of non-natives is more likely to make careers in the North and, in general, such people tend to stay for extended periods of time. In the more remote communities,

particularly in the eastern Arctic, the overwhelming percentage of territorial field personnel view their time in the settlements as a temporary situation, culminating with a transfer to a headquarters job in Yellowknife. While there are a few white entrepreneurs in the more remote settlements, and in the Mackenzie Valley and Yukon, where a few individual residents are self-employed, the white population of the smaller communities is essentially made up of public servants, teachers and employees of the Bay.

Finally, at the opposite extreme from the transients, are those whites who are effectively permanent. While we can include in this category those northerners who, after full careers in the North, retire to Victoria at age 65, for the most part these are whites who have been "captured by" or have "fallen in love with" the North . . . those for whom Yukon or the N.W.T. is home. While this group would include individuals in the government sector, and even some of the transients who simply end up staying, the white population that is the most permanent in both the northern territories would seem to be the small-business and professional people. In Yukon, these are often the whites who were born and raised in the territory, and who fully intend to spend the rest of their lives there. While their numbers are fewer in the N.W.T., this category of permanent white residents is on the increase in the larger communities in that territory as well. This professional and business group is significant politically in both territories and, to a large extent, sets the tone of territorial politics in the non-native segment of the population.

In sum, the key in understanding the nature of the population of the N.W.T. and Yukon is to avoid the error of oversimplification. The northern peoples are diverse. There are significant differences within each territory as well as between the N.W.T. and Yukon; there are significant differences within the white and native communities, as well as the obvious contrasts between the natives and non-natives; and, finally, both the natives and a significant percentage of whites in the two territories view the North as home and have a direct and legitimate interest in the future of their homeland.

## **Political Economy and Political Culture**

While it is not the intention of this paper to undertake a full-scale analysis of the economies of the N.W.T. and Yukon, it is essential to an understanding of constitutional and political development in the North to recognize the causal links between the patterns of economic development and the northern political culture. Hence, we must sketch in the basic features of the economic history of the N.W.T. and Yukon, and identify the major components of the economy of the North today, because these are important independent variables affecting the future course of constitutional and political development.

## *Historical Background*

The traditional economy of the N.W.T. and Yukon was based on the harvesting of renewable resources by the hunting and gathering societies that lived there. In other words, before Europeans came to the North, the northern economy was one of subsistence, with the northern peoples providing for their food, clothing and shelter through the wildlife, fish and plants they could harvest. There was little in the way of intertribal commerce before the arrival of the Europeans, there was no system of currency, and, apparently, there was little need of a system of barter within individual communities or bands. The latter is likely related to the communal nature of the traditional native culture where all members of the group share automatically in the fruits of the harvest.

The first exposure to Europeans likely occurred in the northeast, where whalers and explorers searching for the Northwest Passage made intermittent contact with the Inuit. While such random contacts served to introduce the Inuit to such wonders as metal tools, they did not significantly alter the basic subsistence economy; and, in fact, in the earliest contacts with the "white man" it was the latter who had the most to learn. Where the whalers had failed to make an impact on the Inuit, the missionaries who followed soon after did influence their culture and system of values, and hence, indirectly, may have set the stage for the erosion of the communal and collectivist attitude to property.

In the Mackenzie Basin, the first exposure to the white man was through the fur trade. Here, the contact with European society had an immediate impact on the subsistence economy because the traders taught the Dene that goods not attainable locally could be acquired in exchange for furs. In this manner, the Dene of the Mackenzie Valley were introduced to metal tools, weapons, textiles and rum, and at the same time they were exposed to commerce, to a system of exchange, and to the notion (albeit only implicitly) of specialized production. Nevertheless, basic needs such as food and shelter continued to be provided primarily by the subsistence economy; and, in fact, the fur trade, based as it is on the harvesting of a renewable resource, was compatible and even complementary to the traditional way of life of the Dene. As in the eastern Arctic, it was the missionaries, and later the RCMP, who through altering the value system of the people wrought changes in their culture and thus, indirectly, on their traditional economy.

While the first direct contact with the white man came considerably later in Yukon, as with the Dene of the Mackenzie Valley, the Yukon Indians also had their subsistence economy altered to some extent by the incursion of the fur trade. The most significant changes in the economy of Yukon, however, came with the discovery of placer gold deposits and the subsequent gold rush of 1898. The large influx of whites



and the sudden importance of mineral extraction to the Yukon economy altered not only the traditional economy but the native lifestyle as well, in a radical and irreversible manner. While a large percentage of the outsiders who came to the Klondike to seek their fortunes returned home as soon as the boom period ended, a significant number of them ended up staying permanently.

Thus, in the eastern Arctic and the Mackenzie Valley, the exposure to non-native culture (virtually until the 1960s) was through the Bay, the Church and the RCMP; and, for the most part, the whites associated with these institutions did not settle permanently in the North. This is a stark contrast to Yukon, where the immigrant white society moved in suddenly and stayed, dominating the economy and transforming the social structure of the territory permanently. Moreover, the motivations of the early white intruders in the N.W.T., while diverse, were all directly related to the native people who lived there. Hence, the churches came to bring the natives salvation, the RCMP came to bring them law and order, and the Bay came to engage them in a commercial relationship. In Yukon, the whites who stayed set about to “civilize” the territory itself, and their relationship to the native community was merely incidental. Thus, the different patterns of interaction between the white and native communities in the two northern territories today can be explained in part by the facts that in the early years in the N.W.T. the whites were there *because* of the natives, and in Yukon they were there *in spite of* the original inhabitants.

Throughout the first half of the twentieth century there was very little change in the basic lifestyle of the natives of the N.W.T. In the Mackenzie Valley, the discovery of oil at Norman Wells in the 1920s did not produce significant changes in the local economy, partly because that field was not brought into production for many years, and partly because its location was not very close to existing settlements (even today, the Dene make up less than 15 percent of the population of “The Wells”). Even the construction of the Canol Pipeline from Norman Wells to Whitehorse during the Second World War as a strategic measure to counter the threat of a Japanese invasion of the west coast, and a consequent interruption of the supply of crude oil to Alaska, did not have any serious impact on the local economy. The pipeline and the service road were constructed entirely by white military personnel and the line was dismantled after the war.

Gold was discovered near Yellowknife in the 1930s, and mines have in fact operated at varying levels of production since then in the Great Slave Lake region of the territory. However, while such enterprises may have had incidental and localized effects on the native communities in the immediate vicinity of the operations, there was no attempt to include the Dene in the work force.



In the eastern Arctic there was still less development and, in fact, with the exception of some mineral exploration and the occasional visit of an RCMP patrol (sometimes with a public health nurse), the Inuit were left alone. However, the once nomadic people gradually began to gather in more or less permanent settlements that were close to a Bay post and, depending upon who got there first, an Anglican or Roman Catholic mission. Thus while the economy of the Inuit did not alter very much up until the 1960s, where there was contact with the missionaries the Inuit received some European education, and were exposed to the values of Christianity. Consequently, the traditional value system of their culture was challenged, and in some cases traditional ways were abandoned.

Again, in the first half of the twentieth century the experience of Yukon was different. There was gold mining throughout the early decades of the century, and instead of the mainly southern-based operations that characterized non-renewable resource extraction in the sister territory, the Yukon mines were operated and often owned by Yukoners. The permanent white community in the territory continued to grow, albeit very gradually, and there emerged a southern-style staples economy and a stable if not exactly genteel society.

The construction of the Alaska Highway during the Second World War triggered a new period of growth and change in Yukon. While the construction period itself produced a brief boom for the white Yukoners, and some social disorientation in the native communities along the way, the more significant impacts came as a result of the highway making the territory more readily accessible to the South. Not only did this open up greater opportunities for mineral exploration and development, but gradually tourism began to evolve as an important complement to the staples-based economy. The local whites welcomed this development as an opportunity to "civilize" still further their chosen homeland, and there ensued a new wave of white immigration in the postwar decade.

For the native people of Yukon this period of development had profound impacts on their traditional way of life. The traditional economy, based on subsistence hunting and fishing and in some cases supplemented by cash income from traplines, was dealt a serious blow in the areas of the territory opened up by the new highway. With their economic base destroyed, the plight of the natives became serious. The loss of the viability of the subsistence economy not only exaggerated the problem of poverty among the Yukon Indians but also caused disruption, which led to social problems such as alcoholism, family breakup and higher incidence of crime. Moreover, the fact that such problems were visible to southerners who travelled up the highway made it politically necessary to respond with social measures to alleviate the plight of the Yukon natives. One policy response, which had a very immediate effect on some of the Yukon bands, was the physical relocation of

settlements to places along the Alaska Highway where the social services could be delivered more efficiently. Another impact, which was slower to develop but whose effect has been far reaching, was the institution of what amounts to a welfare economy for Yukon natives.

Finally, at the political level, the postwar boom period in Yukon relegated the native people of the territory to a minority, a fact that has moderated the influence of native groups on the territorial government and permanently limited their power in an electoral process based on majoritarianism.

It was in the 1960s that the pace of development finally heated up in the N.W.T. In the Mackenzie Valley the Conservative Party's "Roads to Resources" policy helped to stimulate the construction of all-season roads to once remote communities. Today, communities such as Inuvik, Fort MacPherson, Fort Simpson and all of the major communities on Great Slave Lake are accessible year round by highway, and this new accessibility, during the 1970s, has had much the same effect on the N.W.T. Dene that the Alaska Highway had on the Yukon natives. In one sense, however, the impacts on the Dene of the Mackenzie Valley are potentially even more threatening. Here, unlike the case of Yukon, the highways were begun as a part of a northern vision — a vision that included the goal of developing the vast non-renewable resource wealth of the North in order to supply raw materials for growing industries in southern Canada. The potential impact of resource development mega-projects on the traditional economy and way of life in the Mackenzie could make the impacts of the postwar development in Yukon pale by comparison. Moreover, in still another sense, the Dene may come to fare better than their brothers and sisters in Yukon simply because the development in the Mackenzie Valley came much later and has been moderated by the increased consciousness and political sophistication of the Dene, as well as by a greater political sensitivity on the part of southern Canadians to the plight of Canada's original people.

In the Far North the construction of a string of defensive radar bases, the Distant Early Warning (DEW) Line and related military operations had brought many more whites into direct contact with the remote communities of the eastern Arctic. Moreover, the DEW Line bases were often located near existing Inuit communities and most bases were supplied by all-weather airstrips, which made regular civilian flights in and out of the communities possible as well. On a smaller scale the coming of regular air service to the eastern Arctic had the same effect that the Alaska Highway had on Yukon. Permanent garrisons in the DEW Line stations also brought the Inuit into regular contact with southerners other than those of the Bay, the Church and the RCMP. However, in the remote Inuit communities the subsistence economy remained vital. Where the more southerly native communities in the North, accessible by road, suffered the reduction or loss of this aspect of

their traditional lifestyle, the Inuit, while now living in permanent communities in prefabricated dwellings with oil heating, continued to subsist to a large extent on hunting and fishing.

To be sure, social disruption occurred in the Inuit communities, too. The opening up of these settlements to regular contact with the South also opened them up to readily accessible alcohol, with its related problems of family breakup, illegitimate children, venereal disease and higher crime rates. In the specific case of the inland Inuit of the Keewatin, a combination of natural phenomena in the late fifties produced a widespread famine among these people, whose subsistence depended almost exclusively on the vast herds of caribou. Their plight was ultimately brought to the attention of the federal government, and they were relocated to non-traditional settlements such as Rankin Inlet. For these people, having taken up residence in areas where there were very few caribou in the best of times, their traditional reliance on the land to provide food was gradually supplanted by a reliance on the welfare economy.

### *The Economies in the 1980s*

In order to understand the economy of the N.W.T. and Yukon today, it is necessary to look at the northern economies first in relation to the Canadian and world economies and then in terms of the internal economic relationships *within* the two territories. At the broadest level the economies of the North are based on the production of primary resources or staples. Most significantly the Yukon and N.W.T. economies are dependent on the development and production of non-renewable resources, for the renewable resource wealth of the two territories is either lacking or underdeveloped. Moreover, the northern economy is viable only if the staples can be exported in relatively unprocessed or raw form to the South. Second, the northern economies are not very stable because they are dependent entirely on markets over which they have no control. The export price of non-renewable resources depends upon world prices for the most part, and this results not only in complete economic dependency but also is manifested in boom-bust cycles. Third, the large scale of most northern development projects and the extraordinarily high costs of production in the North mean that development capital must come from outside. The practical result of this has been that multinational corporations and governments dominate most resource development projects in the North. Finally, while the economies of the North possess a strong if not stable primary sector, and a large and stable service sector (largely owing to governments), the secondary manufacturing sector is virtually non-existent in both territories. Transportation costs, diseconomies of scale and labour costs all militate against significant growth in the manufacturing sector, and

because manufacturing tends to be labour intensive, the northern economies will continue to fall short in providing jobs for their labour forces.

From an internal perspective the economies of the N.W.T. and Yukon are in fact three distinct economies. As pointed out in the preceding historical sketch, there is a traditional or subsistence economy in which the only participants are native peoples. This economy, while based on staple production, in its purest form (subsistence) does not depend on the export of a product. However, very few natives today are exclusively a part of the subsistence economy. All native people in both territories must supplement their subsistence hunting and fishing in order to survive. While the harvesting of renewable resources such as furs or fish for export and sale is a suitable complement to the traditional economy, for most native people today even the cash supplement from the sale of furs is not sufficient to maintain their standard of living. Generally speaking, the traditional economy is healthier in the more remote communities than it is in the urban centres; and, generally, because their communities are more remote, it has been possible for a larger percentage of Inuit to continue to subsist mainly on country food.

The second economy in the North is an extension of the southern wage economy into the northern territories. Generally, the northern whites are a part of this economy, although growing numbers of natives are taking jobs in government, entering entrepreneurial enterprises, or seeking work with resource development projects. There are a number of reasons why the natives are not more fully involved in the wage economy of the North, most significantly, lower skill levels, place of residence, the importation of southern whites, and an unwillingness to uproot families to facilitate moving to where the jobs are. However, the most significant factor precluding fuller native involvement in the wage economy is likely the fact that the wage economy undermines the traditional economy. Holding down a steady job means for the most part that there is no time to go hunting, and many native people are simply unwilling to pay that price for a steady income.

The third economy is the welfare economy. While there are some non-natives who can be classed as belonging to this group, for the most part the welfare economy in all parts of the North is predominantly native. Nonetheless, very few people exist entirely on welfare. The welfare economy buttresses both the traditional and the wage economies, in the former case by providing a minimum cash income with which to buy food staples, rifles, ammunition, snowmobiles, outboard motors, and so forth. Such amenities make the traditional economy more viable.

In sum, the three economies interact in the North, and in fact large numbers of native people occupy a place in each of them from time to time. For instance, seasonal employment clearing brush can be supplemented by some trapping, hunting and fishing, all of which are ultimately backed up by welfare. In other words, while there are three distinct

economies in the N.W.T. and Yukon, these interact in such a way that the total economy of either territory can only be described as mixed. Now we must turn to a discussion of the interaction between the economies of the two territories and the political cultures of the North.

### *The Native Value System and the Political Culture*

The basic political values of the northern territories are essentially those that the white residents imported with them from the South. The political institutions, the dominant patterns of political attitudes, and even the rhetoric of political debate in the N.W.T. and Yukon are all rooted in the liberal democratic value system that is so pervasive and persistent in southern Canada. However, the political culture of the northern territories is distinctive to the extent that the traditional value system of the native community influences the basically liberal value of the white community.

Perhaps the most significant difference between the political values of the whites and natives is that the Dene and the Inuit alike place a far higher value on the collectivity — the community — than they do on the individual. This collectivism is rooted in the precarious nature of life in traditional hunting and gathering societies, where the survival of the tribe, clan, extended family or community is more important than the fate of any one individual. Individualism in traditional societies is simply a luxury they cannot afford, and while such attitudes are harsh from our liberal vantage point, traditional societies likely could not have persisted without them.

A corollary of the basic collectivist conception of the social structure is the absence of the notion of private property in both the Dene and Inuit culture. The concept of individual possession, which is such an important cornerstone of liberal societies, is replaced by the principle of communal sharing of wealth or effort. Individuals are thus not seen to own things, but rather they simply use them; and when they are not using something, it automatically reverts to the community again to be put to use by some other member of the group. Nowhere is this concept more prominent than in the native concept of the land.

In both the Dene and Inuit cultures the land and its resources are held in reverence, for it is the fruits of the land upon which the community must depend for survival. In a mystical way, as well, the native peoples feel a oneness with the land — the people and the land are simply extensions of the same being, and as a result the traditional native religions in the North foster respect for the land and for the plants and animals that share it. One manifestation of this belief in a spiritual link between people and their environment is that the native people approach the world around them as a given homeland to which they must adapt in order to survive. This starkly contrasts with the liberal notion of the

frontier, which sees the environment as essentially alien and hostile. Within this view the northern environment must itself be adapted to human use: it must be conquered or domesticated in order to be useful to human society.

One practical result of the native conception of the land, and of the appropriate relationship of human society to it, has been conflict over non-renewable resource development in the North. Part of the native opposition to be sure is rooted in the very practical fear that such projects may do irreparable damage to the environment and, hence, destroy the renewable resources upon which the native economy and the traditional way of life depend. However, in understanding the debate over pipelines, icebreaking tankers and offshore drilling, it must also be recognized that native opposition to such enterprises stems in part from the fact that the very notion of non-renewable resource extraction is alien to their culture. For the most part, the native economy is usufructuary — it uses the fruits of the land, extracting only resources that are renewable, never permanently alienating any of its wealth.

Southern Canadians often mistakenly assume that the natives of the N.W.T. and Yukon have no indigenous political culture, that until the coming of whites the Dene and the Inuit lacked mechanisms for maintaining order and resolving intragroup conflict. However, the fact is that the northern peoples have governed themselves in an orderly and systematic fashion since their arrival on this continent centuries before the first European explorers. While native political institutions lack the complexity of ours, the fact remains that the basic political functions were performed in all traditional native communities.

One of the more important features that distinguishes the political culture of liberal democracy from that of the Dene and Inuit is a logical extension of the collectivist view of society that the latter embrace. This collectivism manifests itself in a commitment to consensual modes of decision making. Because individuals are not important in and of themselves, all political decisions are seen as potentially affecting the entire community. As a result, the entire community has the right and, even, the obligation to participate in political decisions. However, because even traditional communities are composed of individuals, the consensual mode of decision making operates through a kind of political egalitarianism; in other words, because individuals are not significant, except as components of the group, each member of the group has an equal right to express his or her point of view.

The consensual style of decision making in traditional societies, however, does not eliminate the need for leadership. The fact remains that even in basically cooperative and collective social structures, conflicts do exist and must be resolved. What differentiates the native notion of leadership from the non-native concept is that the Dene and the Inuit do not see political power as monolithic. The liberal notion of political

authority is conceptually linked to the notion of sovereignty. Hence, the authority patterns in the modern state are basically unitary and hierarchical, with the ultimate power to make final decisions on all aspects of political life being vested in a sovereign individual or institution. By contrast the native concept of political authority is functionally diffuse. It is diffuse in the sense that native communities follow different leaders for different kinds of community activities. There were often totally different systems of decision making, depending upon whether the decision to be taken involved hunting, war, spiritual matters, family matters, settlement of internal disputes or the punishment of wrongdoers. Leadership in any situation is determined even today naturally through a consensus over who is most suited to lead in any given situation. Thus, there is a functional division of labour, where the top hunters will dominate in one area, a shaman will dominate in another, and the tribal elders will assume authority for still others.

It must be emphasized that the leaders of traditional native communities were not elected in the sense that democratic theory, operating as majoritarianism, defines elections; rather they assume authority almost automatically through a community consensus that they are the people most suited to do so. As we shall see when we come to a discussion of the basic institutional make-up of northern politics, one of the reasons for the failure of some institutional transplants from the South has not been that the native people were not ready for self-government, but that southern political institutions make a "bad fit" with pre-existing native political values.

This same bad fit exists with respect to the wage economy and the native value system, and goes a long way to explaining the difficulty of integrating native workers into the northern labour force. The basic problem is that, for the Dene or Inuit, entering the wage economy necessitates the abandonment of collectivist values, and ultimately a loss of the sense of community that is so essential to the native way of life. Work in the wage economy is no longer for the collective good but for individual gain. This individualizing effect undermines traditional social structures and traditional authority patterns in native society, for power and influence come to be seen in terms of income or monetary wealth, rather than in terms of ability. Such status differentiation based on wealth can also cause conflict within the native communities, between the elders who have maintained their commitment to the traditional economy and the younger people who have opted for a non-traditional job.

Another result of the wage economy is that natives who enter it are often forced to uproot themselves and their families from their homes in order to find work. This uprooting, coupled with the fact that most wage employment is to be found in relatively urbanized settings where a sense of community is lacking to begin with, can cause serious social disruptions and foster a sense of alienation.



While some of the above effects can be moderated or softened simply by making young natives entering the wage economy aware of its pitfalls, the basic dilemma lies in the philosophical incompatibility of the wage economy and traditional native values. The wage economy implies individualism, competition and inegalitarianism, while the native culture espouses collectivism, consensus and egalitarianism. Similarly, where the native social structures see authority in terms of a functional division of labour based on ability, the wage economy implies that power and status are determined by income.

Finally, and possibly most significantly, the wage economy also leads to the alienation of native people from the land. In one sense this occurs because so many jobs in the North are in the extractive industries, and it is simply difficult to accommodate the native spiritual appreciation of the land with non-renewable resource extraction. In another sense, however, the wage economy breaks the bond with the land simply because it removes the individuals from the traditional economy that is based on the land. The ultimate result of this will be for the native culture to lose its "mainspring," and in the long run disappear completely. All aspects of the culture of a traditional hunting and gathering society — the social values, political culture, art, legends, religion, social structure — are reflective of the central problem of their lives, which is hunting and fishing in order to survive. If this central fact of their lives is removed and replaced with either a wage or welfare economy, the most significant determinant of their culture will disappear, and with it ultimately the culture itself.

We now move to a discussion of the political and constitutional issues in the North, which must be seen in the context of the economic and cultural factors outlined above. The northern economy is in a state of transition, with the native traditional economy being gradually supplanted by the wage and welfare economies. Moreover, these three economies must be seen as interactive, with each having a profound effect on the operation of the other. Finally, the trends in economic development and change in the North must be seen as significant independent variables in determining the fate of the native culture in the future. That culture is under siege, not because of deliberate attack from the white communities of the N.W.T. and Yukon, but because that culture is fragile in the face of rapid development. Thus, the agenda for political discourse in the N.W.T. and Yukon is set in large part by the economic and cultural changes that are occurring there as well as by the pressures from the South.

## **Constitutional and Political Development**

### ***The Road to Representative Government***

Although it would be possible to write a fairly extensive historical article on the constitutional and political development of the North alone, the



aim here is merely to set the stage for a more detailed assessment of the key issues in the two territories today. It is interesting that both the territories have enjoyed a status closer to full responsible government in the past than they do at the present time. Originally, the Northwest Territories included not only the modern N.W.T. but also the lands now in Yukon and the provinces of Alberta and Saskatchewan. By 1881 the territory had a fully elected legislative assembly and from 1897, responsible government. In 1898 Yukon was carved out of the N.W.T. and given separate territorial status under an appointed commissioner who was advised by an appointed six-member council. Gradually, elected members were included on the council, and by 1908 all members of the Yukon council were elected. At this time the territory seemed on the brink of achieving full responsible government, and provincial status was seen as just around the corner. Unfortunately, the Klondike boom had collapsed by this time, and the population of Yukon declined steeply. By the end of the First World War the constitutional status of the territory had regressed, and Yukon was again almost totally run at the whim of the federally appointed commissioner. However, it is important to note that even in this period of eclipse, which effectively lasted until the 1970s, the Yukon Territorial Council continued to be fully elected, and the council, the commissioner, and the territorial administration continued to be located in the territory rather than in Ottawa. This contrasts starkly with the situation in the N.W.T.

When the provinces of Alberta and Saskatchewan were created in 1905, the remaining lands in the N.W.T., and the people who lived there, reverted to colonial status, ruled by federal public servants residing in Ottawa. In 1921 a council was appointed to advise the commissioner, but all six of the councillors, as well as the commissioner himself, were federal government employees and located in Ottawa. This absentee and unrepresentative rule continued until 1951, when the first elected members were allowed to sit on the council and the first session of the council was actually held in the North. At this time the territorial franchise was limited to residents of the Mackenzie Valley and it was not until 1966 that three ridings were created in the eastern Arctic. However, the commissioner still ruled very much like a colonial governor from his Ottawa office, backed up by a large "colonial office" in the Department of Indian Affairs and Northern Development. The position of commissioner at this time was not even a full-time job, for the man in the office had to divide his time between his responsibilities in the North and his role as a senior public servant in a federal department. Moreover, in the decisions that affected the N.W.T., he listened to his elected councillors more as a matter of form and protocol than from any constitutional or even customary obligation to do so. Finally, in 1965, a three-member Advisory Commission on the Development of Government in the N.W.T. (the Carrothers Commission) was established to examine the political, constitutional, and administrative future of the territory. The commission

came up with a number of far-reaching recommendations about the conduct of government in the N.W.T., which in 1967 resulted in the federal government enlarging the territorial council to sixteen (partly elected and partly appointed), making the office of the commissioner full time, and moving the entire territorial government to Yellowknife. The number of elected councillors was gradually increased until, by 1975, the N.W.T. had its first fully elected council. Since that time the council has come to be referred to as a legislative assembly.

### *Territorial Government in the 1980s*

In the 1980s, the fact remains that, in spite of the pressure from the two territories, and in spite of the gains that have been made already in the direction of representative and responsible government, constitutionally the territories are still subordinate entities. Although the territorial governments now have the responsibility for the delivery of programs in a wide range of matters such as social services, education, small-business development, tourism and most renewable resource development, non-renewable resource development and land-use planning are still in the hands of the federal government and for the most part are implemented through the Department of Indian Affairs and Northern Development (DIAND). The legislative assemblies of both territories, although now fully elected, do not enjoy sovereign powers; their authority is the product of a delegation to them by the Parliament of Canada, and in this sense their legal position vis-à-vis the federal government is analogous to that of a municipal council vis-à-vis a provincial government.

The formal constitutional status of the territorial legislatures is only a part of the story, for as we shall see, the practices that are evolving have brought them still closer to de facto responsible government. While they may lack sovereign powers, both territories enjoy a significant measure of autonomy. The Executive Council in Yukon is composed of five ministers, who are elected MLAs. As a result of a letter of instruction from the minister for northern affairs in 1979, the commissioner of Yukon is obliged to operate as though he or she is a lieutenant-governor, and must act on the advice of the elected executive. The commissioner is no longer even a member of the Executive Council, which is chaired by the government leader. Because Yukon has a well-developed territorial party system, the Executive Council is now selected on the basis of party, and the Legislative Assembly today operates as though it formally possessed the power to vote non-confidence in the government in the same manner as a provincial legislature.

The N.W.T. has not progressed as far along the road to responsible government as Yukon, but it is moving gradually in that direction. The Legislative Assembly of the N.W.T. is composed of 24 members elected

by constituency from across the territory. The Executive Council is composed of eight members chosen by the Legislative Assembly. However, unlike in Yukon, the commissioner of the N.W.T. is still an active member of the Executive Council and in fact still acts as the chairman of that body. The deputy chairman of the Executive Council is the "Leader of the Elected Executive," a position established during the Ninth Assembly (1979–83), and clearly designed to evolve into a Yukon-style protopremier. Unfortunately, unlike in Yukon, there was no magical letter from Ottawa instructing the commissioner of the N.W.T. to allow the elected executive to take the initiative. However, mainly because of the personality of the current commissioner, who generally is favourably predisposed to the idea of full responsible government, the position of the commissioner is gradually evolving toward that of the commissioner in the sister territory. Other steps in the direction of full responsible government, all of which occurred in 1983, include the de facto abolition of the position of deputy commissioner, the removal of the commissioner from the chair of all executive committees except the Executive Council itself, and the placing of all administrative portfolios except the department of personnel in the hands of elected ministers.

One of the most significant obstacles to the achievement of full responsible government in the N.W.T. is the absence of a party system in the Legislative Assembly. The system in place, which is referred to (sometimes, perhaps, ironically) as consensus government, features the selection of the members of the Executive Council through a wide-open election at large within the caucus of the assembly. This caucus, in the absence of political parties, includes all of the sitting members assembled in camera and casting their votes as independents. The problem with this system is that there is no collective responsibility in the executive, as there is in mature systems of cabinet government. As a result, there is no clear procedure for voting non-confidence in the government. In fact it is common, even for members of the Executive Council, to break with their "cabinet" colleagues and vote against motions introduced by a minister on behalf of the government. Without cabinet solidarity it is difficult to see the kind of collective responsibility that prevails in party-based cabinet government and without such collective responsibility to the legislature, it is impossible to have responsible government in any conventional sense.

While political parties have not yet emerged in territorial elections, a large percentage of the current MLAs are active in, and visibly committed to, the federal parties. It seems inevitable that territorial elections will ultimately be fought along party lines, and given the existing federal partisan commitments of territorial politicians, the party system that evolves will likely include traditional Canadian parties — Progressive Conservative, Liberal and New Democratic Party — in the same way that the Yukon party system does. In the pre-election period in 1983

there was a short-lived attempt to establish a non-traditional party to be called "The Northern Party," which was to be composed of a coalition of PC and Liberal candidates. However, the idea did not receive very much support, with the PC association in the territory rejecting the idea, and with most territorial Liberals outside Yellowknife refusing to cooperate. The Northern Party was stillborn.

Part of the reason for the failure of the Northern Party was that it was perceived to be white-dominated. Moreover, it was mainly based in Yellowknife and was seen by the candidates from the eastern Arctic as a coalition to counter the movement toward division. Still another factor was that the strength of territorial politicians' commitment to traditional federal parties caused them to reject association with another political party. Finally, some people stated that they were opposed to the Northern Party simply because they preferred the current non-partisan or consensus structure of the Legislative Assembly — although here one cannot help wondering if consensus government can continue to work in the face of growing factionalism in the Tenth Assembly.

The composition of the legislative assemblies of the N.W.T. and Yukon is generally reflective of the ethnic and regional diversity of the two territories. In the Yukon assembly, however, internal order and the collective responsibility of the executive is maintained by the party system. Hence, while there are three MLAs who can claim native ancestry, because two are on the opposition NDP side of the house and one is on the PC government side they seldom, if ever, have the opportunity to vote as a bloc even on issues that are of specific concern to native people. Factional conflicts which do not correspond to the party lines in Yukon, therefore tend to be debated and resolved in two party caucuses in much the same manner in which such intraparty disputes are settled in traditional southern political parties.

The Legislative Assembly of the N.W.T. is currently composed of eight Inuit, six Dene and ten non-natives. The Executive Council is roughly reflective of that split, being made up of two Inuit, two Dene and four whites. What is more interesting about the composition of the Executive Council of the N.W.T. is the distribution of the ministers by region. Because one of the dominant lines of cleavage in the last Legislative Assembly was between the western N.W.T. and the eastern N.W.T., particularly over the issue of division, one might expect the eastern and western members to vote as blocs for slates in the selection of the Executive Council. However, the council is split evenly, with four eastern and four western ministers. If the existing coalition holds together in the caucus of the assembly, there will be sufficient stability to continue in the non-partisan mode, possibly even for the next four-year term. However, if the range of interests supporting the existing Executive Council comes into conflict over critical policy questions such as the boundary of the promised new territory of Nunavut, a partisan election

may turn out to be the only practical means of providing stable and responsible relations between the executive and the legislature in the N.W.T.

Having attempted to chronicle briefly the gradual but relentless evolution of the two territories toward responsible government, it is still necessary to emphasize that the formal or legal relationship of the territorial governments to the federal government remains essentially colonial. Thus, while the territorial executive branch is becoming more responsible to the territorial legislature, the more critical issue remains the extent to which either the legislative assemblies or the governments have significant powers to exercise. The extent to which provincial-type responsibilities have been devolved to the territories through delegation has perhaps had its biggest impact on the agencies that have the role of implementing those responsibilities: the territorial bureaucracies.

### *Bureaucracy in the Territories*

The dominant, if declining, bureaucratic force in the N.W.T. and Yukon is the Department of Indian Affairs and Northern Development (DIAND), which functions not only as a colonial office in Ottawa, but in the past was responsible for the delivery of all services that would have been provided by a province in the South. It is a vast, diffuse organization sometimes fraught with internecine strife when its development and Indian affairs mandates collide, but with extremely broad powers with respect to the North. For the most part the operational responsibilities of the department in the territories are carried out by the Northern Affairs branch, with the Indian Affairs side mostly restricted to south of the sixtieth parallel.

Until the Carrothers Commission reported, DIAND was virtually the only bureaucratic presence in the N.W.T., with the exception of some specific functions being performed by sister agencies such as Transport, Health and Welfare, and National Defence. Certainly where provincial-type programs had to be delivered in the territory, it was DIAND personnel who did it. Until 1967 there was virtually no territorial public service, for the simple reason that the territorial council was given only extremely limited responsibilities. However, in that year the federal government embarked on a policy of gradual devolution of authority to the territorial council at the same time as it made that council more representative of the people of the N.W.T. New legislative responsibilities naturally meant that there would have to be an expanded territorial public service to implement the legislation. Since then, growth has been rapid and steady.

In Yukon the territorial public service evolved earlier than in the N.W.T., for with a significant non-native population the federal government was forced to make concessions in the direction of local autonomy

in response to local demands for a level of political control closer to that to which the population had been previously accustomed. Today, there are eleven departments and agencies in the territorial government, and the principles of departmentalization are essentially the same as those employed in southern provincial governments. In Yukon, all of the portfolios are headed by an elected minister. The financing of the territorial administration, as with N.W.T., is through territorial revenues and federal operating and capital grants. While the figures can vary, depending upon how they are massaged, the federal grants and transfers account for about 60 percent of the annual budget of Yukon and about 80 percent for the N.W.T. The executive councils of Yukon and the N.W.T. are collectively responsible for the budget, although the estimates are still formally subject to Treasury Board approval. All in all, with the exception of the direct financial dependence on federal grants, the Yukon bureaucracy operates in a manner very similar to a provincial one. If the promised system of formula financing for the two territories is implemented by the federal government, even this idiosyncrasy would in part disappear, for while the "feds" would still be paying the largest percentage of the bills, the territorial governments would have complete control over the distribution of those monies among the various programs being delivered and over multiyear time frames.

The bureaucracy of the N.W.T. in the 1980s has a number of unique features which distinguish it not only from that of its sister territory, but from the typical forms in the provinces as well. The most characteristic feature of the bureaucracy of the GNWT is the extent to which it has been decentralized. Not only are there field personnel in even the most remote communities, but the entire territory is broken into five regions. The regions have a regional superintendent for each of the eleven departments that have field operations, and each superintendent functions on a day-to-day basis independently of headquarters in Yellowknife. There is even a growing tendency among the various departments in the government of the N.W.T. to assign some policy responsibilities to the regions, although the success of this in the face of the inevitable bureaucratic pressures for centralization will be severely tested. What complicates the N.W.T. system of regional offices is that at the regional level there is also a regional director, who reports directly to the department of the executive and is the senior officer in the region. In operational matters and matters of interdepartmental coordination, these regional directors have line authority over the various departmental operations in the region. While this system, with such bifurcation of authority, works contrary to the important organizational principle of unity of command, it is important in integrating regional operations and in enhancing the sense of autonomy of the regions not only among the public servants but as well among the people in the communities of the region.

A second feature of the N.W.T. bureaucracy which distinguishes it from Yukon, is that there is in place a policy of "indigenization" of the public service. Recognizing that bureaucracy gains legitimacy through being representative of the people it serves, the territorial government has embarked on a series of programs that provide training and development opportunities and hiring preferences for native people. While these programs have in fact increased the percentage of natives in the public service to almost 40, the disappointment has been in the relatively small number of native northerners who have been able to rise to the more senior levels of the bureaucracy. Partly this is because the native public servants tend to lack the educational levels required for more senior positions, but it is also reflective of the fact that a large number of senior positions would require natives to leave their home communities and move families to Yellowknife. The most successful results of these native employment programs have been in departments such as Renewable Resources, where a very large percentage of natives fill positions as wildlife officers in the more remote communities. This is doubly important potentially, for such employment is compatible with traditional lifestyles and is even complementary to the traditional economy. Public servants such as wildlife officers spend a great deal of their time on the land, and while their goal is no longer subsistence, it is conceivable that such employment opportunities may help to build some of the needed bridges between the traditional and the wage/welfare economies. Yukon has no comparable programs, partly because having a smaller native population indigenization is seen as less of a priority, but also because of the territorial government's philosophy of one government for all Yukoners, and its commitment to a system of a recruitment and promotion based more strictly on merit.

There is a third dimension that can help us to differentiate between the nature of public administration in the N.W.T. and Yukon, and that is the degree of professionalization of the bureaucracies. This professionalism can be seen at two levels — at the level of the qualifications and career patterns of individual public servants, and at the level of the style of philosophy of the system as a whole. The trend in both territories has been at the first level generally toward the direct recruitment of personnel with higher degrees of professional, managerial and technical qualifications, and at the systemic level toward the "rationalist" approaches that have been in vogue "south-of-sixty" for more than a decade. However, there are distinct differences.

In the N.W.T. we have already seen the policy of indigenization, which is combined with an explicit "northern preference" in public service hiring. While such programs are beneficial in a number of ways, both practices tend to work counter to the goal of a professional public service. Coupled with these more or less formalized recruitment policies in the GNWT has been the actual practice of recruitment and promotion



over the past decade. Generally, in the N.W.T. a career in the public service requires significant experience in the field in the more remote communities before promotion to more senior positions in Yellowknife. One result of this career pattern has been that the senior management positions in the government have tended to be dominated by personnel lacking professional management training. The reason for this is that people with such training are generally unwilling to accept the relatively junior and generalist positions in the field, which are simply not challenging enough. Hence, field positions have tended to be staffed with people who often have no more than secondary education to begin with; and because those positions are strictly operational rather than supervisory, there are limited on-the-job opportunities to develop managerial skills. Thus, when such people, who in the past formed the recruitment pool for headquarters managers, are promoted to positions in Yellowknife, they lack the managerial skills. Even today there are disproportionate numbers of ex-teachers who have been promoted to senior management positions because of higher levels of formal education, and significant numbers of ex-RCMP NCOs and ex-Bay employees who have had the opportunity to acquire some supervisory skills in their jobs. While such people possess the invaluable field experience and the consequent sensitivity to conditions in the communities, and while many of them have indeed developed into fine instinctive managers, there is still today a paucity of professional managers in the senior bureaucracy.

Contrasting with this old guard of experienced northerners, there is in Yellowknife a growing cadre of young southern-trained professionals who have the formal qualifications but who lack the experience in the field. The recruitment of such people was recognized as necessary in order for the government to cope with the rapid growth, jurisdictional expansion, and the need to deal on equal terms with public servants in other jurisdictions in Canada. One of the immediate impacts of this influx of newcomers has been a shift in the overall style of public administration in the N.W.T. from the small and highly personalized protobureaucracy of the past to a larger, more routinized and depersonalized one. The new breed of professional and technocratic public servants is naturally eager to transform the administrative systems in the territorial government through the implementation of the high-tech, rationalist systems which prevail in other jurisdictions. In the past few years, therefore, we have witnessed the introduction of a number of computerized registries, personnel inventories, and management and financial information systems, most of which are clearly state of the art in Canada. On the level of policy making there have also been a number of structural innovations to facilitate more effective planning and analysis. As a result, the GNWT has an elaborate centralized network of policy secretariats and support units that are designed to provide decision-making support to the Executive Council, in much the same way as the



Privy Council Office and the ministries of state do for the federal cabinet. The practical effectiveness of these systems is still to be tested, but the fact remains that the structures are in place.

While improvements in efficiency and effectiveness in bureaucracy and in the policy support role of the public service are ends to be applauded, there are some negative impacts in the N.W.T. as a result of the trends toward professionalization. On the one hand, there is considerable tension between the professionally trained newcomers and the old-hand northerners. The old guard harbour some understandable resentment for these upstarts who have achieved rank without having had to do their time in the trenches, and conversely the young professionals are somewhat scornful of what they perceive to be defensive and conservative resistance to the modernization of the territorial bureaucracy on the part of the old hands.

On the other hand, the systemic trend toward more sophisticated management tools and techniques has also produced some controversy. Many of the senior people in the government of the N.W.T. feel that such rationalist systems are unnecessary in what is still a fairly small organization, and argue that the administrative process is thus rendered overly complex and less understandable than it needs be. Part of the problem is that the systems are so advanced that many of the current career public servants simply lack the training to be able to understand them and effectively utilize them. The psychological impact of such high technology on a relatively unsophisticated administrative culture is a cost in terms of overall management effectiveness that has generally been overlooked by the enthusiastic proponents of such techniques, and, while ultimately valuable, such systems should be phased in gradually in the N.W.T.

While it can generally be said that the same trends toward professionalization apply in Yukon, the Yukon bureaucracy differs in that its senior management personnel tend to be more specialized and more professional. Part of the reason for this is that the government of Yukon came of age earlier than the government of the N.W.T. The Yukon public service has simply had a longer time to mature than the government of the N.W.T., and today looks very much like any provincial administration. A second factor that has affected the more professional nature of the Yukon public service has been the more centralized nature of its bureaucratic structure. Such a centralized system inevitably places a lower level of significance on field experience as a criterion of recruitment to the management categories. A third factor that has had an impact on the type of personnel in the bureaucracy is the absence of a policy of indigenization. Finally, the difference between the extent of professionalization of the senior bureaucracy in Yukon and the N.W.T. may be the fact that the latter is the only jurisdiction in Canada without a

public service commission, and hence without a strict merit system for the senior public service.

At the systemic level, however, it can be argued that the N.W.T. bureaucracy moved more quickly than its sister territory in the implementation of rationalist techniques. One of the reasons for this is simply that the government of Yukon is half the size of the government of the N.W.T.; and with a much more centralized administrative process to begin with, such sophisticated techniques were until recently simply not seen as necessary. However, the government of the N.W.T. also developed elaborate structures of policy planning and decision-making support for the political executive. This likely reflects the fact that the Executive Committee of Yukon was politically more sophisticated than that of the N.W.T., which is still a new experiment and not organized along party lines. The more elaborate policy instruments in the N.W.T. likely emerged earlier because of a recognition that the younger and less experienced ministers would need a lot of help in coming to effective policy decisions. However, the Yukon Territorial Government has recently undergone a fairly extensive reorganization, which will streamline the bureaucracy and provide greater central agency input to the decision-making process.

At a higher level of generalization it can be concluded that bureaucracy in the North is now and will continue to be an important force in the stimulation of progress and change. While the experience of northern politicians in intergovernmental relations is still lagging behind that of the elected leadership in provincial and federal arenas, at the bureaucratic level the professional nature of the territorial bureaucracies allows them to deal on the same level with the governments in the South. Most significant in this regard is that a sophisticated policy support apparatus for the political executive can enhance the credibility of the northern thrust for greater and greater administrative (and constitutional) autonomy from the federal government, and in the long run can help to accelerate the evolution to full responsible government and provincehood. By countering the colonial mentality in the territories internally, by being made representative, and by delivering programs to people in the field, the bureaucracy can potentially become an integrative force. In the same vein, the inclusion of more and more native people in the public service can have an important positive impact on the transition from the traditional to the wage economy.

## **The Issues and the Interests**

As we have seen, the two northern territories have been evolving gradually over many decades, and while many changes have occurred, there was never perceived to be any urgency for settling northern issues. However, since the 1970s the tempo of constitutional and political

change in the N.W.T. and Yukon has increased greatly; a number of northern issues have assumed prominent positions on the agenda of political debate in southern forums, and there is, in the 1980s, a growing sense of urgency to settle northern issues. The visibility of northern problems and issues and the perceived urgency to settle these were fostered by the recognition of the mainstream Canadian economic and political elites that the economic future of Canada hinges on the exploitation of northern non-renewable resources that for more than a century have been permitted to lie in cold storage. Thus, while the topic of this paper is constitutional and political development, it must be recognized that the engine driving the machinery of change in the northern territories today is the resource-hungry Canadian economy. The fuel is pressure from the southern boardrooms (both Canadian and multinational) and cabinet chambers (both federal and provincial). That pressure for development waxes and wanes with the fluctuations of supply and demand in the Canadian and world economies, but through all of the fluctuations the development of the non-renewable resource staples of the northern hinterland remains a high long-range priority to the movers and shakers of the South.

The initial assumption of those who would develop the resources of the North was that such development would be welcomed by the people of the two territories, who thereby at last would be given the full benefits of southern industrialized society and all of the luxuries associated with civilization. When the first development schemes were proposed, the objections of a few outspoken northerners, both native and non-native, were dismissed as the bleatings of radicals and cranks who did not represent the true views of northerners. However, it soon became clear that most residents of the N.W.T. and Yukon had strong views about the nature and pace of development, and more significantly northern leaders began to ask questions about the social and environmental costs of development (who would have to pay?) and about the economic benefits (who would reap them?). Basically, what northerners, both native and non-native and in both the N.W.T. and Yukon, want is greater control over their destinies. They want a say in determining the pace of development and the form that the development takes; they want assurances that development will proceed in a manner that does not destroy the existing social fabric or the natural environment; and they want a piece of the action — a fair share of the economic rents and job opportunities that will flow from the resource development projects.

For the white northerners, then, who in both the N.W.T. and Yukon generally are favourably disposed to the principle of non-renewable resource development, the basic demands are for full responsible government and for devolution of authority from the federal government to the territorial governments. Such constitutional changes, it is felt, will ensure that northerners will have local control over the development

projects and a share of the economic benefits. For the native northerners, while ultimately they too see the advantages of representative and responsible government, they see their special interests served best through a settlement of their aboriginal claims before any development is approved. Through affirmation of native title to land, guarantees of native participation in decisions affecting the North, and a cash settlement in return for past exploitation of native lands, the natives hope to be able to ensure that future development in the North proceeds in a manner compatible with their aspirations and economically beneficial to their communities. For the Inuit, while they are firm in their demands for a settlement of native claims, they see the creation of a separate territory of Nunavut east and north of the treeline as the most effective guarantee of their rights.

Thus, there are three major sets of demands coming from northerners today, and each of these demands defines a key issue not only in the relationship between the North and the South but in the relationships among various northern constituent groups. Although it must be recognized that all of these issue areas — native claims, constitutional development, and Nunavut — are interrelated, each will be dealt with individually below.

### *Native Claims*

The reason we are dealing with the issue of native claims first is that the settlement of these claims is a precondition for almost all major constitutional and economic initiatives in the two territories. Hence, major non-renewable resources projects, such as pipelines, have been held up; non-traditional land use and the transfer of Crown lands to the territorial governments have been frozen; further devolution of power from the federal to territorial jurisdictions have been delayed; and even the creation of Nunavut, the highest priority of the native people of the eastern Arctic, has been made conditional — all because the claims have not been settled. Hence, while the settlement of the native claims is important, it is a critical prerequisite for most other aspects of development in the North.

The legitimacy of the native claims in the N.W.T. and Yukon has been based on the principle of aboriginal rights. While this principle is not defined explicitly in any legal document, it has a strong customary foundation, buttressed by legal enactments such as the Proclamation of 1763 and the order-in-council ceding Rupert's Land to Canada in 1869; by common law in cases such as *Calder v. A-G, B.C.* in 1973; by federal policy statements since 1973; and by entrenchment in the Charter of Rights and Freedoms in 1982. In its essence, the principle of aboriginal rights is that the people who preceded the European arrival on the continent had rights at the time they first came into contact with the

Europeans, and unless these rights were at some time explicitly extinguished they continue to exist.

### LAND, CASH AND POLITICAL RIGHTS

The cornerstone of native claims is the ownership and control of the land. As we have seen, the land holds a central place in the social, economic and spiritual lives of the native peoples, and as such it is the disposition of that land that is the dominant concern of the Dene, Métis and the Inuit alike. In all settlements the outcome will likely involve the affirmation of native ownership of some lands outright — so called *fee simple* title to the land — and the entrenchment of exclusive usufructuary rights with respect to large amounts of land traditionally used by the group for hunting and fishing. The latter is clearly an aspect of aboriginal title, and while it is unclear whether aboriginal title can be construed as including individual ownership, such provisions have become an important part of the political deal in all of the northern claims negotiations.

At a second level of the deliberations, the issue of the disposition of land becomes more complex. Hence, one issue is whether the land ceded to the native group in fee simple includes both surface and subsurface rights, and whether such land is inalienable. Do the natives have the right to sell their land, can native lands be expropriated, and can the land be confiscated for non-payment of taxes or for settlement of other unsatisfied debts? A second set of secondary issues is whether the usufructuary title to native lands is exclusive or to be shared with other traditional users of the land, and whether and to what extent exclusive usufructuary rights include control over the use and disposition of the land. Inevitably different claims will reflect different approaches and solutions to such questions.

The second major item on the agenda for the negotiation of native claims is the nature and extent of the financial benefits to the native people. While it is difficult to see cash on the barrelhead as an aspect of aboriginal rights, all land claim settlements in the North will involve such a financial award. There are several justifications offered for the inclusion of a financial settlement in what is intended to be a comprehensive agreement on the claims.

The first is that the given native group is owed compensation for natural resources extracted from their lands prior to the settlement. The second justification is both retributive and reparative, based on the assumption that the non-native society should pay for the negative social impacts it has had on the native community, and provide funds necessary to establish programs to repair some of the damage. The third argument for governmental financial support is simply an extension of the redistributive function that governments perform in all liberal democratic societies. Here the natives want access to various regional eco-

conomic development programs that the federal government provides for all Canadians, and as well the native organizations are arguing for special programs directed at them specifically. Fourth, most northern native groups take the position that they should also get a share of natural resource rents accruing from resource extraction activities in the territory at large. Finally, what has become an important point in the position of the native groups is the argument for a tax exemption for native development corporations and for the investments made by the native organizations, as well as preferential treatment for native corporations tendering for government contracts.

Obviously this list of arguments for financial settlements in the claim is a bargaining position, and obviously some of the demands will be rejected by the government negotiators because they would involve permanent inequities for non-natives in the North. However, it is just as certain that each settlement in the N.W.T. and Yukon will involve a substantial transfer of cash from the federal coffers to the native organizations. The key question here is "how much" (as it is with the land portion of the settlements), and the ultimate numbers will be determined not so much in terms of rational debate as they will be by hard horse-trading, and by the relative perceived urgency of coming to an agreement.

The third dimension of the native claims negotiations involves a settlement of the political rights of the native people and a definition of the relationship between the native and white communities. Basically the native organizations are asking for guarantees of their continued ability to control political decisions that affect them. The position of the native organizations on this aspect of the negotiations ranges fairly widely, from demands for the right to be consulted on matters of concern to native people to outright sovereignty in all subject matters that would be provincial in the South. In between these extremes are proposals for semi-autonomous regional governments, for guaranteed representation for a certain number of natives on territorial legislatures, for equal native participation on various management boards, and for membership on advisory and deliberative bodies with responsibilities in areas of native concern.

While much of this has been part of the debate over the native claims settlements, it is unlikely that most of these demands can be met as a part of the comprehensive claims agreements. However, there are processes, separate from the native claims negotiations, that address these issues as well, such as the ongoing federal-provincial constitutional conferences on aboriginal rights, legislative proposals in the N.W.T. for semi-autonomous regional municipalities, and the continuing research and public hearings sponsored by the Constitutional Alliance of the N.W.T. on the issue of division. These processes, operating simultaneously and parallel to the native claims negotiations, will be discussed further as we look at the four individual claims in the N.W.T. and Yukon.

## THE YUKON INDIAN CLAIMS

The spokesman for Yukon natives in the claims negotiations is the Council for Yukon Indians (CYI), which was formed as an umbrella organization of then separate Indian and Métis associations in 1973 for the explicit purpose of getting the claims negotiations underway. The original position of the CYI was set out in a paper entitled "Together Today For Our Children Tomorrow," which asks for an affirmation of native title to their traditional lands, a cash settlement as compensation for resources already removed from native lands by non-native industries, social and economic development programs to assist Yukon natives to adapt to the changes associated with future non-renewable resource development, and political rights to protect the Indians as a minority within the eventual province of Yukon. This original position also included a demand that all major resource development projects, including the Alaska Highway Pipeline, be delayed until the claims are settled. The CYI has also been opposed to further devolution of power to the Yukon Territorial Government and to provincehood until the claim is settled.

Today the Yukon claim is extremely close to settlement. The federal government and the Yukon government are essentially "on side," and all that remains is for ten of the twelve Yukon native communities to ratify the agreement in principle. At the time of writing, although there are a couple of significant holdouts, most of the communities have in fact ratified the agreement.

The Yukon settlement is not a single agreement; rather it is a large number of individual agreements dealing with the various aspects of the settlement. The most important component of the Yukon settlement is, quite naturally, the land. Significant parcels of land are ceded to the native communities in fee simple. These lands are essentially located around the communities and in traditional hunting and trapping areas, and the title will include both surface and subsurface rights. What may prove to be the most controversial feature of the Yukon land claim settlement is that the amount of land ceded per capita to the natives varies from region to region. Of the total 8,000 square miles of lands ceded to the Yukon Indians, the more northerly Old Crow band will receive 3,000 square miles. This is much more per capita than the amounts ceded to the communities in central Yukon, which are greater in turn than those ceded to southern Yukon. The breakdown is reflective of the percentage of the population in each region that is non-native, and of the extent of traditional use; and although the principle is fine, it has been one of the key points of contention within the CYI and has been the main reason that communities in central and southern Yukon have been reluctant to ratify.

The financial settlement in the Yukon agreement includes capital transfer payments of \$380 million, additional compensation for loss of



program benefits under the Indian Act, and annual payments for land support funding. As well, there are a number of special development agreements with the federal government, which are designed to assist Yukon natives in implementing educational, economic and social development programs. While the CYI was successful in negotiating some tax benefits, they were unsuccessful in getting agreement on a preference in government tenders for northern native development corporations.

The CYI settlement significantly does not guarantee any special political rights for Yukon natives. However, the claim beneficiaries are guaranteed representation in many areas of common concern such as wildlife management, land use planning, environmental assessment and review, education, justice, health and local government. The settlement moreover, while based on the extinguishment of aboriginal *title* to the land, does not extinguish aboriginal *rights*. These are guaranteed in the Charter of Rights and Freedoms, and if and when those rights are defined by the federal-provincial constitutional conference, they will automatically apply to Yukon Indians regardless of anything in the current claim settlement.

The Yukon claim settlement is the product of many long years of often acrimonious negotiation among CYI, the Yukon Territorial Government, the federal government, the neighbouring native groups, the Inuvialuit and the N.W.T. Dene, and that settlement is very much reflective of the bargains and compromises that have been struck among the interests involved in the process. With respect to the land portion of the settlement, the conflict was a "zero-sum" game where anything the natives got was alienated permanently from the non-native community. Here the YTG argued, among other things, that if Yukon Indians were to get the rights to the land, why not non-native Yukoners as well? Although the territorial government eventually did not hold up the agreement on land on that point, it was extremely watchful during the actual process of land selection to ensure that the most valuable land was not all ceded to the natives. The Yukon approach to land in the territories was premised on the assumption that at some time in the not-too-distant future, the territory would become a province, and that the land not held by the natives would be owned by the Crown in right of Yukon.

The federal position on this, while non-committal specifically, implicitly recognized that eventuality as well. However, the federal interest, with respect to the land ceded to the natives, was to ensure that major non-renewable resources projects would not be blocked as a result of the natives acquiring title to land required for such development projects (notably along the proposed Alaska Highway Pipeline route). A secondary interest of the federal government with respect to the disposition of the land was to protect the fragile ecosystem of the Yukon north slope, where a large tract of land has been set aside as a park reserve and eventually will become a part of the national parks system. With respect



to the north slope, where federal and native interests overlap and where the fate of the migratory Porcupine caribou herd is involved, a joint management regime with the participation of both levels of government and the natives of Old Crow and, where necessary, that of the Inuvialuit as well, will be established through specific multilateral agreements.

The claims by the Committee for Original People's Entitlement (COPE) and the Dene overlapped with that of the CYI in the north slope region and in the Mackenzie mountains. Here the native organizations based their claims on what they identified as traditional patterns of land use. The fact is that traditional patterns of land use of the various groups did overlap, so that the ultimate resolution of such disputes simply involved compromise on the definition of boundaries. These disputes have for the most part been settled through separate agreements with the other native organizations.

The federal interest with respect to the financial settlement was based simply on the fact that it is the senior level of government that will have to pick up the tab. While caution was necessary to avoid the precedent of an overly generous financial settlement to the Yukon Indians, the federal government was generally happy to give less land and more money. The financial portion of the settlement should not, *prima facie*, have been of concern to the Yukon government. However, while the territorial negotiators were not as concerned with the actual amount of the settlement, they were adamantly opposed to measures that would permanently deny them revenues, or to measures that would unfairly discriminate against non-native contractors and businesses. Nevertheless, they ended up having to accede to some tax concessions for the native beneficiaries, even though these concessions will not only deny the territory a revenue source, but also will give the natives a competitive edge over non-native small businesses, which will have higher costs because of taxes.

Both the federal and territorial governments were unwilling to grant any special political status to the Council for Yukon Indians in the claim settlement. The federal position is essentially that there is an ongoing process of constitutional discussions to define aboriginal rights in Canada, and ultimately to provide for some form of special representation in the Senate, etc. Thus, to move unilaterally on such a matter with respect to a single native group in Canada would be an act of bad faith *vis-à-vis* the provinces. Similarly, the federal government, whose relations with YTG are strained at the best of times, was unwilling to force any such concessions on the territory. The Yukon government is strongly opposed to any special political status for native people and has consistently pursued its policy of one government for all Yukoners. However, where the territorial position softened to some extent was in its willingness to approve the establishment of a number of advisory committees and management boards in areas such as wildlife and land use, which would feature participation of local natives in their delibera-

tions. Possibly this lack of any real guarantees of political rights is the most disappointing outcome of the claims settlement to the natives of Yukon, but the compromise was accepted, partly because the native organizations themselves were tired of the many years of confrontation with no results.

## THE INUVIALUIT CLAIM

The Inuvialuit are the descendants of Alaskan Eskimos who migrated east along the Arctic coast of Yukon, and who finally settled in the region around the Mackenzie Delta and Beaufort Sea. This is the smallest group seeking a settlement of their aboriginal rights in the North, involving only about 2,500 people in five communities. The Inuvialuit are represented in the claims negotiations by COPE. While the Inuvialuit were originally to be a part of the overall claim of the Inuit Tapirisat of Canada (ITC), COPE broke away from the main negotiations to seek a separate settlement, and signed an agreement in principle with the federal government in 1978. Since that time negotiations over the process of land selection and the process of community ratification proceeded slowly, but the final agreement was signed in Tuktoyaktuk on June 5, 1984, and ratified by Parliament on June 26.

As with the Yukon settlement, the deal in the Delta hinges on the agreement of the Inuvialuit to the extinguishment of aboriginal title to the land. In return, the natives will receive approximately 700 square miles of land in and around their communities, which they will own collectively in fee simple — both surface and subsurface rights. As well, the Inuvialuit will have exclusive surface rights to and practical control over another 3,200 square miles, which comprise a large percentage of their traditional hunting and trapping territory.

While the financial and the economic arrangements in the COPE deal are not as complex as those in the Yukon settlement, the Inuvialuit have received a large cash settlement, some of which was paid to them on signing the agreement in principle. A key element in the COPE agreement is that the native people will share the royalties on non-renewable resources, which will be tax free for a 25-year period after the signing of the agreement. However, while their financial settlement was significant, the COPE negotiators generally took the approach that land was more important than cash, or royalty shares, because control over land ultimately would determine the fate of the traditional economy.

The COPE claim does not grant any political rights to the Inuvialuit, although, as with the Yukon settlement, it does provide for native representation on a number of management boards and planning committees in the region. However, the people of the Mackenzie Delta have been directing a tough campaign in the Legislative Assembly of the N.W.T. and in the Nunavut Constitutional Forum (NCF) for the creation

of a Western Arctic Regional Municipality (WARM) that would enjoy a significant measure of autonomy in matters such as education, policing, health services and wildlife management. The NCF has, in fact, recommended that WARM be entrenched in the Nunavut constitution.

Although a number of years elapsed between the signing of the agreement in principle and the signing of the final agreement, the COPE settlement generally has been achieved without acrimony. In the initial period after the signing, the other native organizations in the North were critical of the COPE negotiators because they felt that the acceptance of extinguishment of aboriginal title was a bad precedent and would affect the outcome of all of the other outstanding claims. Moreover, there were important overlaps in the lands being claimed by the Inuit, the Dene and the CYI, and those claimed by the Inuvialuit. However, the differences between COPE and the other groups have been worked out, and agreements have been reached on the overlaps of competing land claims.

The N.W.T. government did not play a significant role in the COPE negotiations, although they had officials present throughout the process. Basically, by contrast to Yukon, the N.W.T. assembly has been more positively disposed toward the land claims, a posture that is reflective of the native majority and the presence in the assembly of people such as Nellie Cornoyer, who was among the founders of COPE in the early 1970s.

The federal interest with respect to the COPE settlement was in part to get an agreement signed that included basic principles such as extinguishment of title to the land, which could serve as a model for the other agreements in the North. In terms of the substantive impacts of the agreement, the critical concern of Ottawa was that future non-renewable resource development in the Delta and the Beaufort Sea not be held up or hindered. This concern is met in part by the fact that the settlement does not affect federal sovereignty in the offshore, and that lands known to contain oil and gas reserves in the Delta were excluded from the process of land selection. However, on another level, the future of non-renewable resource development in the region is ensured because the future economic well-being of the Inuvialuit, tied as it is to a share of oil and gas royalties, depends on that development too. As a possible indication that this strategy has worked, the Inuvialuit Development Corporation has been involved in a number of joint ventures with the oil industry in the Delta and offshore.

### THE DENE-MÉTIS CLAIM

The Dene of the Mackenzie Valley are represented by the Dene Nation, an organization that evolved out of the Indian Brotherhood of the Northwest Territories in the mid 1970s. The Métis of the valley are represented by the Métis Association of the N.W.T., and although until recently they had views quite different from those of the Dene Nation,

they are now working cooperatively with the latter toward the settlement of their common claim. The Métis would have preferred to negotiate a separate claim, but the federal government took the approach that separate settlements dealing with the same land area would be too difficult if not impossible, and insisted on the two organizations reconciling their differences and submitting a single claim. One of the initial problems in reaching an agreement between the Dene and the Métis was the question of eligibility for the benefits flowing from the ultimate settlement. However, the groups have finally agreed on a formula, and the process of negotiation with the federal government is proceeding.

The key to the Dene claim is that the natives are seeking more than simply the title to land. Instead, they are looking for a political settlement as well, which will guarantee to all the native peoples of the Mackenzie Valley permanent control over their lives. In essence, in their original "Dene Declaration" they were asking for special status in Confederation, a recognition of native sovereignty, absolute control over traditional lands, constitutional guarantees of language and educational rights, and perhaps most important, an affirmation of aboriginal rights rather than extinguishment.

The Dene position is, in many ways, the most radical of the four claims in the North. The political philosophy of the leaders of the Dene as expressed in the "Dene Declaration" of 1975 was rooted in the principle of national self-determination, and many of the earlier pronouncements of the organization were couched in the rhetoric of national liberation and independence. It is clear that the lack of any progress in the early years of the negotiations is a result of Ottawa's negative reaction to such concepts and the fact that much of the early literature of the Dene Nation employed the language and slogans of Marxism and Maoism. However, times have changed and the position of the Dene Nation has moderated to the extent that the federal government is at least willing to listen. The Dene have moved successfully and emphatically into the political mainstream in the N.W.T., abandoning their past policy of boycotting the territorial assembly as a colonial institution and assuming a powerful if not dominant position in that body. Economically, too, the Dene have moved from an intransigent anti-development position to where today the Denendeh Development Corporation is moving into joint ventures with the petroleum giants.

The federal government remains firm that the settlement claim in the valley will not vest anything close to sovereignty in the native people; and, as it did with the Yukon Indians, the government has taken the position that since many of the questions of aboriginal political rights are before the national constitutional conference, they have no place in the claims settlement. The territorial government, headed by Richard Nerysoo, who is a past member of the executive of the Dene Nation, is generally very supportive of the Dene claim. However, as a government

of *all* the people of the Mackenzie Valley, the government of the N.W.T. must also take into account the interests of the non-native community. One problem in the valley is that the Dene and white communities are not separate geographically. In the large communities, which tend to be predominantly white, there are still large native populations; and conversely even in many of the smaller communities, which are predominantly native, there are white residents who have to be considered. Nevertheless, with a willingness to compromise and the mutual goodwill that seems to prevail between whites and natives in small communities in the N.W.T., the land part of the claim could likely be settled fairly quickly.

The real dilemma in the western part of the N.W.T. is that government by simple majority rule would ultimately render the natives a permanent minority and could in the long run lead to assimilation. On the other hand, setting up separate native and white communities with separate representative institutions has been likened by some to a system of apartheid. Negotiations on this area of concern are proceeding not only in the North but in the national constitutional forum as well. However, consensus on the definition of political rights for native peoples is still a long way off. Perhaps the most promising basis for a solution to the dilemma of the Dene in the western N.W.T. is to be found in some form of regional government along the lines of the Western Arctic Regional Municipality (WARM) proposals in the Delta-Beaufort region. There is, at the present time, territorial legislation that provides for the establishment of regional or tribal councils, and the Dene of the South Mackenzie-Great Slave Lake region of the territory have taken advantage of this legislation to establish the Dogrib Tribal Council. While such municipal-style institutions are clearly subordinate, exercising only such powers that are delegated to them by the territorial government, if the senior governments are willing to allow *de facto* local autonomy in matters such as education, social services, and wildlife management, regional municipal institutions may prove to be effective bridges between native and non-native communities.

## THE INUIT CLAIM

The original claim of the Inuit of the eastern Arctic, entitled "Nunavut," was presented to the federal government in 1976 by the Inuit Tapirisat of Canada (ITC), the organization that represents the Inuit. The original Nunavut proposal demanded approximately 250,000 square miles of land along with a share of resource royalties and a cash settlement as compensation for past use of Inuit lands. The document was received fairly positively by the federal government, for when compared to the "Dene Declaration" it was a relatively mild proposal. While the government would not have been willing to give away as much land as the Inuit

were demanding, there were no political demands in the proposal that could not be met. However, for the same reasons the federal government approved of the Nunavut document, many of the native leaders in the communities of the eastern Arctic rejected it. They felt that the proposal was far too mild in that it accepted the principle of extinguishment of aboriginal rights and did not offer any provisions to guarantee the political rights of the Inuit. After much discussion the original proposal was withdrawn.

Since that time the overall tactic of the Inuit negotiators has changed significantly. While the process of finding a settlement is proceeding, much of the debate concerns the question of the nature and amount of compensation, and the working out of joint management regimes in the areas of wildlife and land use. However, the centre of gravity of the negotiations between the Inuit and the federal government has shifted to the Nunavut Constitutional Forum. The Inuit have come around to the position that the land and political rights aspects of their claim can be settled more satisfactorily through the division of the N.W.T. and the creation of a separate territory of Nunavut in the eastern Arctic. Ultimately, the Inuit expect that Nunavut will become a province and at that time the Crown in right of Nunavut will own all the land in the region. Because the Inuit would comprise about 85 percent of the population of Nunavut, their political rights would be assured simply through the principle of majority rule. By fixing the franchise for Nunavut elections to ensure only people who have indicated a long-term commitment to living there, the Inuit majority could be sustained for a number of years after division; and the danger of a sudden influx of transient whites and the consequent dilution of the native political presence would be eliminated or reduced. (The issue of the division of the N.W.T. will be discussed separately below.)

The importance of settling the native claims in the North stems from the relative urgency to develop the potentially vast mineral and petroleum wealth of the N.W.T. and Yukon. However, another significant variable is the fact that a nation is defined internationally and in terms of its own national conscience by the way it treats its minorities and specifically how it deals with its aboriginal peoples. If Canadians wish to maintain the international reputation of living in a just society through the coming decades, it is essential that the Government of Canada settle the legitimate claims of the northern native people fairly and without undue delay.

### *Constitutional Development*

As we have seen in the discussion of the evolution of the N.W.T. and Yukon, there are two major constitutional development issues. The first of these is responsible government, which in its essence involves the

relationship between the executive and legislative branches of the government. Yukon has already achieved a status very close to full responsible government, for the Executive Council must maintain the support of a majority of the Legislative Assembly in order to continue in office. The final step to full responsible government in Yukon involves the role of the commissioner, which should be redefined so that his or her powers are mostly nominal, as are those of a lieutenant-governor. In the N.W.T. the commissioner still has active responsibilities in the governance of the territory. The final step here is a much bigger one than in Yukon, where *de facto* responsible government is already in operation. New instructions to the commissioner are required that will remove the last portfolio, the Department of Personnel, from his direct control, and the chairmanship of the Executive Council should be vested in the leader of the elected executive. Such a change in the role of the commissioner would be uncontroversial, for there are no interests, except possibly some bureaucratic ones in the federal government, which are opposed to responsible government.

One legal obstacle to the transformation of the two commissioners to lieutenant-governors is the fact that lieutenant-governors represent the Crown. Although legal opinions vary, it may be that the powers and privileges of the Crown can be vested only in a sovereign body, and the N.W.T. and Yukon do not enjoy that status. The one other obstacle to *de facto* responsible government in the N.W.T. is that some federal officials take the position that responsible government is impossible without political parties. However, if factional coalitions in the assembly become stable, the result will be roughly the same as having parties, and responsible government can be fully instituted.

The final issue relating to the institution of responsible government in N.W.T. and Yukon is the question of the control of the public purse. Because territorial operating and capital grants still must be approved by the federal government, power over the public purse, which is an important aspect of responsible governments, is partial. Hence, a final significant step in the achieving of responsibility is the freeing of the territorial budget from federal control through the institution of a system of formula financing. Then, while the total amount of money transferred from the federal level to the territorial consolidated revenue fund will be set by the federal formula, the appropriation and disbursement of those funds among territorial programs will be entirely in the hands of the territorial executive council and the legislature.

In the final analysis, responsible government is not an issue at all in the territories. Everybody sees it as a necessary and positive step, and nobody is opposed to it except for a few federal officials. On the other hand, the question of further devolution of authority to the territorial level, and ultimately the granting of provincial status to the two northern territories, is more controversial. The ultimate target of political and



constitutional development in the N.W.T. and Yukon is full provincial status. Of the three protoprovinces in the North — Yukon, the N.W.T. and Nunavut — the first appears to be the closest to achieving provincehood. In fact, the short-lived Conservative government of Joe Clark promised Yukoners that his government would speed up that process considerably and, as we have seen, had taken the first steps by reducing the role of the commissioner of the territory. However, the collapse of the brief Conservative interregnum and the return to power of the Liberals, coupled with a severe downturn in the Yukon economy, have at least temporarily dashed the hopes of the provincialists in that territory. While there is a general recognition by all parties in the House of Commons that provincial status is the bottom line in territorial constitutional development, a number of conditions have to be met before the elevation of the territory to provincehood would be realistic.

The most important of these conditions is that the potential province must possess a large enough tax base to support itself. According to federal government assessments, both Yukon and the N.W.T. have higher per capita revenue potentials than the Canadian average. In other words, in good economic times, if the territories were given control over the same revenue sources, they would have higher per capita revenue than all provinces except Ontario, British Columbia and Alberta. The problem, however, is that the per capita expenditures of both Yukon and the N.W.T. are much higher than any of the other provinces. The conclusion of the federal government's assessment of the territorial tax base is that the territories cannot now support themselves, nor can they be expected to do so in the immediate future, and should not become provinces until they can. The provincialists in the territories counter this by claiming that if the federal government subsidizes them now it could continue to do so just as easily if they were provinces. Furthermore, they argue, the new discoveries of gas, oil and other minerals will eventually expand the revenue base of the territories so that they will become solvent.

The truth of the matter likely lies somewhere between these arguments, but it must be recognized that the tax base argument against provincehood is, in effect, an argument about population size. Even tiny Prince Edward Island has a population of 120,000 in contrast to Yukon's 23,000, and even without taking into account the higher costs of running a government in the extremes of climate and physical distance that are the rule in the North, and the boom-bust cycles of the northern economies, the northern territories are the victims of negative economies of scale. Furthermore, in a related way, the small population of the northern protoprovinces would make it difficult or impossible to staff the provincial public services from within. It would be necessary to hire a lot of outsiders to assist in running the show, which in the case of Nunavut, for instance, would mean a significant threat to the Inuit majority in the



long run and, given the power usually assumed by bureaucracies in modern political systems, a loss of local control over much of the process of government in the short run. Thus, while it is extremely distasteful to put a size limit on self-government, the fact remains that paying the bills in order to maintain an effective provincial bureaucracy might end up placing an unreasonable per capita tax burden on the people of the territory.

The second factor which must be considered if provincial status is to be feasible, is the level of political development in the potential province. In Yukon, there is a long history of political involvement by the whites and a growing involvement of the native people, and with the evolution of a party system it would appear that there is sufficient political sophistication and sufficient political awareness and concern among the people to warrant self-government. In the Northwest Territories, the political institutions have not evolved as quickly nor as far as they have in Yukon. However, while the territorial assembly is not a partisan one, most of the members of that assembly are well equipped to assume the additional responsibilities of provincial status. If the separate territory of Nunavut is created, it is not likely that the people of the territory would have either the level of political sophistication or the desire to enter into a provincial form of government immediately. The Inuit, as with the Dene in the west, have gone through a very rapid process of political mobilization, largely because of the threats to their livelihood presented by major resource development proposals. However, while there is now a high level of awareness of political issues that affect them directly, and a high level of involvement on the part of native political leaders, the level of political sophistication among the population at large is still fairly low. Having said this, it must be emphasized that the northern natives are learning the ropes of liberal democratic politics very rapidly. They already have many capable and effective leaders, and there is no question that by the end of the decade they will have attained the level of governmental experience sufficient for coping with the burdens of provincial status. In sum, the lack of political development as an argument against provincial status in the North is not a strong one today, and it will be virtually irrelevant by the end of the eighties.

The third requisite for provincial status is that the people in the territory must themselves want provincehood. This would likely necessitate a referendum in the given protoprovince, in which all of its citizens are permitted to vote. This technique would work very well in the eastern Arctic, where there is relative cultural and ethnic homogeneity, but in Yukon and the Mackenzie Valley there is some danger that a simple referendum might impose a tyranny of the majority. The problem in each of these parts of the northern territories, as we have seen, is that there are significant minorities, specifically the Indians, who do not want provincial status until there is some assurance of their rights as a unique group.

The likelihood of securing these rights after provincial status is achieved seems remote to them, and given the general pro-development orientation of the whites in both the Mackenzie Valley and the Yukon, native fears appear to be justified. Hence, one of the reasons cited, particularly by Ottawa, for rejecting provincial status at this time is that it might deal a death blow to the native way of life in the North. The natives and the more enlightened whites in the North agree, even though some of the latter feel that the sacrifice of traditional lifestyles is one that must be made in the interest of economic development.

The fourth criterion that must be met if the federal government is to agree to provincehood for any of its northern territories is that the move must be seen to be politically advantageous. Given the problems the federal government is having currently in dealing with the energy-producing provinces, and given the disputes about the ownership of offshore resources, specifically in the case of Newfoundland, the federal government is naturally not too enthusiastic about creating new resource-rich provinces with which to spar. While this is perhaps a cynical view of the motives of the federal politicians and bureaucrats, the fact remains that they have a lot more to lose than gain if they meet the demands of the provincialists in the northern territories. Furthermore, it is easy for the federal people to justify a lack of enthusiasm for provincehood in terms of the tax base or political development argument, or still more convincingly, by posing as defenders of the native way of life. As usual, when the issues are not clear, as they are not in this situation, the easiest thing for a government to do is nothing.

There are, however, two common errors made in the approach to the question of devolution of authority to the two northern territories. One is the assumption that provincehood is expected or even desired in the near future by the non-native people of the N.W.T. and Yukon, and the second is the assumption that the issue is provincehood or nothing. With respect to the former assumption, we have already seen that the native people are not in favour of provincehood until their claims are settled, and they are also extremely uneasy about provincehood if there are no constitutional guarantees of their political status. While the general mood among the whites in Yukon is favourable to provincial status, there are still significant numbers of whites who prefer to see the claims settled first, or who are in favour in principle but are uneasy about the post-provincehood individual tax burden. Here it is assumed provincehood will be forthcoming, but the more realistic question is that of timing.

The non-natives in the Mackenzie Valley tend to be less sanguine about provincehood, and basically are willing to accept that while it is the inevitable end of constitutional development, it is not likely to happen in a hurry. While the Dene of the western N.W.T. share the fears of Yukon Indians about provincehood coming before the claims are

settled, the Inuit are opposed to provincehood for the N.W.T. until the creation of Nunavut. However, they are very favourably disposed toward the principle of provincial status for Nunavut in the long run.

The second erroneous assumption that is made about the process of devolution is that it reduces the choice for the federal government and for the people of the territories to "either-or." In fact, it must be recognized that there is a whole range of options that are in the right direction but that stop short of provincial status. If this is recognized by territorial and federal officials, there are several areas of jurisdiction where the federal government could transfer further responsibilities to the representative legislatures without granting those bodies sovereignty. Thus, the most realistic approach for the governments of the northern territories is to continue to press for continued gradual devolution of powers from Ottawa in matters such as criminal prosecutions, labour relations, and inland waters; and in other areas, such as non-renewable resources and land use, where the federal government is going to be extremely reluctant to yield control, to press for full participation on all advisory boards and management committees dealing with resource development projects. Finally, the territories should continue to press for full participation in federal-provincial conferences to replace the current observer status. These are the sorts of demands that the federal government would have difficulty turning down, because there is no sound reason for denying them when the territories already have participation or control in related matters such as law enforcement, wildlife management, health and social services. In the case of providing for territorial participation on bodies with responsibilities relating to non-renewable resource projects, the federal government has already agreed to such participation for native people as part of the claims settlements. It would be unfair to grant such rights to the native people and deny them to the white community. Moreover, the inclusion of territorial representatives on such advisory and deliberative bodies might act as an inoculation against more strident demands for full provincehood.

### *Nunavut*

The question of the division of the N.W.T. has been around now since the early 1960s. During that period, because of pressures from people in the Mackenzie Delta who saw that their opportunities for political development were being held back because the level of political sophistication in the eastern part of the Arctic was so low, it was proposed that the territory be divided at the 105th meridian. The proposal was ultimately turned down by the federal government as a result of the recommendations of the Carrothers Commission, which pointed out that to do so would be to slow down the process of development in the eastern Arctic still more.

The question next arose in the late 1970s when the Inuit Tapirisat of Canada (ITC) proposed division as the way to guarantee political rights for the Inuit without having an explicitly ethnic definition of such rights. Because the Inuit generally live in the part of the N.W.T. above the tree line, by allowing that portion to separate and become a new territory with its own representative institutions, the majority of Inuit in the territory would be able to enjoy a greater control over their lives. While the Drury Report rejected division, the Legislative Assembly of the N.W.T. approved it in principle in 1980; and two years later a territory-wide plebiscite was held where a majority of the people of the N.W.T. supported the idea in principle. While the turnout in the west was very low, the people of the east indicated an overwhelming support for the creation of a separate territory. With the clear indication of public support, and with the endorsement of the Legislative Assembly, the federal government, too, came on side, and in November 1982 the minister of Indian Affairs and Northern Development announced approval in principle of the creation of Nunavut.

However, approval in principle was limited by four major conditions, all of which must be met before the approval can be acted upon. The first condition is that the boundary of the Nunavut territory must be agreed upon by the people of the N.W.T. The reason for this is that the federal government does not want to impose a boundary, but would prefer that the people of the N.W.T., through the Constitutional Alliance, get together and settle the question themselves. What is left undefined in the various statements since the approval in principle is the federal position vis-à-vis the northernmost portions of the eastern Arctic islands, which include the High Arctic settlements of Grise Fiord and Resolute Bay. The 1960s proposal for division would have left the lands north of Lancaster Sound as a federal preserve to be administered directly from Ottawa. The people of the N.W.T. would be wise to have this question clarified through the intervention of either the Legislative Assembly or the Constitutional Alliance.

A second condition on the implementation of division is very closely tied to the boundary question; namely, all of the peoples of the N.W.T. must continue to support the move. The thorniest question in this respect, and the one that is most likely to produce confrontation between the people of the western N.W.T. and the people of Nunavut, is once again the boundary. Here the various arguments presented by the Nunavut Constitutional Forum (NCF) and the Western Constitutional Forum (WCF) are based on traditional patterns of land use, more recent communications and transportation links, local self-determination, and the maintenance of economically viable political units in both the east and the west. Although based on such rational considerations, the NCF and the WCF competing boundary scenarios are not even close. The former runs along the tree line and would have the effect of decapitating

the western territory, cutting it off entirely from the Beaufort Sea. The latter boundary proposal, in contrast, runs straight north and south a few kilometres to the west of the Inuit community of Baker Lake and would have the effect of denying Nunavut the rich mineral resource potential of both the Keewatin and the Beaufort.

One proposed solution is that there be regional or even community-level plebiscites, thus letting the people themselves decide which territory they want to be part of. However, there are several limitations on the effectiveness of such a procedure. First of all, in some of the communities in the Delta-Beaufort region, and even in the western Kitikmeot communities of Coppermine and Cambridge Bay, there are already strong differences as to the best choice. Community-level plebiscites might serve to split these communities internally, leaving one segment of the population permanently resentful of the outcome. The problem is simply that the local option vote, premised on majoritarianism, is completely alien to the consensus style of decision making of traditional native communities, and could undermine the sense of community that is one of the great strengths of remote northern settlements. In some ways, from this perspective, it could be argued that an externally imposed boundary decision, taken by an independent boundary commission, might be better in that the internal solidarity of the people of the communities would rest intact.

The second difficulty with the community plebiscites solution to the boundary dispute is that, for instance, the people of Coppermine could opt for the western territory and the people of Paulatuk, much further west along the coast, could opt for Nunavut. The end product would be a messy, if not undrawable boundary. A partial solution to this possibility is for the plebiscites to be regional and not at the more local level. Then the decision would be taken by the people of an entire region and that region would decide to go with one of the new territories or the other. However, here again the problem is in the imposition of the liberal democratic principle of majority rule on a group of communities whose traditional interaction has been cooperative and consensual. In the Delta-Beaufort region, for instance, community might end up pitted against community, with the result that the cooperative and consensual mood that would be at the heart of a successful Western Arctic Regional Municipality would be permanently broken. For the people of this region, WARM is viewed as the only effective guarantee of the political and cultural autonomy of the Inuvialuit, whether it be a unit within Nunavut or the western territory. Any settlement of the boundary question that causes serious splits among the Inuvialuit communities should be avoided if possible.

The third flaw in the local or regional plebiscite solution of the boundary dispute is that for the most part the territory in dispute is that located in the Keewatin, and is basically uninhabited. It, along with the northern

coast of the Delta, is significant to the two territories because the future viability of the two territories will depend upon a solid resource base, and upon the jobs and benefits associated with providing the services and infrastructure for resource development in the offshore. The basis of the boundary dispute is that any magnanimity on the part of one of the forums vis-à-vis the other translates into a direct loss in terms of resource potential for the “nice guys,” and all the good will in the world cannot alter that hard fact. Thus, the problem here is that there is no obvious compromise — no obvious political solution to the impasse; and while the Constitutional Alliance has managed to agree on the principles that will be applied in the attempt to arrive at a fair settlement, there has been no agreement on which principles should have the most weight (notably, traditional use versus modern transportation links), and considerable friction is building between NCF and WCF representatives. While an agreement within the alliance is the preferable solution, the desire of the NCF to get on with it and the mutual desire to maintain cordial east-west relations may dictate the submission of the issue to an independent boundary commission.

Although the question of the boundary is likely the single most important hindrance to the universal support for division in the N.W.T., there are other potential problems. One of these is that the creation of Nunavut, with whatever boundary, will ultimately scuttle the native majority in the Legislative Assembly of the western N.W.T. In strict Machiavellian terms this should become apparent in the Dene’s opposing division, not only for reasons of boundary but also for the reason that it will place them in a clear minority situation. That this has not happened speaks well of the political integrity of the Dene, for they have continued to support the Inuit in their campaign for Nunavut for reasons of maintaining native solidarity. In the short run this approach has given the native people effective control in the N.W.T. assembly, but it may prove costly to the natives of the west in the long run.

Other potential opposition to the creation of Nunavut will come from the non-native community in the west and particularly in Yellowknife. While these areas are uncertain about the boundary, there are other vested interests best served by keeping the N.W.T. intact. One of these is the fear among territorial public servants, particularly in Yellowknife, that in a smaller N.W.T. there will have to be a smaller bureaucracy. The result of this could be both layoffs and fewer government jobs. Moreover, the spectre of transfer to the Nunavut public service in the as yet unnamed (but certain to be more remote than Yellowknife) capital of the eastern territory is not an attractive one for people accustomed to the amenities of the current capital city.

Still another source of potential opposition to Nunavut from the non-native community in the N.W.T. is one that is shared by many people in the federal bureaucracy. This is the perception that a territory as small in



population and as large in land mass is simply not efficient. The inevitability of diseconomies of scale in the provision of locally controlled services to the people of Nunavut is cited often as the main practical obstacle to division. While the truth of this argument is incontestable, the counter argument is that neither democracy nor self-government has ever been adopted because of cost efficiency. The most important questions are the ones of degree. First, is Nunavut likely to be less cost efficient relatively than the N.W.T., Yukon or, for that matter, P.E.I., when the idiosyncratic extremes of distance, climate and diversity are allowed for? Second, how much more, in absolute terms, is it going to cost Canada to maintain the separate territorial government? The additional drain on the federal coffers may well turn out to be worth the opportunity to make a symbolic gesture of commitment to principles such as self-government and a small price to pay for the social, psychological and political benefits to the people of Nunavut.

A final potential source of opposition to the Nunavut proposal is the non-native minority in the eastern Arctic itself. Here, however, the fears that white residents of Nunavut will become second-class citizens in an "ethnic government" have proven unfounded. The constitutional proposals of the NCF are emphatic that the government of Nunavut will be public government for all residents, and the whites will have equality in all matters with the Inuit residents. Although the NCF is aiming at making Inuktitut an official language, it will enjoy that status along with English and French.

Thus while the condition that Nunavut can proceed only if there is continued support for it in all parts of the N.W.T. may be a significant obstacle to division in the short run, none of the obstacles is insurmountable in the long run. The third condition, that the native claims in the N.W.T. be settled before division, may turn out to be difficult to meet. As we pointed out in an earlier section, only the Committee for Original People's Entitlement (COPE) agreement is concluded, and the Dene-Métis claim is still a very long way from settlement. The commitment to Nunavut in the eastern Arctic is universal, and as such the Inuit negotiating group, the Tungavik Federation of Nunavut (TFN), is working hard toward an early agreement. However, the land portion of its claim cannot be settled until the overlap with the Dene claim is resolved. The irony here is that the ultimate boundary between the Inuit and Dene lands will also likely end up being the boundary between Nunavut and the western territory. Because the negotiators for both the Dene and the Inuit do not want to prejudice the boundary decision that must be taken in the Constitutional Alliance, the settlement of the boundary of Nunavut has become a precondition for the settlement of the native claims, which in turn is itself a condition for Nunavut's implementation!

Besides the overlap, the other reason for the delay in the settlement of the Dene claim is the difficulty in working out some arrangement for guaranteed political rights for the natives within the N.W.T. If the native

claims that have already been settled in Canada are any indication, it is not likely that such guarantees will be agreed to as part of the settlement. It would seem that the better tactic for the Dene is to concentrate their efforts to secure political rights in the Western Constitutional Forum (WCF), and to have such rights entrenched in the constitution of the new western territory. Ultimately, the only significant obstacle to the creation of Nunavut is the absence of an NCF-WCF agreement on the boundary. When that is achieved, the land portion of the Dene and Inuit claims can be settled, and with or without settlement on the financial and political aspects of the Dene claim, Nunavut could still proceed.

The fourth and final condition that must be met before division can proceed is the agreement about the appropriate distribution of authority among local, regional and territorial governments. This condition is a cryptic recognition of the aspirations of the Inuvialuit to have some guarantee of their uniqueness and political autonomy through the creation of the Western Arctic Regional Municipality. One issue that has to be settled here is what sorts of powers will be vested in the regional municipality and what level of autonomy will the regional council enjoy. The second issue is whether the western Arctic communities will be included in the western territory or in Nunavut. The latter issue is identical to the boundary question discussed above and must ultimately be settled through the Constitutional Alliance. The former issue, however, may involve differential costs of governance and hence may require the approval of the "funding" government in Ottawa. Nevertheless, the NCF, in which the western Arctic communities have participated (through COPE), has already defined the responsibilities to be left to WARM and has also specified that these powers be exercised through delegation from the Nunavut legislature and not by separate charter. Thus, if the boundary of Nunavut should be drawn in such a way as to include the western Arctic communities, this condition will have effectively been met already. However, if the boundary should be settled in such a way as to include all or a portion of the WARM communities in the west, the WCF will have to work out the powers and responsibilities of the regional municipality through consultation with the representatives of those communities before division can be completed. In the final analysis, because this condition involves agreement within either the NCF or the WCF, it should not be a difficult one to meet, and should provide no long-term obstacle to the creation of Nunavut.

By way of conclusion to this discussion of the proposed division of the N.W.T., it must be emphasized that although the primary focus has been and will continue to be on the new territory in the eastern Arctic, there will be significant impacts on the "residual" western portion of the N.W.T. For one thing, as we have seen, the native/non-native balance of the territory will be significantly altered, as will the urban-rural distribution of the population. As a result of these factors, and as a result of the



division issue itself having been resolved, the agenda for political debate in the western territorial assembly and on the hustings will be quite different. Similarly, the size and possibly the structure of the territorial bureaucracy will change. It will have to be smaller. Because there will be a smaller population for which to provide services, and because the territory will be more compact geographically, the bureaucracy may alter or abandon its current regional decentralization. Finally, with the east-west factional split removed from the assembly it may be possible to move to a more traditional party system, and consequently more quickly to the acquisition of full responsible government. Most significantly, division of the N.W.T. will provide an opportunity for creative changes in both Nunavut and the western territory, and potentially open the door to an era of better understanding not only between the North and the South but among the peoples of the northern territories as well.

### **Building Bridges: Integrative Structures in the North**

The focus in this paper to this point has been on the things that divide us: the issues and the competing interests that set northerners against northerners, and set the North apart from the Canadian mainstream. Now, by way of conclusion, we will attempt to identify some of the institutions or mechanisms that will help to build integrated communities in the northern territories, and that will also serve to bring those communities into the Canadian mainstream.

In the past there have been institutional forces that served to begin the process of building bridges between the people of the North and the outside world. The fur trade and its dominant proponent — the Hudson's Bay Company — introduced the northern natives to the world of commerce and to some of the amenities of European civilization. It also served to graft the native economy (albeit loosely) to the European mercantilist system. Permanent links were established between native and non-native societies and economies, and the fate of the native was bound to the white world.

In a similar way, the churches of Europe established contact with the northern natives and began the process of bridging the gaps between the traditional culture and that of non-natives through the process of Christianization. The natives seem to have taken to Christianity, and the adoption of its basic values and major philosophical premises has given the Dene and the Inuit something significant in common with each other as well as with the non-natives.

Although more recent, possibly the most pervasive institutions in the North are the governmental or administrative ones. Here the explicit goal has been to bring the northern native peoples into the Canadian mainstream by providing them with many of the benefits of Canadian citizenship, such as social services, education, welfare and mass com-

munications. As well, government in the North has brought to the Dene and Inuit the obligations of Canadian citizenship, such as obedience to the law.

Here the distinction should be made between the forces of *assimilation* and *integration*. The former process involves a merging of the native culture with the dominant one, with the resulting loss of a separate identity. The latter process has the effect of linking the two cultures, without the absorption and ultimate disappearance of the weaker one.

Within this context, the problem with the above institutional forces in the North is that none of them has had the effect of integrating the northern peoples on an equal footing with non-natives. The Bay introduced the native peoples to commerce but gave them no share in its real profits; the churches introduced them to Christianity but left them no room for their traditional values and beliefs; and the Government of Canada made them subjects without providing for their democratic participation in the political process. To be sure, bridges were built between the northern natives and the non-native society, but they were one-way bridges that facilitated the assimilation of the northerners, with the consequent loss of their traditional values and lifestyles. The natives could choose to cross those bridges into the white man's world, but having made that choice they could never return to their own.

In the late 1960s and in the 1970s there was an awakening of native consciousness in the N.W.T. and Yukon. The pace and the scale of non-renewable resource development was such that the processes of assimilation became more noticeable. Native political organizations were formed, and while they were extremely cautious and even apologetic in the early years, they began to ask embarrassing questions about the future of their homelands. The catalyst that transformed the native political movement was the Berger inquiry. While the recommendations contained in the report itself may have had some positive effects on federal policy in the North, the most important changes were as a result of the *process* of the inquiry.

The Berger hearings in the Mackenzie Valley mobilized the native political organizations, raised the consciousness of the people in the communities, and even sensitized many non-native northerners to the plight of their fellow northerners. Moreover, the Berger inquiry elevated northern issues to the national level, awakening the awareness and consciences of many southern Canadians to the legitimacy of northern demands. Finally, it must be recognized that while the focus of the inquiry was primarily the Mackenzie Valley, its impacts were felt across the North. Native people in Yukon as well as the Inuit in the eastern Arctic became aware of interests that they shared with the Dene of the valley and began to think in terms of mutually supportive political strategies for dealing with the federal government and the forces of resource development. The stage was set for a transition from an assim-

ilationist to an integrationist model of political and economic development in the North.

It should be noted here that one of the ironies of the awakening of native political consciousness and the successful political mobilization of the native communities has been a kind of role conflict that native leaders must contend with. In the course of developing the political skills and acumen necessary for successful negotiation with Canadian political institutions, the native leaders face the danger of assimilation. To beat the whites at their own game, it has been necessary to adopt a lot of their characteristics and many of their values with a resulting loss of "nativeness."

While its impact was lesser than that of the Berger hearings, the oft-maligned and much ignored Drury Report also helped to pave the way for a less assimilationist approach to the North. The most important recommendations of the Drury committee were those that advocated the further devolution of power to the territorial government, and the establishment of a highly decentralized form of local and regional government in the N.W.T. Drury saw the former as a means of building bridges between the native and non-native communities, which would share political power in a legislative assembly that would have some real power over matters in the N.W.T.; and the latter as a means of allowing diversity to flourish at the regional and community level. The combination offered by Drury was seen as fostering political integration at one level and providing for cultural survival at another. As a bonus, local and regional councils, with their informal procedures and close-to-home agendas, are proving to be important training grounds for native politicians.

The most promising institutions for the building of bridges between the various interests in the northern territories are likely the legislative assemblies. The Ninth Assembly of the N.W.T. marked an important change in native/non-native relations, because for the first time the Dene participated fully in the elections, winning five of the 22 seats and electing two members to the Executive Committee. The important steps toward responsible government taken during that assembly, and the progress toward goals such as entrenched aboriginal rights in the Charter, settlement of the land claims and the division of the territory, were all achieved through what has come to be called consensus government. Important alliances were formed between whites and the Dene in the Mackenzie region on issues that involved east-west regional interests, and while there are definite signs that the Dene/non-native coalition appears to have been weakened during the current assembly, it is to be hoped that the cooperation between these major interests can be re-established in the future. The need to work together on issues of common interest will help to foster continued cooperation and to integrate both the Dene and whites into the evolving representative institutions.

With respect to the MLAs from the eastern part of the N.W.T., the Assembly has proven an even more important bridge-builder. At the beginning of the Ninth Assembly, the eastern Arctic members boycotted the Executive Council, preferring to remain as the opposition — as an eastern caucus — that could carry forward the fight for Nunavut unfettered by the responsibilities of office. The fact that both white and Inuit supported this tactic is reflective of the strong consensus that has been built in the eastern territory, and ultimately augurs well for the unity of Nunavut in the future. However, when they realized their position was weakened by being out of government, and after the Legislative Assembly had voted in favour of division, the eastern caucus accepted two ministerial posts for the last two years of the Ninth Assembly. With division endorsed by the federal government, and with the work of the Nunavut Constitutional Forum well advanced, the eastern caucus formed an alliance with some of the Dene and secured four of the eight executive council positions in the Tenth Assembly. If the Dene and Inuit could work together as effectively on the Constitutional Alliance, the dispute over the boundary of Nunavut would be settled easily.

The key point about the role of the Legislative Assembly in building bridges between natives and non-natives, and between the Inuit and the Dene, is that the result has been genuine cooperation and not co-optation; while helping to integrate the northern societies, the assembly has not led to the assimilation of any group. In fact, it can be argued that the natives of the N.W.T. have learned to use the assembly in their own unique fashion and to their own political ends, much to the chagrin of non-natives in Yellowknife and other large South Slave Lake communities.

The Legislative Assembly of Yukon has not been as effective as a bridge between the natives and non-natives. One obvious reason for this is that the whites in Yukon enjoy a clear majority in the electorate and hold 13 of the 16 seats in the assembly. The Progressive Conservative government of the territory has been consistent in its refusal to consider any special political rights or privileges for Yukon Indians, and has based the refusal on the principles of “one person, one vote” and a “one government system.” However, while the structure of the assembly is such that an MLA is an MLA whatever his or her ancestry, the party system that operates in the assembly could prove to be an even more effective integrative mechanism. The native people in Yukon do not support a single political party, and in fact they appear to be split fairly evenly between the two major parties at the federal level. At the territorial level, the NDP, the official opposition, has fully integrated its native MLAs into the front benches; and if the NDP should form the government in a future election, native MLAs would be well represented on the Executive Council.

Finally, while the current government of Yukon has refused any deviation from the one government system, one of the outcomes of the native claims negotiations has been agreement on guaranteed representation for natives on a number of advisory boards and councils in areas such as education, wildlife management, and land use. The natives in Yukon are going to continue to be a minority; but if they will accept the guaranteed participation on such advisory bodies, continue to involve themselves in the party system, and accept the principle of one government for all Yukoners, it may be possible for them to achieve integration into Yukon society without loss of either their identity or their sense of community.

In the N.W.T. there are very specialized institutions with the potential for achieving greater integration among the peoples of that territory. The Nunavut Constitutional Forum (NCF) and the Western Constitutional Forum (WCF), which together make up the Constitutional Alliance of the N.W.T., are temporary institutions which have been established to negotiate the division of the N.W.T. and to design the constitutions for the two territories that will emerge. The NCF is well along in the process of constitution-making and has recently concluded a series of community hearings on a constitutional discussion paper entitled "Building Nunavut." The principles espoused in the document, which is in fact a draft constitution but in non-legal language, are a monument to moderation and cooperation among the various interests in Nunavut. The basic model is public government — equality for all residents of Nunavut and with no guarantees of special political rights, either for the Inuit or for the present white minority. It is "one government for all Nunavutians" but with the provision for semi-autonomous regional municipalities where the people of a region want it.

The WCF has not progressed as far in its constitution building. Part of the reason for this is that in the post-division period there will be a government already in place in Yellowknife; the western part of the N.W.T. is not starting from scratch in the same way as the people of Nunavut are. However, the division of the N.W.T. is a good opportunity for the people of the western Arctic to modify or rewrite the constitution of their homeland. There is the possibility, for instance, of experimenting with different representational systems, or even bicameralism, in order to provide some guarantees of political rights for the Dene. Alternatively, the WCF may wish to include provisions for regional municipalities, not only to accommodate the Inuvialuit if they become a part of the western territory, but also to provide the various Dene bands in the territory a measure of autonomy in areas of special concern to them.

The highest integrative potential of the WCF, however, lies in the process itself, where all of the various interests in the western N.W.T. are forced to work together cooperatively. The consensus between the Dene

and the non-natives of the Mackenzie-Great Slave Lake region was difficult to sustain in the assembly, because many of the issues debated involved head-on confrontations between the native and non-native MLAs. However, in the WCF they share common concerns such as the boundary between the two new territories. They have to settle their differences and work cooperatively on WCF, or they may end up being completely outmanoeuvred by the NCF, which is united internally on most key issues.

In the economic sphere, the structures with the highest potential for building bridges between the traditional economy and the wage-welfare economy may at first glance seem unlikely. The native development corporations may prove to be the most significant instruments in this regard. While they have the effect of luring the native organizations into cooperative ventures with multinational corporations, and thus giving them a vested interest in non-renewable resources development, they also give the natives some leverage in moderating the pace and style of that development. As well, the native development corporations themselves are wage employers and as such can experiment with styles of management that are more flexible and ultimately more compatible with the part-time subsistence lifestyle. To be sure, the welfare economy also permits a part-time dabbling in traditional economic pursuits such as hunting and trapping, but the difference is that the welfare system is an alien (if well-intentioned and beneficent) social force, and ultimately it must lead to assimilation. The native development corporations by contrast are now part of the native social structure and, if managed properly, can become important integrative mechanisms in developing a mutually compatible "fit" between the traditional and wage economies.

Ironically, bureaucracy in the North may turn out to be an important integrative mechanism. While it is difficult to imagine anything more alien to the native way of life than Weber's legal-rational paradigm, there is no reason why bureaucratic structures cannot be adapted in such a way as to make them more compatible with native ways. Particularly in the field, hours can be more flexible, and leave can be arranged to accommodate personnel who wish to spend time on the land. Furthermore, certain jobs in the territorial public service, such as in renewable resources management, are intrinsically compatible with the native traditional lifestyle, and these jobs might serve to ease the strain of entry into the wage economy. Most important, these and other field positions in the bureaucracies of the N.W.T. and Yukon do not force native employees to uproot their families and move to Yellowknife or Whitehorse.

The headquarters components of bureaucracies will inevitably be less adaptable to traditional lifestyles. In fact, one of the great dangers facing a fledgling Nunavut will be the need to staff the headquarters components of the new territorial public service with technically and profes-

sionally qualified personnel. There are insufficient numbers of qualified people in Nunavut to fill all these positions, and the result may be an unavoidable airlift of southern Canadians to staff the new bureaucracy. The last thing the people of Nunavut need is a largely expatriate bureaucracy, and, as well, the influx of newcomers might serve to dilute the Inuit majority in the electorate. The best solution is to set up extensive training and education programs to upgrade Nunavut residents' skills. This would have to be done well in advance of the actual moment of division and realistically would have to begin almost immediately if Nunavut is to be created in less than ten years.

Up until now we have spoken only of the forces of integration, the mechanisms of bridge-building within the northern societies. However, there is a second dimension to the process of integration, and that is the integration of the northern societies into the Canadian mainstream. While there are mechanisms in place — such as the ongoing constitutional conference on aboriginal rights — which keep specific northern issues on the agenda of politics in the South, the most important integrative structures today are likely the national political parties. Virtually all of the members of the legislative assemblies of the two territories have ties with one of the national parties. More important, the northern politicians are often prominently active in the affairs of the national parties. Northerners can be found on the national executives of the Liberal, the Conservative and the New Democratic parties, and they seem to have an influence on decisions that affect the North.

What is interesting here is that, unlike the process of policy initiation in most areas, key policy initiatives vis-à-vis the northern territories seem to flow disproportionately from the political rather than the bureaucratic corridors. As examples of this: the letter of instruction to the commissioner of Yukon granting de facto responsible government, did not originate in the policy branch of DIAND but was the direct initiative of the Conservative cabinet (likely informed by the subtle persuasiveness of the Hon. Erik Nielsen); the approval in principle of division of the N.W.T. was essentially unexpected in the department — it came out of cabinet committee (and could even have been linked to Peter Itinuar's defection from the NDP); and the 1983 changes to the executive structures in the government of the N.W.T. originated not in Ottawa at all but through an accommodation reached among the minister, the commissioner, and the leader of the elected executive.

Hence, while much maligned in the current literature of political science and policy analysis, the national parties may turn out to be the most important bridge-building institutions in the integration of the northern territories into Canadian polity. Moreover, because involvement in national party organizations is no longer limited to non-natives, and because native people today hold executive offices in virtually every constituency association in the North, the national parties are also an



important force in breaking down the barriers between the native and non-native communities in Yukon and the N.W.T.

To conclude, the North is of critical importance to Canadians as a whole because, as we have seen, it is a land of vast potential wealth not only in natural resources but in the cultural diversity that has been the hallmark of Canadian political life. While much of the above has been critical, it must be affirmed that we have in fact come a long way. There has been a growing understanding on the part of all Canadians that decisions about the North must be taken in large part by northerners. We have seen a growing political maturity on the part of native northerners and a growing participation of all native groups in the political process.

The manner in which future generations of Canadians define their worth as a nation may well come to rest on the effectiveness with which the current generation of political leaders resolves the poignantly human dilemmas of northern development in the coming years. The key is not to find ways for the North to deal with the Canadian mainstream, but to integrate fully the northern territories into the federation and to make the uniqueness and the internal diversity of the North a part of that mainstream.

### *Sources*

The aim of this paper has been to provide a synthesis of northern constitutional and political issues and to form the basis for discussion and debate. Hence, the extensive footnoting to back up the positions taken and arguments made, which would be de rigueur in a journal article, has been avoided. However, while there are no direct quotations, the raw information contained here has been derived from many sources. Most of these are primary, including publications of the governments of Canada, the N.W.T., and Yukon; the publications of the NCF and WCF; and those of native organizations in the northern territories. A great deal of the material and the opinions have come from formal and informal discussions with northerners over many years; most significant were those in 1982–83, when the author spent ten months north of sixty. Unfortunately, there are very few secondary sources on this subject, but one that bears mention, because of its comprehensiveness and provocative insight, is Gurston Dacks' *A Choice of Futures: Politics in the Canadian North*, which was published in 1981 by Methuen. Finally, some of the ideas expressed here have been put forward in earlier publications by the author.

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## Indicators of Southern Attitudes Toward the N.W.T.: 1979-83

GEORGE BRADEN

### Introduction

While most southern Canadians are primarily preoccupied with problems or issues which affect their community or region, the Northwest Territories do, from time to time, briefly appear in the national spotlight. Residents of Manitoba and Quebec may have monitored the manner in which the Government of the Northwest Territories (GNWT) has been dealing with official bilingualism, soon to be implemented in the North along with official recognition of seven aboriginal languages. Opponents of cruise missile testing, while first focussing upon the missile's landing at an isolated Canadian Forces base in northern Alberta, soon learned that the guidance system would spend most of its journey in the N.W.T., following a course down the Mackenzie Valley after having been launched from a B-52 bomber over the Beaufort Sea. A final example involves a number of national and provincial women's rights organizations which were recently outraged when a N.W.T. court judge sentenced three Inuit men to one week in jail after they were found guilty of having intercourse with a 14-year-old Inuit girl. The reason for the sentence: Inuit have different moral standards than white, southern Canadians.

However, it is safe to say that while the three issues noted above are all of current national interest, the N.W.T. experience with them has received little attention in the southern media spotlight. In short, with a few exceptions, northern issues have not and probably will not ever spark intense national debate such as that generated over the Quebec referendum, British Columbia's restraint program, Newfoundland's dispute over offshore jurisdiction, or for that matter, the domed stadium proposed for Toronto.

Nevertheless, a small group of Canadians in the federal government, provincial governments, multinational corporations and the university community, make it their business to be knowledgeable about the N.W.T. They engage in analysis, discussion and debate about the N.W.T. among themselves and with northerners, and from time to time they make decisions which have had, and continue to have, a profound and direct influence on the political, economic, social and cultural evolution of the N.W.T.

The purpose of this paper is to examine the behaviour of this small group of southern Canadians toward the N.W.T. during the period from 1979 to 1983. This time frame was chosen for two reasons. First, the author had access and exposure to politicians, civil servants, industry representatives and academics during these years. Second, and more important, the period from 1979 to 1983 represented a time when a number of major and outstanding N.W.T. issues were finally addressed by decision makers in both the North and the South. In some cases, decisions were even taken and implemented, a condition not common to the N.W.T. for much of the 1970s.

No particular rigorous methodology has been applied, nor in-depth interviews conducted. Rather, the following presents an overview of the author's impressions on how the attitudes of southern Canadians in the categories noted have shaped the N.W.T. during the period under review. Through an examination of a number of indicators, the discussion will, it is hoped, provide some insights which may be of some help in the future planning of northern Canada in general and the N.W.T. in particular.

In terms of content, significant emphasis is placed upon the federal government to demonstrate how politicians and civil servants have accorded increasing political legitimacy to the N.W.T. while closely guarding jurisdiction over the North's non-renewable resource base. The role of provincial governments is examined from a constitutional perspective to highlight how the N.W.T. became one issue during the patriation process of the late seventies and early eighties. A third section deals with the presence of multinational corporations in the N.W.T. and focusses upon the question of what conditions are necessary to maintain and enhance the current level of industry interest in the development of the North's non-renewable resource base. Last, the paper presents a brief commentary on the role of Royal Commissions, Special Commissions, Inquiries and other variations of the above in the N.W.T. It is hoped that these observations may provoke some thought on the approach which decision makers, academics and analysts take toward the North.

## The Government of Canada

While the federal government probably understood its northern policy mandate under St. Laurent, Diefenbaker and Pearson, the first decade under Trudeau was marked by numerous conflicts over the direction of national northern policy, and included a number of ministers for whom the Indian Affairs and Northern Development portfolio was just a stepping stone either to a higher political profile, or, in most cases, to political oblivion. At a time of increasing expectations among the aboriginal residents of the N.W.T., the Legislative Assembly, and non-renewable resource developers, the Government of Canada appeared to lack any firm direction for the North. That the N.W.T. were represented by five different ministers during the 1970s gave northern residents a clear picture of the attitude which the federal government held toward the N.W.T. What was even more difficult to tolerate was the high-profile role assumed by Department of Indian Affairs and Northern Development (DIAND) bureaucrats. Northerners were told by civil servants that their legislative branch could not be called a legislative assembly because, in federal law, it was termed a council. Ministers of the GNWT could not refer to themselves as ministers, and should not expect to represent the N.W.T. at federal-provincial meetings as this was clearly a function of the federal government in general and DIAND in particular.

Following two northern inquiries by Mr. Justice Berger and the Hon. C.M. Drury, the prime minister was presumably convinced that the presence of a knowledgeable northern affairs minister was essential for effective consideration of long-unresolved issues and to reduce the level of mounting tension between northern political leaders and the federal government. Early in 1980, the Hon. John Munro was appointed to the portfolio, and while the appointment was not enthusiastically greeted in the N.W.T., his four-year tenure produced results and some measure of progress on issues which had been stalled for the past decade.

The minister's relative success can be attributed to a number of factors. First, he effectively used DIAND as a vehicle for advancing both national and territorial issues. As outlined below, the role of the department as the sole agency for dealing with the N.W.T. was gradually changing to one which required sensitivity to national objectives being articulated by others, such as the ministers of energy or environment. The minister and his department were required to deal with other, more aggressive federal counterparts on major issues with a northern component. Obvious examples include the National Energy Program and the National Parks Policy.

The need to play a key role in developing northern initiatives in Ottawa had to be balanced with the aspirations of northerners for a divided territory, responsible government, settlement of aboriginal claims and a host of other issues. During his four-year tenure as minister, Munro came

to be seen as an advocate for the N.W.T., albeit one who was not successful at all times with all issues.

A second factor which must be considered in assessing Munro's performance is the general presence of the minister in the N.W.T. During the period from his appointment in 1980 until his retirement, northerners became accustomed to Munro and his entourage flying around the North in a Challenger jet, dropping in on Yellowknife to meet with GNWT and native organization leaders, visiting Tuktoyaktuk to mediate between concerned residents of the Beaufort and representatives of Dome Petroleum, or assisting the Nunatsiak Liberal Riding Association during a trip to Rankin Inlet. No minister of Indian Affairs and Northern Development had ever spent as much time in the N.W.T., or been so accessible to political leaders, the media and the public. It is not surprising that the minister received praise and appreciation from many northerners following his departure from politics.

A final factor associated with Munro's success has to do with the experience he brought with him to the portfolio. When Munro assumed the ministry, he brought more than a decade of cabinet experience to the job; he had far more experience, and was more familiar with the system of federal government, than any of his predecessors. Presumably none of his predecessors had accumulated the many political favours which Munro was able to call in from time to time when a decision or action on a pressing northern issue was required.

However, the DIAND minister was not the only federal political actor in the N.W.T. During the time frame under consideration, there was a notable change in the attitudes of other federal ministers toward the N.W.T. generally, and their departmental responsibilities in particular. The Treasury Board president, solicitor general and the ministers of Justice, Employment, Transport, Environment, Health, and Supply and Services, to mention only a few, travelled north for discussions of a financial, legislative or policy nature. Federal ministers observed the proper protocol in dealing with their territorial counterparts, and in their statements and correspondence acknowledged that a Legislative Assembly existed in the N.W.T. Unfortunately, this outpouring of recognition did not extend to the non-renewable resource area. The message was clear to northern political leaders: oil, gas and minerals were in the realm of federal jurisdiction and would stay there for some time to come.

Finally, the federal bureaucracy, while not exactly keeping pace with its political masters, also appeared to change its attitudes toward the N.W.T. From a northern perspective, definite progress was achieved in terms of the level of legitimacy accorded N.W.T. civil servants by their Ottawa counterparts. This condition may have been a function of the emerging new breed of N.W.T. civil servant, replacing the retired RCMP, Hudson's Bay Company employees and military who could not, in their roles as territorial bureaucrats, relate to Ottawa's senior technocrats. It

may also have been a function of GNWT policy, which was aggressive and forward-thinking, but did not pose a threat or an unresolvable problem for the federal bureaucracy. In short, most territorial initiatives sought to enhance northern participation with federal departments in formulating initiatives, as opposed to having outright transfer or delegation of provincial-type authority vested in the federal government. Finally, some have suggested that the changing nature of DIAND prompted other federal departments to jump in and fill the void. What better way to do this than to establish formal ties with counterparts in the North.

In regard to the legislative branch of the federal system, the period from 1979 to 1983 produced a healthy change in the attitudes of the House of Commons and the Senate. During the four-year period, numerous committees investigating the Canadian Constitution, Senate reform, pension reform and the National Energy Program, travelled to the N.W.T., or solicited northern input to southern-based hearings. Committees have also been used to deal with specific northern issues, such as the future of the Northern Canada Power Commission. Similarly, commissions such as those investigating the Economic Union and Development Prospects for Canada, or Pornography and Prostitution, are recognizing that northern input is required. At times, northerners and their institutions are somewhat overwhelmed by the variety and complexity of commissions and may not have the most sophisticated of presentations and arguments. Nevertheless, the presence of such commissions, and their interest in the N.W.T. and national issues as applied to the N.W.T., marks a dramatic change in attitude of the lawmakers and those charged with providing input to policy or legislation.

A final general indicator of positive change is the support of the federal legislative and executive branches for a N.W.T. presence at almost all federal-provincial discussions. Since 1980, the N.W.T. have attained equal status at all but formal and informal first ministers' conferences (the exception being aboriginal rights conferences, where the N.W.T. are present at the discretion of the prime minister). While the attainment of this goal has not been without problems, given the reluctance of Energy, Mines and Resources and DIAND officials to have the N.W.T. recognized at energy conferences, the current condition has been achieved in the absence of any N.W.T. drive to move quickly toward provincial status. Ironically, Canada's two territories are now considered prime locations for federal-provincial conferences.

To conclude this brief overview, the indicators noted above suggest that federal attitudes toward the N.W.T. and their institutions changed in a positive way during the period from 1979 to 1983. In large part the relative harmony of the last four years can be attributed to the presence of a minister whose mandate was to address northern issues, and to a growing acceptance by other federal ministers and the federal bureaucracy that the N.W.T. have a legitimate role and responsibility as

a junior member of Confederation. While many major issues remain unresolved, the federal government has made progress in the N.W.T. and should be encouraged to reinforce the northern institutions which it has helped to evolve during the past few years. This can be achieved at the most basic level through government-to-government communication and through respect for what northerners have achieved to date. It can also be accomplished through constructive progress toward devolution of outstanding provincial-type responsibilities when the N.W.T. are ready and able to manage them. To achieve these and other significant goals, among them the need to settle outstanding aboriginal claims, northern residents need to know they have an advocate in Ottawa. A content analysis of northern newspapers prior to 1980 would no doubt reveal many editorial demands for the dismantling of the Indian Affairs and Northern Development department and ministerial portfolio. The relative absence of such demands since 1980 is an indicator that northerners believe attitudes are changing in Ottawa.

## **The Provincial Governments**

During the 1960s and early 1970s communication between the GNWT and provincial governments was limited. While northern politicians may have exchanged pleasantries and views at annual meetings of the Commonwealth Parliamentary Association, most of the contact was at the officials level, with GNWT civil servants negotiating agreements to use hospitals, schools and other services in Alberta, Manitoba and Quebec. For the most part, provincial politicians perceived the N.W.T. as an area of exclusive federal jurisdiction, with territorial politicians having a marginal say in its evolution.

However, as relations between the federal and provincial governments began to deteriorate in the mid to late 1970s, the existence of the N.W.T. and Yukon began to take on some semblance of significance in the events which unfolded during the debate over patriation of the Constitution. In their assessment of what role the federal institutions of government should assume in a new Canada, provincial governments were necessarily obliged to review what cards the federal government had to play in negotiations leading up to confederation under a new constitution. One of the cards, which was relatively minor in the overall negotiations process, was federal jurisdiction over the land and resources of Canada's two northern territories.

It is evident that, in dealing with the existence of two northern territories in Canada, the provincial governments could not come to a consensus on the best way to reflect their presence in a new constitution. In part, this absence of a consensus is based upon a collective distrust of what the federal government might do with the two territories and a concern among some premiers that their provincial counterparts would

not be above making a deal with the federal government to extend provincial boundaries northward. The "Gang of Eight" was eventually successful in having two provisions that made the creation of new provincial jurisdictions and the northward extension of provincial boundaries subject to the amending formula written into the new Canadian Constitution. Rather than dealing with the N.W.T. and Yukon from a nation-building perspective, the provinces and the federal government agreed to make the future of the two territories a function of the unproductive federal-provincial decision-making process. The following provides a brief overview of some of the attitudes and indicators which produced this condition.

First, given the impact which the energy crisis had upon the nation, temporarily shifting economic wealth and activity to the western provinces, there were some provincial governments which clearly perceived that, for the benefit of their jurisdictions in particular and the country in general, N.W.T. non-renewable resources must remain under federal control. In short, northern resources should be developed by the federal government for the benefit of all Canadians, in particular those who reside in areas or regions which do not have a significant non-renewable base. Provincial leaders, if pressed to be candid, would have argued that there is no way a mere 47,000 people should be entrusted with authority over the resource base of the N.W.T. The experience of having "blue-eyed Arabs" in Alberta, British Columbia and Saskatchewan must not be repeated by allowing a "Kuwait of the North" to evolve. Provincial leaders in this category also feared the extension of western provincial boundaries into the existing N.W.T.; thus, the provision was made in the Constitution Act, 1982 requiring that extension of boundaries be subject to the amending formula.

Other provincial leaders were concerned that the federal government might use its authority to create new provinces to establish "have-not" jurisdictions in the North — new provinces that would be, in effect, pawns of Ottawa. The simple fear was that these new jurisdictions could, in future, be used by Ottawa to erode provincial authority and generally strengthen Ottawa's position in the federal-provincial arena. With this concern in mind, provincial governments successfully obtained a clause in the Constitution Act making the creation of new jurisdictions subject to the amending formula.

Finally, there were some provincial leaders concerned about the level of federal deficit financing required to operate northern governments. They felt that it was best to ensure that any new players at the provincial level would first have their contracts scrutinized by the existing members of the team. Sports analogies aside, the provinces simply wanted to ensure that their share of the equalization pie was not going to be reduced by adding new provincial jurisdictions not capable of funding a substantial share of their requirements. No doubt, Newfoundland's



entry into Confederation and the absence of provincial input to the terms of the deal had not been forgotten.

In concluding this portion of the discussion on provincial attitudes toward the N.W.T., it is clear that provincial leaders were concerned about Ottawa using the North as a tool to upset the delicate balance of power which exists at any time between the two levels of government. Whether or not this scenario would ever come to pass is not a subject for this discussion. Suffice it to say, the premiers achieved their objective. In another context, it is apparent that the provincial leaders did not trust each other and took steps to restrict any future expansion northward. That the N.W.T. complained bitterly about both provisions did not matter in the final days of negotiation before an accord was reached. In a last-ditch effort to have paragraphs 42(1)(e) and (f) removed from the Act, the legislature of the N.W.T. lobbied representatives of both levels of government, but to no avail. The rules of the game had been substantially changed; nation-building was no longer the job of the federal government in respect of its northern territories. The exclusively federal jurisdiction must now be shared with the provinces.

One should not conclude from the above that the provincial governments have, for the past four years, been involved in a nefarious plot to undermine the future of the N.W.T. Clearly, contacts established at various federal-provincial meetings have been productive. The N.W.T. are automatically included in all provincial ministers' meetings prior to follow-up sessions which take place with federal counterparts, and a new practice has been adopted whereby territorial government leaders are invited as observers to the annual provincial premiers' meetings. While the N.W.T. government leader does not have a seat at the table, he is allowed to make an address to his counterparts summarizing issues in the North, and one can expect that, in time, the North will have its leaders seated at the table, whether or not provincial status has been attained.

As noted above, the GNWT has been making arrangements for purchase of medical and educational services from provincial governments for a number of years. More recently, N.W.T. ministers have been negotiating special agreements with their provincial counterparts on matters relating to tourism, small business, highway transport regulation and wildlife management, to name only a few. For the most part, these agreements are negotiated in the absence of DIAND officials and do not require any formal ratification by the DIAND minister. The usual exchanges between the N.W.T. cabinet members and their southern counterparts are also a regular occurrence as ministers attempt to broaden their perspective through a "mutual exchange of views" while enjoying the hospitality of the host jurisdiction.

In the area of non-renewable resources, the N.W.T. have still to be accorded a significant measure of legitimacy from the provinces. From 1979 to 1983, the federal government continued to guard this jurisdiction



closely, and demonstrated to provincial governments that it is Ottawa which makes the final decisions. Discussion with N.W.T. ministers tended to focus largely upon the infrastructure necessary to move people and services into the North and transport the resources out to the markets and factories in the South. Recently, some oil- and gas-producing provinces have expressed concern about the application of frontier exploration incentives by the federal government. They have argued that too many incentive dollars are being expended in Canada's frontier and eastern offshore, to the detriment of the oil and gas industries in Alberta, British Columbia and Saskatchewan. The arguments have not gone unheard by Brian Mulroney and the Progressive Conservatives. While N.W.T. leaders will no doubt attempt to maintain the level of exploration activity in their territory, they are virtually powerless to stop the flow of federal investment dollars from leaving the N.W.T. and have no options to exercise in terms of offering their own incentive program.

One must conclude from the above that the provinces of Canada have, for their own reasons, demonstrated to Ottawa an interest in the way the affairs of Canadian territories are managed. From a political perspective, they do not want to see the balance of power in Canada deliberately upset by the federal government through the creation of new jurisdictions in the North. From an economic perspective, some provinces have expressed concern that too many federal investment and incentive dollars are going to Canada's frontier, while their own industries are struggling to stay alive. This is perhaps what northerners have to expect in the ebb and flow of a federation. Yet it is a federation in which the residents of the N.W.T. are not yet equal partners. One cannot help but wonder whether, in the final analysis, the provinces will exercise their responsibility in allowing the N.W.T. to evolve to full partnership, or whether purely parochial or political interests will maintain the status quo.

## **The Multinational Corporations**

A third major force in the evolution of the N.W.T. is the presence of multinational corporations. Non-renewable resource giants, like Esso, Gulf, Dome, Cominco, Falconbridge and Shell, have been active in the N.W.T. for decades. Their operations have been supported by other major actors, such as Pacific Western Airlines, Nordair, Arctic Transportation Ltd. (a subsidiary of FedNav) as well as Crown Corporations such as Northern Transportation Company Ltd., and NorthwesTel. Along with the Northern Canada Power Commission, this second group has provided the transportation, communications and energy infrastructure necessary for a successful multinational presence in the N.W.T.

From a northern perspective, it is sometimes difficult to understand why industry continues to find the N.W.T. an attractive area for investment, especially considering the list of problems and issues which

presumably should generate sufficient uncertainty to move investments elsewhere. These issues include unsettled aboriginal claims, a federal government which has yet to enunciate clearly a resource development policy, an emerging GNWT with priorities and problems of its own, and finally, the technical, engineering and environmental problems associated with the development of resources in one of the most difficult and demanding regions of Canada.

Yet, despite these problems, the multinational presence in the N.W.T. is strong. Even in the aftermath of the Berger hearings, development proceeded throughout the North, including the construction of four major mines during the period from 1979 to 1984, as well as the development of a small oil field at Norman Wells and a pipeline to move the oil to Alberta. In the exploration area, Dome, Gulf, Esso and PanArctic continue their expensive programs in the Beaufort Sea and High Arctic. Mining exploration was adversely affected by poor base metal markets; however, this was largely offset by high values for precious metals. During the late seventies and early eighties, while the rest of Canada was mired in unemployment and bankruptcy, the N.W.T. appeared to be thriving with non-renewable resource-based activity.

While it is not the purpose of this section to go into detail on the subject of the northern economy, the scenario noted above deserves some comment from the perspective taken in this paper. Exactly what factors have shaped industry attitudes toward northern development?

First, one can argue that during the past three decades the Government of Canada in particular has offered a variety of incentives, particularly in the areas of infrastructure and taxation, to encourage and maintain a multinational presence in the N.W.T. Without major infrastructure such as roads, airstrips, railways, waterways, communications and energy, development would not have been feasible.

Recently, the GNWT has become involved in providing infrastructure as well, particularly in the areas of health, education and municipal services. The GNWT even participated in a program to keep Pine Point Mines in operation during a particularly difficult period in 1983. The reason for an injection of \$600,000 of territorial money was that the GNWT would stand to lose more from personal and corporate income tax if the mine remained closed until base metal prices improved.

Clearly, industry has recognized that its significant financial commitment must be matched in some fashion by government in the North if the resource base is to be developed. This has been the northern tradition for many decades and would appear to be the method of operation for the future. In their desire to develop the N.W.T., both Ottawa and the GNWT have invested heavily in infrastructure which is geared to the non-renewable resource industry. The multinationals understand that, should their presence be significantly reduced, the tax base of the GNWT would erode to the point where almost all of the revenue required to

operate its programs would come from the federal government. While Ottawa could presumably absorb these costs, the federal government would be left with a legacy of sophisticated and expensive infrastructure, under-utilized, and far beyond the financial capabilities of northerners to maintain.

A second factor influencing the multinationals is the fact that a single government and its agencies is responsible for the management of non-renewable resources in the North. This argument may seem odd given the never-ending litany of complaints from industry concerning the number of federal agencies, departments and boards with which it must deal. However, in comparison to what the oil and gas industry in particular has experienced in eastern Canada on the matter of offshore jurisdiction, or in Alberta on the matter of sharing revenue between the federal and provincial governments, the N.W.T. offer an environment where the question of jurisdiction is easily answered. While industry may recognize and respond to the emerging GNWT and its interest in non-renewable resource development, the major negotiations clearly take place with the Government of Canada.

As a footnote to this discussion of industry attitudes toward the North, one must question whether or not the multinationals would prefer to see the GNWT assume provincial-type jurisdiction over non-renewable resources. In a recent presentation, one major industry lobby group recommended that the National Energy Board be an active participant in the setting of utility rates in the N.W.T. This position was contrary to that of the GNWT and the N.W.T. Legislative Assembly. The industry recommendation suggests that the multinationals may prefer to have the status quo retained, in spite of the problems associated with the federal regulatory and administrative apparatus. Both industry and Ottawa have significant northern investments which must be protected and enhanced. Whether or not industry could trust a northern government with this responsibility is questionable.

The observations in this section will, it is hoped, provide a few indicators of what the multinationals require to maintain their presence in the N.W.T. At present, the balance between the myriad problems associated with northern development and the return on time and investment by industry seems to lean toward continued development of the resources of the N.W.T. Because of its jurisdiction over non-renewable resources, the federal government must continue to fine-tune this balance in order that industry be successfully integrated into the northern economy of the future. To date, industry seems to have adjusted, at times, with the reluctant support of northerners, but the balance is tenuous.

## The Northern Issue Commission

Since Dean Carrothers conducted his historic commission into political development in the N.W.T. during the 1960s, northerners have been the target of numerous federal investigations into a variety of social, economic, environmental and constitutional issues. No doubt these examinations have produced a wealth of useful information and analysis for the use of decision makers and academics.

However, in recent years northerners have become somewhat cynical toward the Northern Issue Commission. In order to understand this mounting frustration, a few words are in order on the role, or perceived role, which the Northern Issue Commission has assumed in the N.W.T. during the past decade in particular. Given this analysis, some indicators of "attitudes" will, it is hoped, become apparent.

The decade of the seventies in the N.W.T. cannot be described as one of harmony and cooperation. The GNWT and DIAND were accorded little internal legitimacy by N.W.T. native leaders. Even members of the N.W.T. Legislative Assembly at times saw their institutions as simply rubber-stamping the policies of a federal commissioner over whom they had little control. Thus, in order to deal with substantive problems of the day, such as development of hydrocarbons, northern issue commissions were established to provide federal decision makers with advice and recommendations. Needless to say, in an atmosphere where neither the federal nor the territorial government could claim much support, these commissions, and the individuals who headed them, took on, and created, a level of expectation, or in some cases animosity, far beyond what had been envisaged by the decision makers in Ottawa. Given this background, a number of observations can be drawn about the attitudes of those who establish and conduct the Northern Issue Commission.

First, in their conception by federal decision makers, insufficient attention was given to existing northern institutions which clearly had a role to play in the review of a northern problem. In retrospect, the question comes up as to whether the prime minister should have asked the Drury Commission to investigate the municipal system of government in the N.W.T. or the policy arm of the GNWT Executive Council office. After all, the GNWT and the Legislative Assembly had been in place in the N.W.T. for a full decade. Were these institutions not capable of conducting such inquiries on their own? Similarly, in conducting his examination of hydrocarbon development in the Mackenzie Valley, should Mr. Justice Berger have insisted upon a more prominent role by the GNWT? After all, many of his major recommendations focussed upon the people of the Mackenzie Valley who, in theory and in practice, were served by the GNWT. Even though northern governing institutions were, at the time, accorded limited legitimacy, their exclusion from accepting a responsible role, via the Northern Issue Commission, was unfortunate.

Second, while recognizing the hard work and dedication of those who conducted northern issue commissions, accountability for a response to their work was perceived to rest with that large and distant federal institution of government in Ottawa. Northerners, through experience, came to have little confidence in the ability of federal institutions to respond to recommendations of the Northern Issue Commission. Alternatively, during the author's brief political experience in the N.W.T., major examinations of the northern education system and division of the N.W.T. by territorial institutions of government produced significant public interest as well as strong representations from voters about the consequences at election time if elected northern representatives did not deal with issues in a responsible fashion. In short, for the federal Northern Issue Commission of the future to have credibility and effect, it must come to terms with the need to demonstrate to the public some measure of accountability. It is suggested that this can be achieved through a more cooperative approach with northern institutions and northern leaders in conceiving and conducting the Northern Issue Commission.

To conclude this brief review, a few comments on the nature and scope of commission recommendations are in order. Looking back, one finds that the terms of reference of northern issue commissions are extremely broad, and are characterized by a seemingly unlimited mandate. At times this has produced an element of zeal and reform among commission staffers charged with research and development of options. Brilliant minds and many millions of dollars have gone into the preparation of complex scenarios which, when implemented, would solve the problems of the North. Unfortunately, northern human nature being what it is, these solutions have not produced the society for which we all strive.

The Northern Issue Commission played an important role in that the product provided a useful insight into northern problems. In respect of the future, the final product must be one which decision makers can realistically respond to, or alternatively use as a guide for making legislative, institutional, or policy changes. At times, this may require that incomplete recommendations, or recommendations that are unpopular with both the public and the decision makers, have to be advanced.

## **Conclusion**

While northerners are notorious for ascribing motives to the actions of southern decision makers, they are actually no more given to this behaviour than Albertans or Ottawa civil servants. This paper has attempted to deal with a series of indicators which reflect, with some degree of accuracy, attitudes which representatives of southern government, industry and academia have held toward the North. Underlying all of the observations is the assumption that northern residents themselves

contributed significantly to the southerners' thought processes during the period under review.

Careful thought must be given to the role which the federal government should assume in encouraging and assisting further evolution of its northern territories. While the decade of the seventies was undoubtedly difficult, the federal record of the past four years has been good. Despite ever-present indicators of doom, one can detect an air of enthusiasm among N.W.T. residents and their leaders. The federal government played a significant role in producing this condition during a time when its relations with the other members of Confederation were difficult and unproductive.

As for the provinces, the N.W.T. will clearly have to continue the drive to establish credibility and recognition as an equal, though junior, member of Confederation. Provincial governments, despite their initiatives noted above, appear to be willing to grant this status. Perhaps, in taking the lead role of nation builder, the federal government can work with the GNWT and N.W.T. Legislative Assembly to devolve other powers in the justice, health and resources areas, further enhancing the national stature of N.W.T. institutions.

Other contributions document the major role which the multinationals play in the N.W.T. The purpose of this discussion has been to briefly identify the significance of their contribution to employment and taxation revenues in the N.W.T., and the current desire to see non-renewable resource jurisdiction retained by the federal government.

Finally, with regard to the Northern Issue Commission, attitudes must change if the federal government is to conduct future large- or small-scale reviews into northern problems. Accountability of, and participation by N.W.T. institutions is critical to their success.

In conclusion, residents of the N.W.T. recognize the significant role which southern decision makers assume in charting the course for political, economic, social and cultural evolution in their territory. Yet, there comes a time when it is necessary for the southern decision makers to step back and let the northerners increase their share of "the burden of responsibility."

### *Note*

This study was prepared for the Research Seminar on the North sponsored by the Royal Commission on the Economic Union and Development Prospects for Canada. It was presented on July 6, 1984.



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## **Northern Political Development Within Canadian Federalism**

GORDON ROBERTSON

### **Introduction**

There is a good deal of dissatisfaction in the Northwest Territories and Yukon with the systems of government that those territories now have. That dissatisfaction has led in the North to a variety of suggestions for change, including proposals that the Northwest Territories should be divided into two, or possibly more than two, political entities for the future. A frequent assumption is that the ultimate objective for the territories should be provincial status. It is not at all clear, however, that that assumption is justified. It might be difficult to secure agreement to accord provincial status, which would require constitutional change. If agreement could be achieved, provincial status might turn out not to be the arrangement best suited to the special circumstances of the North. The whole question deserves more critical assessment than it often receives.

### **The Unique Character of the Territorial Situation**

There is no question about the fact that the conditions in the territories are very different from those that prevail in any of the present ten provinces. They will almost certainly remain different. In the case of the Northwest Territories, it is reasonable to assume that a new territory of Nunavut will exist before many years have passed. It will have a large majority of Inuit people, becoming the only political division in Canada to have a native majority with a common language and culture, and with distinctive values of its own. The "other" territory of the Northwest Territories will have a very large minority of Dene — much larger than the native proportion of any other political division of the country. Their language, culture and values are Indian and in many ways very different



from those of the whites. In this respect, the position of Yukon is less different from that of the provinces, although its native minority of some 18 percent is very much larger than that of any province. Native people are much more conscious today of their identity and culture and of the validity of their own value systems than they were when the political institutions in the provinces were developed. Therefore, it is almost certain that they will seek, in all three territories that are likely to exist, significant accommodation of their interests and views.

Apart from the ethnic and cultural differences between the territories and the provinces, other differences — size of population, area, costs of administration, stability of economic bases and problems of finance — distinguish them from all the present provinces. These are discussed in the papers of Professors Stabler and Whittington entitled, respectively, “Development Planning North of 60: Requirements and Prospects” and “Political and Constitutional Development in the N.W.T. and Yukon: The Issues and the Interests.” None of these differences is likely to be temporary; all are inherent in the nature of the geology, geography and climate of the North.

If this assessment is correct, it means that none of the three territories would be able to operate successfully and with reasonable stability on the basis of the present and prospective fiscal arrangements that apply to the provinces generally. This would be likely to remain the case, at least for many years, even if the non-renewable resources of the territories were transferred to them as provinces. Enormous expenditures for infrastructure and development costs will be necessary, and resource revenues over costs of development are likely to be limited; in addition, the problem of uncertainty and instability would make public financing precarious. Apart from these problems is the important question of whether it would be sound public policy, as Professor Watson queried at the seminar on July 6, 1984, to put the development of the resources of 40 percent of the area of Canada in the hands of some 60,000 people.

For all of the above reasons, it seems apparent that it will be desirable, in moving to full responsible government for the three territories, to do so on the basis of regimes that can be adapted to the particular needs of each territory. It would be unwise to assume that any single regime would be suitable for all three, let alone the regime that applies now or will apply in future years for the present provinces. The question is whether provincial status should be contemplated at all for the three territories, and whether the characteristics of provincial status require that the federal government should impose limits on the kind of regimes that should be considered for the immediate or future political development of northern Canada.



## **The Establishment of New Provinces Under the Constitution Act, 1982**

The governments and legislatures of the present ten provinces, as well as the government and Parliament of Canada, will be involved in the establishment of any new provinces in the future. Until the Constitution Act, 1982, came into force, that was not the case; the Parliament of Canada acting alone could establish them, as it did in the case of Manitoba in 1870 and Alberta and Saskatchewan in 1905. Similarly it was the Government of Canada that determined the basis on which Newfoundland would enter Confederation in 1949, with legislative sanction by Parliament; the provinces were not involved, although Quebec protested the fact that it had not been consulted on a matter it felt affected the existing provinces. The present provision was sought and secured by the provincial governments because they, like Quebec in 1949, feel that they have an interest in any new provinces that may be established, and in the terms by which the new provinces are admitted to that status. The new constitutional situation has profound implications for the kind of provinces and provincial regimes that will be acceptable in future years.

Section 42(1)(f) of the Constitution Act, 1982, provides that "notwithstanding any other law or practice" the establishment of new provinces must be effected by an amendment of the Constitution of Canada "made only in accordance with subsection 38(1)." That subsection requires for an amendment an authorizing resolution by the Senate and House of Commons and also "resolutions of the legislative assemblies of at least two-thirds of the provinces that have ... at least fifty per cent of the population of all the provinces." Compliance with subsection 38(1) will clearly mean that any proposal for the establishment of a new province in future will have to be the subject of discussion in federal-provincial conferences and meetings during which the terms and conditions applicable to the new province will receive the approval of the governments of two-thirds of the present provinces, including either Ontario or Quebec to provide the necessary 50 percent of the population.

The attitudes and positions of provincial governments during the course of the constitutional discussions between 1968 and 1981, as well as indications of concern in other contexts, make it possible to predict with confidence that the provincial governments will scrutinize very closely every detail of the provisions for any new province. It is useful to consider a few of the matters that will almost certainly be especially sensitive.

## **Provincial Concerns About Arrangements for New Provinces**

The greatest provincial concerns about establishing new provinces from the territories would probably relate to the fact that, unless mineral resources are transferred to them, and possibly even if that were to happen, they would be "have-not" provinces. As Professor Whittington points out, federal grants and transfers now account for almost 80 percent of the annual budget of Yukon and more than that for the N.W.T. The costs of normal provincial services are enormously high in the territories and will remain so because of the small populations and high prices generally, and also because the "welfare economy" constitutes so large a part of the sources of personal income. There would have to be special financial arrangements, either permanently or on a very long-term basis, to make the territories fiscally viable as provinces.

The existing provinces, both rich and poor, would almost certainly find such special arrangements quite unacceptable. The wealthier provinces have accepted, in some cases not without persuasion and difficulty, the concept of equalization and also the new section 36 of the Constitution Act, 1982, concerning the reduction in regional disparities. However, if there is one thing that federal-provincial conferences have made clear it is that "special deals" or "special status" for any province for any reason are not acceptable. Provinces are equal. The powers of "province" are a set piece, not subject to variation. Equalization is, reluctantly, acceptable, but on an agreed-formula basis that applies across the board to the provinces that qualify to receive it. None of the present "have-not" provinces would be prepared to see a more generous formula for northern provinces than they enjoy themselves. None of the wealthier provinces would be prepared to see a more generous arrangement for the North for fear that the same arrangements might eventually spread to other "have-not" provinces. All of the provinces, both rich and poorer, would be concerned at arrangements that made a province or three provinces special "clients" of the federal government, since such a relationship might leave the new provinces open to pressure and manipulation by the federal government in future years. Conceivably there could be a very short-term transitional arrangement, possibly for ten years or so, to ease the change to the standard federal-provincial fiscal arrangements, but it is extremely unlikely that a more extensive special arrangement would be possible.

A further element of concern by the present provinces would relate to the way the admission of new provinces, especially "have-not" provinces, would affect the application of the amending formula under Section 38. If three northern provinces were admitted, the amending formula would not have to be changed to accommodate them. However, the increase in the number of provinces would affect the arithmetic of

subsection 38(1), a fact that would hardly escape the attention of the present provinces — especially the “have” provinces.

The “two-thirds” provision in section 38 means that, at present, seven provinces must support an amendment for it to succeed. Any four provinces, therefore, can block an amendment. If there were thirteen provinces, it would require nine provinces to approve and five provinces to block an amendment. The really significant change is the increase in the number of provinces necessary to prevent a change.

At present, a constitutional amendment cannot take place if it is opposed by the four Western provinces, or by the four Atlantic provinces, or by the four “have” provinces (Ontario, Alberta, British Columbia and Saskatchewan). This situation, so far as the Western and the Atlantic provinces are concerned, is no accident. Both the “Victoria formula” of 1971 and the “Vancouver formula” now in section 38 were specifically designed to ensure “regional protection.” Under neither formula could an amendment carry if it were solidly opposed by all the provinces of either the Western or the Atlantic region. But with thirteen provinces this carefully devised situation would be destroyed. Neither of the two regions would have its present security against changes that could adversely affect their interests.

However, it is the third combination of “blocking fours,” that of the “have” provinces, that could have the greatest influence on the prospects of possible northern provinces.

Section 36 of the Constitution Act, 1982, which commits Parliament and the provincial legislatures to the principle of equalization and to the reduction of regional disparities, was agreed to only with difficulty and after intense debate over its precise terms. Some of the “have” provinces, whose taxpayers bear increased costs in order to provide equalization and other redistribution benefits to the “have-not” provinces, rejected wordings of the provision that would be legally enforceable or any more specific than the present version of section 36. The “have” provinces can be expected to oppose any new situation in which the admission of more “have-not” provinces removes the protection that the “have” provinces now possess against changes to section 36, especially changes that would make the section any broader or more compelling than it now is.

All of the above constitutional considerations, as well as the hostility of the provinces to any aspect of “special status,” means that the provinces will be very suspicious of proposals for new provinces in the North. There would in general be insistence on “standard provisions” for such provinces, including, probably, insistence on the internal structures that have come to be regarded as normal.

There is one possible exception, however. Some of the provinces might be worried about the normal transfer of resources to new northern provinces. Both oil-consuming and oil-producing provinces might be

concerned about putting the resources of so large a part of Canada into the hands of so few people. Such a situation could put that small and directly interested group of people in a position to change the requirements for oil and gas exploration and development rights in a way that could have unforeseen consequences for producing provinces and for consumers.

These concerns would be felt even more strongly by the federal government. It found, after the OPEC oil crises of the 1970s, that Alberta's control over so large a portion of the domestic sources of oil and gas created serious difficulties for national energy policy at a time of sudden change. It also found that the very large Alberta resource revenues created problems for the whole system of federal-provincial fiscal arrangements. The federal government will be very hesitant about creating any potential "northern Kuwait" that would increase such potential risks. Altogether, this problem of non-renewable resource jurisdiction, in conjunction with the basic desire for standard or normal arrangements for all provinces, would likely result in resistance to any form of provincial status for the North.

### **A Northern Future Without Provincial Status**

The unique characteristics of each of the three territories that will exist when Nunavut is established suggest very strongly the wisdom of attempting to provide for each territory the institutions of government that will best suit it. In all three cases it will be desirable to establish full responsible government at the earliest feasible date, subject to financial arrangements that will impose genuine responsibility and accountability for expenditure levels on the territorial governments. Some form of block funding is likely to be the best arrangement. As Professor Whittington suggests in his paper, there is a wide range of possibilities for political institutions that can and should be considered.

Political evolution in recent years has been proceeding for the territories largely without amendment or recasting of the Yukon Act or the Northwest Territories Act. New legislation will be required to establish Nunavut, there will have to be legislation for the other "western" territory, and by then Yukon may have reached a point where a redefinition of its system of government and institutions would be feasible. In all cases, the desirable course would appear to be new federal legislation that will put responsible government for the territories on a secure basis by setting up institutions that provide, for each territory, the best adaptation possible to the character of its population and its other features. In each case the relationship to the federal government should be made clear, certainly with respect to the powers of government and possibly with respect to the basis of financing.

A further question will be the place of fully self-governing territories in relation to the federal-provincial system of consultation that is a feature of the Canadian federation. In recent years the territories have achieved a degree of representation in their own right, and not merely as observers within the federal delegation, at a number of federal-provincial meetings. However, this has not included representation at some of the most important conferences at ministerial level, nor at conferences of first ministers.

It would appear likely that a compromise arrangement will have to be worked out. Neither the federal government nor the provincial governments are likely to be prepared to qualify the special title of "province" by accepting a right to territorial representation at the most important federal-provincial conferences, where major questions of national or federal-provincial policy are at issue. By the nature of the difference in status for the territories that is postulated in this paper, major questions of financial and economic policy, federal-provincial fiscal arrangements, and policy issues in the broadest sense would not involve territorial governments in the same way that they would involve provincial governments. On the other hand, a number of federal enactments and programs of provincial concern will continue to apply to the people of the territories in the same or much the same way as they apply to the people resident in the provinces. The most obvious examples are the medicare and hospitalization programs. A possible arrangement for dealing with these issues might be one in which the governments of the territories were entitled to the right to representation at meetings of federal and provincial ministers or officials, to discuss programs of direct application to the people of the territories. They could be invited, to other meetings and conferences (though not conferences of first ministers) in cases where they sought representation and could demonstrate that territorial interests were directly involved in a manner that would affect the policies or programs of the territorial government.

Another issue of relevance to the Canadian system of government generally involves the way in which the boundaries of the proposed territory of Nunavut are established. The boundary that has been proposed thus far is one, essentially following the tree-line, that would put all the Inuit people of the Northwest Territories into the territory of Nunavut. That objective is the essential reason and justification for what is, in every other respect, a very unusual boundary proposal. It has been sharply criticized by those concerned with the remaining "western" territory, since it would virtually exclude that territory from any Arctic coastline; it would involve substantial problems of division or allocation of communities and people in the area around the mouth of the Mackenzie River; and it would create problems in connection with administration and economic activity in the same area, including the western part

of the Arctic coast. Moreover, it would include, in Nunavut, communities at an enormous distance from any capital that is likely to be decided upon for the territory. The statement of the minister of the Department of Indian Affairs and Northern Development, in November 1982, appeared to leave agreement on the boundary of the Nunavut territory to the people of the Northwest Territories. There are two problems with this. The first is that they may not be able to agree. Professor Whittington's paper sets out the problems, including the difficulties that plebiscites might create in some of the most affected areas. The second is that the definition of the boundary and the manner of defining it could have implications of national importance.

It is understandable that the Inuit people of the Northwest Territories should be attracted by the idea of a political division within Canada that would be really an Inuit territory. Their representatives have made clear that they do not seek a form of government that would be racial in its basis or operation. They do not contemplate racial distinctions within the proposed territory. The Inuit record of tolerance and moderation is such that these affirmations should be taken at face value. However, that does not remove the possible difficulties for other parts of Canada in a precedent for definition of a political division on what would be essentially a racial basis.

The definition of the boundaries of Lower Canada and later of Quebec was to a large degree based on language, but also on history. No attempt was made to include the French-speaking Acadians of New Brunswick within Quebec, nor was any effort made to exclude the then substantial English-speaking and commercial population of Montreal. The only plebiscite we have had on the political allocation of people in Canada is the Quebec referendum of May 1980. That referendum, if it had gone the other way, could have led to other plebiscites — possibly to ascertain the views of the Indian and Inuit people of northern Quebec as to the political division in which they wished to live, or of the English-speaking people in western parts of Quebec along the Ottawa River. In short, boundaries that are based on race or language, and especially boundaries determined by local plebiscites, have to be looked at with great care and concern in a country like Canada.

The wiser course would seem to be for the federal government to take its proper responsibility for the definition of political divisions from existing territories under its jurisdiction, as it has done in the past. One method might be, as Professor Whittington suggests, the establishment of an independent boundary commission. It could be given as the bases for its work the considerations that the federal and territorial governments, and also the two constitutional forums, think ought to be taken into account in establishing a boundary. It could be directed to hold hearings in the North and to submit a recommendation to the federal government, as was done by the Carrothers Commission in the 1960s.

Among the considerations that should be taken into account, and that should not be decided on the basis simply of local preference, is whether there should be a special regime for the most northerly part of the Canadian Arctic Archipelago, the Queen Elizabeth Islands. Professor Pharand, in his submission to the seminar on July 6, made clear the important national and strategic considerations related to the navigable channels, territorial waters and offshore areas of the archipelago. While these apply to the entire archipelago and not just to the Queen Elizabeth Islands, there is a substantial Inuit population living in the more southerly islands. It would be desirable, unless there are strong reasons to the contrary, to include these people in one or the other of the future territories. In contrast there are only two settlements in the Queen Elizabeth Islands, Resolute and Grise Fiord, neither one truly indigenous to the area. Both were established in the early 1950s by the removal of Inuit from the east coast of Hudson Bay where hunting was then poor, together with a few Inuit from Pond Inlet on the north shore of Baffin Island who were familiar, as the southern Inuit were not, with the problems of living in total darkness for part of each year. Another consideration in choosing the sites was the better establishment of Canadian sovereignty over the most northerly islands. Canadian defence facilities were maintained at Resolute, and RCMP posts were established both there and at Grise Fiord.

As Professor Whittington points out, the proposal made by the Council of the Northwest Territories in the early 1960s for division of the territories would have resulted in a special regime for the Queen Elizabeth Islands. It was contemplated then that broad considerations of national interest made it desirable to have the federal government in sole charge of the northernmost and virtually uninhabited islands. The same considerations would appear to apply today.

### *Note*

This study was prepared for the Research Seminar on the North sponsored by the Royal Commission on the Economic Union and Development Prospects for Canada. It was presented on July 6, 1984.





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## Environmental Perspectives in the 1980s

PETER BURNET

After yesterday's session,<sup>1</sup> it should be apparent to the Commission that the most important issue for the North in this decade is the political and constitutional evolution of Yukon and the Northwest Territories. The energies of the two territorial governments and the northern aboriginal organizations are directed largely toward resolving exactly the kinds of questions we are grappling with at this workshop. We, however, as a group composed mainly of southerners, must realize that, notwithstanding our considerable collective knowledge of, interest in, and even passion for the North, our perspectives on the northern political debate can never total more than half the story. We have all the advantages and disadvantages that come with personal disinterest. If we are particularly well placed to analyze northern political development from the general perspectives of the evolution of Canadian society and the balancing of national and regional interests, we generally lack the ability to relate this general political debate to the everyday lives and concerns of northern citizens.

Listening to yesterday's discussions, I noted how we moved up repeatedly into the rarefied air of the basic political and ethical principles that underlie Canadian federal democracy. This is necessary and good. It is an important and appropriate approach for this Commission to take. But I hope I offend no one by pointing out that this debate should not be reserved exclusively to political theorists and constitutional lawyers. The practical consequences of devolution to the North must be understood if intelligent national policies are to result.

As a veteran of many, many discussions on the political future of northern Canada, I have come to recognize that the failure to connect general constitutional and political principles to the practical administrative challenges facing government in the North can lead to serious



distortions about just what the national and regional interests are and how they can best be accommodated in our federal system. When southerners debate northern political development, an “us versus them” mentality tends to surface far too quickly. We are inclined to ask how much authority “we” can give “them” without abandoning “our” legitimate national interests in the North, which we unthinkingly assume to be synonymous with federal jurisdiction and control. We assume that Ottawa can do, and is doing, a pretty good job, and that devolution to the North is something to be considered mainly because it will make northerners feel good, or because we feel guilty about past arrogance, or perhaps even because we think we should have consistent government structures everywhere in Canada, without really knowing why. It would be a nice, noble thing to do, we think to ourselves, but there is really very little in it for us. Besides, can we trust them not to hoard all the wealth up there or somehow mess the place up?

I don't mean to belittle sincere efforts to resolve some very complex problems, but the Commission must take care to avoid following this line of thinking automatically. Rather, it should ask whether the devolution of current federal responsibilities to northern public governments, or to the aboriginal people through land-claims settlements and constitutional reform, is something that would in fact advance Canada's *national* interests in the North, rather than simply reflect a new priority for northern regional interests.

I suggest that this may very well be the case in one important area — northern conservation and the management of renewable and non-renewable resources. This is not because northerners and their institutions are inherently better resource managers than the federal politicians and officials who currently exercise jurisdiction over northern lands and resources. It is because a decade of high-profile and often bitter controversies over several major development proposals, coupled with the greatly increased political influence of northern governments and aboriginal groups, has left the federal government in a position where it may be unable, politically, to enact and implement the kind of innovative forward-thinking resource management policies that will be needed in the North in the coming years.

The period from 1972 to 1982 was the era of the mega-project in the North. The oil and gas industry put forth a series of proposals to build pipelines across the North and ship hydrocarbons south with large icebreaking tankers, often with active or tacit federal support. These proposals were generally opposed by significant numbers of the northern aboriginal peoples, who wanted their land claims settled before any major development occurred. The proposals also attracted the attention of environmentalists across the country, who argued that the North was threatened by this kind of large-scale industrial activity. Northern ecosystems are simpler and more fragile than those of the South and the

environmentalists feared the mega-projects would mean a serious decline of northern wildlife. The North has a comparatively low regenerative capacity — footprints left by scientists on Ellesmere Island a decade ago can still be seen today. And, as northern lands and waters have less ability to absorb pollutants, there was great fear about the effects of a major oil spill in the Arctic.

The alarms raised by northern aboriginal groups and environmentalists attracted a great deal of public attention and support. Most of the development proposals were put to some form of public review, most notably the Hon. Thomas Berger's Mackenzie Valley Pipeline Inquiry. These reviews not only provided opponents of these projects with a forum to express their views on the specific proposals, they also became a kind of ongoing public examination of the federal government's political, economic and social policies for northern Canada.

Of all the industrial proposals, only one, the Norman Wells Pipeline, was actually realized. The Mackenzie Valley Pipeline proposal, the Polar Gas Pipeline proposals, the Arctic Pilot Project, and several others were either refused or abandoned, or are still stalled in the regulatory process. Perhaps economics had more to do with this than the protests of northern native groups and environmentalists but, nevertheless, this long series of public reviews and inquiries into northern development had some major consequences for federal northern policy. Moreover, they increased the political influence of territorial governments and northern native groups.

By the end of this turbulent decade, industry, government, northerners and environmentalists were all thoroughly frustrated and exhausted by the pitched battles that resulted from the mega-project proposals. The ad hoc, project-by-project assessment process seemed to resolve none of the fundamental questions about the future of northern development. This is not very surprising when one considers that the federal government's northern policy consisted solely of a few general principles, such as "promoting orderly development" and "safeguarding the northern environment," which everyone could agree upon but were of little use in resolving actual conflicts over specific resource uses.

The failures of this period led to a consensus that the federal government must devise more specific resource management policies that could determine the scope of, and conditions for, the use of northern lands and resources before specific demands arose. Industry talked about needing to know the "rules of the game" before investing millions of dollars preparing for major projects. Environmental groups wanted sensitive lands and waters protected in a comprehensive and systematic way. Northerners sought land management policies that would satisfy the needs and aspirations of both the aboriginal and non-aboriginal populations. These pressures forced Ottawa to consider starting actively to manage northern lands and resources.

Thus, if resource management debates during the seventies centred on the reactive efforts of environmentalists and native groups trying to thwart or delay specific development projects, we are now in a situation where the federal government is trying to take the first steps toward such "pro-active" measures as land-use planning policies, parks and wildlife policies, wildlife management policies, ocean management policies, and inland water management policies. The federal government is no longer standing back and trying to assess the merits of development initiatives in a vacuum. It is moving toward the active management and administration of northern lands and resources.

It is important to understand that policies such as these will necessitate more government activity. The public management of lands and resources means government will be called upon increasingly to monitor, assess, license and plan the use of these vast territories in order to avoid the kinds of conflicts we have witnessed during the past few years. Yet if our experience led to a consensus on the need for this kind of public resource management, what was not resolved was whether Canada's unique, delicate, beautiful and resource-rich North was to be managed and protected primarily for the benefit of northern residents, or for the whole nation, or even for humankind in general. We generally talk about these together and like to think they are all compatible, but in the 1980s, questions about "how" we are going to manage northern resources have been superseded by the question of "who" is going to do it.

The call for more active government planning and management in the North has occurred at the very time that northerners are demanding more control over the use of their lands and resources. Today, it is impossible to talk about any one of the resource management policies I mentioned earlier without quickly falling into a discussion about land claims, devolution to territorial governments, division of the Northwest Territories, or even the constitutional negotiations with Canada's aboriginal peoples. At present, the federal government has jurisdiction over the use of northern lands, waters, and resources. Yet, despite this formal legal mandate, the federal government's ability to manage northern lands is circumscribed by the growing political influence of northerners. Northerners have proven that, when they are united, they can thwart or delay a major development project, even one with strong federal backing. It would be naïve not to believe that this same new-found political influence could not be used to obstruct or defeat new resource management policies, no matter how necessary or enlightened they may be. To put it bluntly, the federal government, through the Department of Indian Affairs and Northern Development (DIAND), has a problem of political legitimacy in the North, and it knows it.

Recent political events have brought us to a point where northerners and northern governments may resist a federal resource policy on the sole ground that it comes from the federal government. In fact, this has

already occurred in several instances. DIAND's much heralded and welcomed land-use planning initiative has been stalled for almost two years because of federal/territorial jurisdictional disputes. Several proposals for national parks in the North are patiently awaiting the resolution of land claims. Recently the Dene Nation successfully challenged the federal government's inland water licensing procedures, leaving the North in a situation where water use is effectively unregulated. Decisive action is needed to remedy this, but unilateral federal decisive action is no longer acceptable in the North.

This uncertain climate means that the Department of Indian Affairs and Northern Development is not politically capable of taking the type of bold, creative and innovative steps that will be necessary if its resource management policies are to succeed. DIAND frequently talks about how it sees its mandate as the "balancing" of various interests in the North, presumably meaning that the department is going to try to give a slice of the pie to industry, environmentalists, northerners and whomever else has an interest in northern resources. In fact, DIAND doesn't really balance interests. It juggles them. Because DIAND's legitimacy is continually being challenged, it tends to measure its success by the absence of controversies, which it knows are always just around the corner.

If sound environmental protection and resource management in the North is in the national interest, as I hope everyone here would agree, then it follows directly from this that it is in the *national* interest to bring the process of northern political evolution to its conclusion, because this may be the only way to fill the vacuum of public authority that now exists on major questions of land and non-renewable resource management in the North. For example, we heard yesterday that the government of the Northwest Territories is currently undertaking some highly imaginative and creative initiatives in the area of land-based renewable resource management, over which it has jurisdiction. By contrast, the federal government cannot hope to be equally forward-looking with respect to non-renewable resource management. On the one hand, it knows it cannot count on the support and cooperation of northerners. On the other, the era of DIAND's unquestioned authority to govern as it sees fit is, thankfully, over.

Southerners have a tendency to question the competence of northerners, and environmentalists and resource planners are no exception. We tend to wring our hands and worry about the risks of putting wildlife management in the hands of native northerners, or fret about whether Yukoners will ravage the countryside looking for mines. We can't ignore these questions, but they lead us into dangerous waters. They presume that the federal government can manage these resources effectively. It can't. And they lead us to adopt the Canadian government's current minimalizing attitude whereby it reluctantly surrenders responsibility to northerners bit by bit only when forced to, and only after they have gone

to exhausting lengths to assure the government they know what they are doing.

Canada could benefit from taking a good look at the experience of one of our Arctic neighbours — Greenland. During the 1970s Greenland negotiated a home-rule arrangement with Denmark whereby the new Greenland government received powers and jurisdictions roughly equivalent to those of a Canadian province. Not only did the parties fix and meet a set schedule for completing these negotiations, but the Danish attitude to the division of responsibilities between Greenland and Denmark was very different from that shown by the Canadian government toward the territorial governments. When the Greenlanders asked for responsibility for a variety of social, educational and local matters, Denmark not only readily agreed but actually insisted that the Greenlanders take on the responsibility for economic development, resource management, and industrial development policies as well. Denmark obviously realized that, if Greenland's resources were to be managed effectively, they would have to be administered by a legitimate public government that was responsive and responsible to Greenlanders. This was more fundamental than the question of whether Greenlanders were technically ready to do the job.

I enjoy recounting this story, not because Greenland is necessarily a model for northern Canada, but because it illustrates rather glaringly a serious lack of vision in Canada's federal northern policy. Instead of responding reluctantly to northern political demands on a piecemeal basis and asking northerners over and over again to affirm their loyalty and prove their intelligence, the federal government should be actively *promoting* the transfer of control over northern lands and resources to the North.

If the Canadian government were suddenly to decide that northern resource management were a national priority and that it would do the job as it saw fit regardless of what northerners thought or said, my analysis would be faulty, of course. But not only would this be highly undesirable, it would be simply impossible politically. Land claim agreements are being signed and entrenched in the Canadian Constitution. Yukon now has responsible government and the N.W.T. are not far behind. We have made a choice about the direction we want to go in the North. The federal bureaucracy must stop second guessing that choice every step along the way.

At the same time as the North has been set on what appears to be an irreversible course toward greater self government, this country is acknowledging greater national and even international responsibilities to protect wildlife, the atmosphere, oceans, rivers, and unique ecological areas in the North. There is a strong and growing national concern about this part of the country, matched by a heightened appreciation of northern issues among the general public. But our national obligations

must not be allowed to be translated automatically into ongoing or increased federal jurisdiction. Instead we must remember that Canada has a collective responsibility to ensure that public governments can and do engage in the type of resource planning necessary to ensure the sustainable utilization of northern resources and the North's general environmental health. This can only be done if we move quickly to end the tired, colonial regime that is frustrating our ability to discharge our national responsibilities in the North.

### *Note*

1. This study was prepared for the Research Seminar on the North sponsored by the Royal Commission on the Economic Union and Development Prospects for Canada. It was presented on July 6, 1984, the second day of the seminar. The first day focussed on a discussion of northern political and constitutional developments.



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# Sovereignty and the Canadian North

DONAT PHARAND

## Introduction

Government and industry have been cooperating in the exploration of the hydrocarbon resources of the Arctic, with a view to developing those resources and transporting them to market by means of tanker, pipeline, or both. If the tanker mode is involved, which appears likely, it is important to determine the extent to which Canada has jurisdiction over the waters to be used. Since the resources are located both onshore and offshore, it is also important to ensure that Canada has exclusive rights to these areas. If doubts should exist as to Canada's sovereignty over the Arctic islands, the continental shelf, the waters of the Arctic Archipelago generally and those of the Northwest Passage in particular, it would be impossible for either government or industry to do any long-term economic planning. This paper will examine briefly the possible existence of such doubts with respect to the four areas mentioned.

## The Arctic Islands

Since the transfer of title from Great Britain in 1870 and 1880, Canada's sovereignty over the whole of the Arctic Archipelago has been completed and consolidated by official Canadian expeditions and various state activities carried out over the years by government officials, in particular the Royal Canadian Mounted Police. Canada's title to the Arctic islands was doubted on two occasions only, once by Denmark and the other time by Norway. In 1920, after the Canadian government had requested that Denmark restrain its Eskimos from killing musk-ox on Ellesmere Island because it feared the extinction of the oxen, the Danish government stated in its reply that it thought it could subscribe to the view, expressed by the Danish explorer Rasmussen, that Ellesmere

Island was “no-man’s land.”<sup>1</sup> This resulted in an appropriate communication being sent to Denmark by Great Britain on behalf and at the request of Canada, and Denmark did not pursue the matter after that. The fact that, at about the same time, Great Britain recognized Denmark’s sovereignty over Greenland might also have helped to convince Denmark not to make any claim relating to Ellesmere Island.

As for the doubts expressed by Norway, they related to the Sverdrup Islands, which lie immediately west of Ellesmere Island in the northern part of the archipelago. The dispute began in 1928 with a letter from the Norwegian consul in Montreal, who wrote to the Canadian government and reserved all rights of Norway under international law over the Sverdrup Islands. This eventually resulted in the Canadian government paying a certain sum to the Norwegian explorer Sverdrup for his services to scientific research<sup>2</sup> and in an exchange of notes in 1930 between Canada and Norway, whereby the latter recognized Canada’s sovereignty over the Sverdrup Islands. Since then, there has never been any challenge to Canada’s sovereignty over the whole of the Arctic Archipelago, and Canada has been reasonably careful in maintaining adequate control over those islands.

### **The Continental Shelf**

Since there is no question as to Canada’s full jurisdiction or sovereignty over the Arctic islands, there is no question either as to Canada’s exclusive jurisdiction over the continental shelf of the archipelago. Indeed, in international law it is sovereignty over the land area that automatically confers exclusive jurisdiction over the natural resources of the continental shelf, the latter being a continuation of the land territory of the coastal state into and under the sea. In other words, the submarine areas constituting the continental shelf are deemed to be part of the territory over which the coastal state has sovereignty, the rationale being that the continental shelf is merely a continuation of that territory under the sea.<sup>3</sup> The international law relating to the delimitation of the shelf was somewhat uncertain for a number of years, but with a few international decisions and the signing of the Law of the Sea Convention by some 119 states in December 1982, it is gradually becoming more settled. The problem of delimitation is twofold, involving first the seaward limit of the continental shelf, and second its lateral limits.

### ***The Seaward Limit***

A glance at a map of the Arctic basin would seem to indicate that the seaward limit of the continental shelf does not cause any problem. However, there are two undersea features across the middle of the basin, the Lomonosov Ridge and the Alpha Ridge, which could conceivably be



of continental shelf origin and may, therefore, pose potential problems. For that reason, it is important to discuss briefly the seaward limit of the continental shelf in international law.

The Continental Shelf Convention of 1958 defined the continental shelf as extending to a depth of 200 metres or to a point beyond that limit at which the depth of the superjacent waters permit the exploitation of the natural resources. With the developing technology permitting the exploitation of the continental shelf at ever-increasing depths, that definition soon became obsolete. In 1968, when the deep seabed committee of the United Nations was formed, and for a number of years subsequently, numerous attempts were made to arrive at a new definition, but without success. It was only after the Eighth Session of the Third Law of the Sea Conference, in April 1979, that a consensus was reached on that question. The consensus is now incorporated in the new Law of the Sea Convention signed in December 1982.

The new definition of the continental shelf reads as follows:

The continental shelf of a coastal state comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance."<sup>4</sup>

It is interesting to note that Canada has modelled its definition of "Canada lands" in the Canada Oil and Gas Act of 1982 on the older Law of the Sea Convention provision. The Act provides that "Canada lands" means lands belonging to Canada or in respect of which it has the right to exploit the natural resources situated in "those submarine areas adjacent to the coast of Canada and extending throughout the natural prolongation of the land territory of Canada to the outer edge of the continental margin or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea of Canada is measured, whichever is the greater."<sup>5</sup>

Presuming that the Lomonosov and Alpha Ridges are of continental shelf origin, the question arises as to whether they form a part of the continental shelf off Ellesmere Island and Greenland on the North American side and possibly also a part of the continental shelf off the New Siberian Islands belonging to the Soviet Union. The answer to the question depends upon the meaning given to "continental margin" in the legal definition of the continental shelf. Under that definition, the continental margin may extend up to 350 nautical miles and, under exceptional circumstances, further. The convention provides two methods for the determination of the seaward limit of the continental margin, one based on the thickness of the sedimentary rocks (with a distance limit), and the other based on the configuration of the sea bottom. Under

the first or geological method, the seaward limit must not extend beyond 350 miles from the baselines from which the breadth of the territorial sea is measured, and under the second or physiographical method, the seaward limit must not extend more than 100 miles beyond the 2500-metre isobath. The 350-mile limit does not, however, apply to "submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs."<sup>6</sup>

It is, of course, under the concept incorporated in the above provision that Canada has been able to issue oil and gas exploratory permits on the Flemish Cap, as far as 380 nautical miles off the coast of Newfoundland. It is also under this same provision that Canada could claim that the Lomonosov and Alpha Ridges, or parts thereof, form a part of its continental shelf. It is with this possibility in mind that Canada conducted two expeditions in the Arctic Ocean, the LOREX (Lomonosov Ridge Expedition) in 1979 and the CAESAR (Canadian Expedition to Study the Alpha Ridge) in 1983. Although both expeditions, installed on drifting ice floes, took numerous core samples to determine if the ridges were continental shelf fragments or ordinary oceanic ridges, public accounts of the results do not indicate any definite answer. It would appear, however, that the Lomonosov Ridge is more likely to be of continental origin than is the Alpha Ridge.<sup>7</sup> Should it be confirmed that either one or both of those ridges are of continental shelf origin, the equidistance method of delimitation between opposite states would probably be used to divide the Alpha Ridge between the Soviet Union and Canada, and the Lomonosov Ridge between the Soviet Union on the one side, and Canada and Denmark on the other. In the latter case, since the Lomonosov Ridge begins in the Lincoln Sea between Ellesmere Island and Greenland, it poses the additional problem of lateral delimitation between those two states.

### *The Lateral Limits*

The hydrocarbon resources in the continental shelf around the Arctic basin are known to be considerable, and the drilling activities have increased in recent years, particularly in the Beaufort Sea area on both sides of the 141st meridian of longitude. Canada has two continental shelf delimitation problems in the Arctic, one with the United States and the other with Denmark. These will be commented upon after a brief review of the law applicable to such problems.

The international law applicable to continental shelf delimitation between neighbouring states has had a rather difficult history and is still not very satisfactory. After years of discussion in the Third Law of the Sea Conference, the equidistance rule, except in cases where another line was justified by special circumstances, was replaced by the following provision which is now incorporated in the 1982 convention:

The delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.<sup>8</sup>

Since Article 38 of the Statute of the International Court merely lists the international law sources that the court should apply, which consist basically of international conventions and international customs, the provision by itself is rather meaningless in that it provides no rule or method to achieve an equitable solution. Guidance will have to be obtained from relevant international decisions as to what the applicable international law actually is. We have already had two cases heard by the court since the adoption of the new provision.

In the Continental Shelf Case between Tunisia and Libya of 1982, the International Court took into account the emerging law and held that "the delimitation is to be effected in accordance with equitable principles, and taking account of all relevant circumstances."<sup>9</sup> As to the meaning of "equitable principles," the court states that "the principles being subordinate to the goal to be attained, the equitableness of the principles to be applied must be determined by reference to the equitableness of the solution."<sup>10</sup>

In the Gulf of Maine Case between Canada and the United States heard by a five-member chamber of the International Court in the spring of 1984, both parties relied heavily on the 1982 decision. However, since equity is a very flexible concept and relevant circumstances vary from one situation to another, it is not surprising that the delimitation lines proposed by the parties were a considerable distance apart. The American line, relying on a number of special circumstances, encompassed all of Georges Bank, whereas the Canadian line, relying basically on the equidistance method and modified by ignoring certain coastal features on the American side, gave Canada about half of Georges Bank. In addition, a special feature of this case is that the parties asked the court to delimit not only the continental shelf, but also the column of water above the shelf. In other words, the line drawn by the court will delimit the hydrocarbon resources of the continental shelf, as well as the biological resources of the superjacent waters. It was normal enough for the parties to ask the court to settle both problems at the same time, since the rule (or absence thereof) applicable to continental shelf delimitation is also applicable to the delimitation of the exclusive economic zone.<sup>11</sup>

To conclude on the law applicable to continental shelf delimitation, at least ten factors have been held so far to constitute relevant circumstances which may be taken into account in establishing delimitation lines. These factors include: the general configuration of the coast, the physical and geological structure, the natural resources of the area, a reasonable proportionality between the extent of the continental shelf and the length of the coast of a state, the size of the area to be delimited, a

marked change in the direction of a coastline, any special feature or configuration of a coast, the existence and position of islands in the vicinity, the land frontier between the parties, and the previous conduct and attitude of the parties over a period of time.

An examination of the continental shelf and maritime boundary agreements concluded up to the end of 1982,<sup>12</sup> along with the few international decisions on the question, would seem to indicate that the equidistance method has been the basic mode of delimitation. In trying to summarize the law applicable to continental shelf delimitation between neighbouring states, a twofold proposition may be formulated: first, such delimitation must be made in accordance with equitable principles, taking into account all relevant circumstances, in order to arrive at an equitable solution; and second, the equidistance method, with or without modification, has been generally found to produce the desired result.

In the Canada/Denmark continental shelf problem, the delimitation between Greenland and Ellesmere Island was agreed upon in 1974 as far north as 82° 13' of latitude, where it meets with the 60th meridian of longitude.<sup>13</sup> The delimitation line already established follows the equidistance method, modified in certain sections in order to take into account the special configuration of the coasts and the presence and size of certain islands. What method will be followed to delimit the rest of the shelf in the Lincoln Sea is not known, but it is reasonable to expect that the parties would follow a similar approach. It is also unknown to this writer why the delimitation has not been completed as yet, but it is possible that the parties are waiting for more precise information as to the geological nature of the Lomonosov Ridge. In that event, the equidistance method would run roughly along the middle of the ridge. It is doubtful that Canada would invoke the sector theory — although the 60th meridian of longitude has been shown as a boundary on a great number of its maps since 1904 — as it would not seem to be to its advantage.

In the Canada/United States continental shelf problem in the Beaufort Sea, the parties attempted to negotiate a settlement of their four maritime boundary problems (Gulf of Maine, Juan de Fuca, Dixon Entrance and Beaufort Sea) as a package in 1977, but were not successful. Presumably, once the decision for the Gulf of Maine has been handed down, the parties will go back to the negotiating table to settle the remaining problems. Considering the intensification of drilling activities on the part of both parties in the Beaufort Sea in recent years, and their determination to attain energy self-sufficiency as soon as possible, one would think that the Beaufort Sea continental shelf delimitation would stand fairly high on their agenda. In this particular geographic situation, as distinguished from that in the Gulf of Maine, the equidistance method favours the United States because of the slightly convex coast of Alaska and concave coast of Yukon. It would, therefore, appear that the special

configuration of the coast of Canada in the area to be delimited might constitute a special circumstance and warrant a certain modification of the equidistance line.

In addition, Canada has been using the 141st meridian of longitude as its western boundary for the exercise of different types of jurisdiction, in particular for the issuance of oil and gas exploration permits, since 1965. It has also used the same meridian up to a distance of 100 nautical miles to describe the waters over which it claimed pollution prevention jurisdiction in the Arctic Waters Pollution Prevention Act of 1970. Furthermore, in 1977 it described the western boundary of its exclusive fishing zone up to 200 miles by following the 141st meridian for that distance.

These various uses of the 141st meridian do not necessarily indicate that Canada is relying on the 1825 Boundary Treaty between Great Britain and Russia as having established a maritime boundary up to the North Pole. Indeed, a careful analysis of the treaty, taking into account the historical context, leads to the definite conclusion that the demarcation line between the "possessions" of the parties went only *as far* as the Arctic Ocean.<sup>14</sup> In addition, the parties could not have envisaged establishing a boundary for their continental shelf at a time when the very concept of the continental shelf was absolutely unknown in international law. However, Canada could argue that "the continuation in the seaward direction of the land frontier" constitutes an accepted method of continental shelf delimitation.<sup>15</sup> In these circumstances, it is quite possible that an equitable solution might be reached by modifying the equidistance line so as to take into account the historical use which Canada has made of the 141st meridian, at least since 1965, and the apparent acquiescence by the United States toward that use.

## **The Waters of the Archipelago**

Canada claims that all of the waters within the Canadian Arctic Archipelago are internal waters over which it has complete sovereignty in the same way that it does over the surrounding land areas. This claim is not necessarily accepted by all other countries, particularly the United States. There exist two main methods for a state to acquire sovereignty over water areas; one provides for the proof of an historic title, and the other provides for the establishment of straight baselines. These two methods will now be examined very briefly.

### ***Historic Title***

In December 1973, the legal bureau of the Department of External Affairs expressed the opinion "that the waters of the Canadian Arctic Archipelago are internal waters of Canada, on an historical basis, although they have not been declared as such in any treaty or by any

legislation.”<sup>16</sup> This position was confirmed by the secretary of state for external affairs in May 1975, when he stated:

As Canada’s Northwest Passage is not used for international navigation and since the Arctic waters are considered by Canada as being internal waters, the regime of transit does not apply to the Arctic.<sup>17</sup>

Although Canada’s claim is reasonably clear, it is not as certain that it meets the legal requirements for the proof of such a claim. The role of historic waters in international law has been considerably reduced since the approval of the straight baseline system by the International Court in the Fisheries Case of 1951 and the adoption of a 24-mile closing line rule for bays in the Territorial Sea Convention of 1958. The possibility of having historic waters has been preserved in the 1982 convention but nothing is said as to the requirements for their recognition, and these have to be found in customary international law. Reliance on customary law always poses a problem as to exactly what the rule is, and state practice, which forms its basis, is not altogether clear or uniform. In the Arctic in particular, only one other state (the Soviet Union) has made a clear claim of historic waters and it relates to a bay, that of Peter the Great, which has an entrance of 108 miles. In 1951, Norway invoked history, but only as a subsidiary basis along with the straight baseline system, for its claim that the fjords and sunds along its coast were internal waters.

For a state to succeed in a claim of historic waters, the requirements are stringent. The reason is that it is a claim of maritime sovereignty, and it is one in derogation of the general rules for the acquisition of such sovereignty, such as the 24-mile rule for bays and the straight baseline system. An analysis of the relevant literature reveals that the claimant state must satisfy three requirements: first, its exclusive authority and control over the maritime area claimed, including the expulsion of foreign ships if necessary; second, long usage or the passage of a long period of time, the length of the period depending on the circumstances; and third, acquiescence by foreign states, particularly those affected by the claim. With respect to the third requirement, an effective protest on the part of interested states will negate acquiescence and prevent an historic title from materializing.

Applying the above requirements, Canada could invoke a number of state activities in the waters of the archipelago in support of its claim, in particular the following: the discovery and exploration of those waters by British explorers before the transfer in 1880; the further exploration by Canadian explorers after the transfer; the adoption of whale hunting legislation in 1906; the institution of the Eastern Arctic Patrol in 1922; the establishment of the Arctic Islands Preserve in 1926; and the adoption of the Arctic Waters Pollution Prevention Act in 1970. On the negative side of the case, however, it must be realized that the various takings of

possession by both British and Canadian explorers were confined to lands and islands; that the whale hunting legislation did not seem to apply beyond Hudson Bay and the three-mile territorial waters of Canada; that the description of the Arctic Islands Preserve by the use of the 141st and 60th meridians of longitude right up to the North Pole could not possibly result in the acquisition of sovereignty over the enclosed waters; and that the jurisdiction claimed in the Arctic Waters Pollution Prevention Act was limited to pollution prevention and control.

A further and more conflicting aspect of Canada's claim of historic internal waters is found in some of the official statements made in 1970, when Canada's territorial waters were extended from three to twelve miles. Explaining the implication of this extension when moving the second reading of the bill, the secretary of state for external affairs stated that "the effect of this bill on the Northwest Passage is that under any sensible view of the law, Barrow Strait, as well as the Prince of Wales Strait, are subject to complete Canadian sovereignty."<sup>18</sup> This could perhaps indicate that the minister thought this amendment would make the waters internal, although it is difficult to imagine how. Indeed, in answering a question on straight baselines just one day earlier, he had stated that "since obviously we claim these to be Canadian internal waters we would not draw such lines."<sup>19</sup> Be that as it may, the intended effect of the amendment must have been to create an overlap of territorial sea in the western portion of Barrow Strait, where a string of five islands lies in a zigzag fashion across the strait. The widest passage being only 15.5 miles, between Lowther and Young Islands, there would now be a sort of gate of territorial waters across Barrow Strait, as there was already in Prince of Wales Strait where the Princess Royal Islands, lying in mid-strait, reduce the width of the passage to less than 6 miles. That this was the intended effect of the amendment was made abundantly clear a few days later by the legal adviser of the Department of External Affairs, when testifying before the standing committee on external affairs and national defence. He stated, in particular:

This has implications for Barrow Strait, for example, where the 12-mile territorial sea has the effect of giving Canada sovereignty from shore to shore. To put it simply, we have undisputed control — undisputed in the legal sense — over two of the gateways to the Northwest Passage.<sup>20</sup>

In other words, even if a foreign ship succeeded in avoiding Prince of Wales, as the *Manhattan* attempted to do in 1969 by entering M'Clure Strait instead, it could no longer remain on a strip of high seas or of exclusive economic zone. In effect, the extension of territorial waters to 12 miles, partly with a view to creating an overlap of such waters in Barrow Strait, may constitute an admission that the rest of the waters of Parry Channel were considered as high seas.<sup>21</sup> And of related significance is the fact that it was not until 1973 that the legal bureau of the



Department of External Affairs claimed that the waters of the archipelago were “*internal waters* of Canada, on an historical basis.”<sup>22</sup>

In addition to the above, again on the negative side, it must be recalled that the United States made a formal protest in 1970 not only against Canada's extension of its territorial sea to 12 miles, but also against the Arctic Waters Pollution Prevention legislation adopted at the same time. This second piece of legislation enabled Canada to enforce certain pollution prevention standards of construction, manning and equipment against all ships navigating in the waters of the archipelago north of the sixtieth parallel and up to a distance of 100 miles outside the archipelago. The United States' protest note stated that international law provided no basis for the proposed unilateral extensions of jurisdiction and that it could neither accept nor acquiesce in the assertion of such jurisdiction. The note ended by suggesting to Canada that the matter be submitted to the International Court of Justice for adjudication. Canada ignored the protest note as it related to the extension of the territorial sea, but not so with respect to pollution prevention. Indeed, on the same day that the government introduced the bill on Arctic Waters Pollution Prevention, the Canadian ambassador to the United Nations transmitted a letter to the secretary general, modifying Canada's acceptance of the International Court's jurisdiction and excepting from such jurisdiction disputes arising out of jurisdiction claimed by Canada in respect of the prevention or control of pollution in marine areas adjacent to the coast of Canada.

The damaging part of this reservation in relation to Canada's claim of historic waters is that the marine areas adjacent to the coast of Canada, as described in the new legislation, cover not only a strip of 100 miles outside the archipelago but also all of the waters within the archipelago north of the seventieth parallel. If these waters had really been considered internal waters of Canada, over which it claimed as complete a sovereignty as it did over the lands and islands of the archipelago, there would have been no doubt as to Canada's jurisdiction to adopt such legislation for the waters within the archipelago. Thus, the reservation could have been limited to the strip of 100 miles outside the archipelago and along the northern coast of Yukon and the Mackenzie Delta. As it was, the reservation indicated an uncertainty on the part of Canada as to the legal basis of this legislation, not only as it applied to the waters outside but apparently also the waters inside the archipelago. Consequently, Canada cannot be said to have ignored the protest of the United States but, on the contrary, seems to have acted upon it.

Another negative element in relation to Canada's claim of historic waters is the fact that the NORDREG reporting system is a voluntary one only. Indeed, if there is any doubt that the waters of the archipelago are internal waters, it would be difficult for Canada to insist that foreign ships abide by the reporting system or be refused entry into the Northwest Passage. Presuming that a foreign ship conforms with the Arctic



Waters Pollution Prevention legislation of Canada, the validity of which should now be considered as confirmed by customary international law,<sup>23</sup> it should have a right of innocent passage in the waters of the Northwest Passage. If these waters are not internal then they are at best territorial waters, and innocent passage applies.

For all the above reasons, the conclusion is that Canada would not succeed in establishing that the waters of the Canadian Arctic Archipelago are historic internal waters.

### *Straight Baselines*

The method of delimiting territorial waters from straight baselines instead of along the sinuosities of the coast was developed by Norway in 1812. The straight baseline system was approved by the International Court in 1951, incorporated in the Convention on the Territorial Sea of 1958, and retained in the Law of the Sea Convention of 1982. Under this system, where a coast is deeply indented or is bordered by an archipelago, it is permissible to draw straight baselines across the indentations and between the outermost points of the islands, and then measure the territorial sea from these baselines. This geographical situation is commonly referred to as that of a coastal archipelago. The question of whether the Canadian Archipelago meets the legal requirements will now be briefly addressed.

The legal requirements for straight baselines pertain to the geographical configuration of the coast and the actual drawing of straight baselines. The court in the Fisheries Case<sup>24</sup> formulated three criteria or guidelines, which may be adapted to diverse situations in drawing straight baselines. All three criteria were incorporated, without change, into the 1958 and 1982 conventions. The first two criteria are compulsory and the third is optional. They may be summarized as follows:

First, straight baselines must not depart to any appreciable extent from the general direction of the coast, in that the deviation must not constitute a distortion of the general direction. To judge whether a baseline constitutes a distortion, one should examine a small-scale map, taking a global view of the whole coast.

Second, the enclosed sea areas must be sufficiently closely linked to the land domain to be subject to the regime of internal waters. The overall ratio of sea to land areas within the Norwegian Archipelago was 3.5 to 1. Under the Fisheries Case, the enclosed waters are strictly internal and no right of innocent passage exists. Under the 1958 and 1982 conventions, the newly enclosed waters are internal but subject to the right of innocent passage if they had previously been considered as part of the territorial sea or of the high seas.

Third, in establishing particular baselines, account may be taken of certain economic interests peculiar to the regions concerned, the reality

and importance of which are clearly evidenced by long usage. Such evidence adds probative value to the validity of the baselines in question.

Neither the Fisheries Case nor the 1958 or 1982 conventions fix any maximum length for straight baselines enclosing coastal archipelagos. The coastal state can best appraise the local conditions dictating the precise position of baselines.

The establishment of straight baselines around the Arctic Archipelago can meet the legal requirements just discussed. The Canadian Arctic Archipelago is a huge labyrinth of islands and headlands, broken by large indentations in the form of bays and gulfs; traversed by numerous straits, sounds and inlets; and the whole being fused together, most of the year, by an ice cover.

Although the archipelago is not a simple "fringe of islands" in the strict sense, it constitutes a single unit bordering the northern coast of Canada and forming an integral part of the coast.

The physical characteristics of the coast and of the archipelago are such as to make it absolutely impossible to follow the sinuosities of the coast or of the islands in the measurement of the territorial sea, and render it necessary to use straight baselines.

The proposed straight baselines (see Figure 7-1) meet the two flexible criteria or guidelines formulated in the Fisheries Case and incorporated as compulsory criteria in the 1958 and 1982 conventions: the general direction of the coast, and the close link between the sea and the land areas. The "general direction" criterion is met, because the straight baselines follow "general direction." What really constitutes the Canadian coastline is the outer line of the archipelago, and the straight baselines follow such an outer line.

The "close link" criterion is also met, because the sea to land (islands) ratio in the archipelago is 0.822 to 1, and this close relation is enhanced by the quasi-permanent presence of the ice cover in the enclosed water areas.

The validity of the straight baselines crossing Amundsen Gulf and Lancaster Sound is reinforced by taking into account the economic interests of the local Inuit population, whose livelihood has depended exclusively on fishing, hunting and trapping in those water areas since time immemorial.

Although there is no limit to the length of individual straight baselines established in conformity with the compulsory guidelines, particularly when their validity is reinforced by regional economic interests evidenced by long usage, an effort has been made to restrict the length of the baselines so that the average length is less than 17 miles and the longest is 99 miles.

As an additional argument for the straight baseline system in claiming the waters of the archipelago as internal waters, Canada is in a position to rely on an historical consolidation of title to Lancaster Sound and

Barrow Strait in the east, and Amundsen Gulf in the west, the effect of such consolidation being to confirm or consolidate the title to those water areas resulting from their enclosure by straight baselines.

## **The Northwest Passage**

In spite of the conclusion reached in the previous section, that Canada could validly establish its claim of internal waters by the drawing of straight baselines around the Arctic Archipelago, the fact is that it has not yet done so, and the question of the legal status of the Northwest Passage remains. After a brief description of what constitutes the Northwest Passage, this section will study the present legal status of the Northwest Passage, as well as its future one.

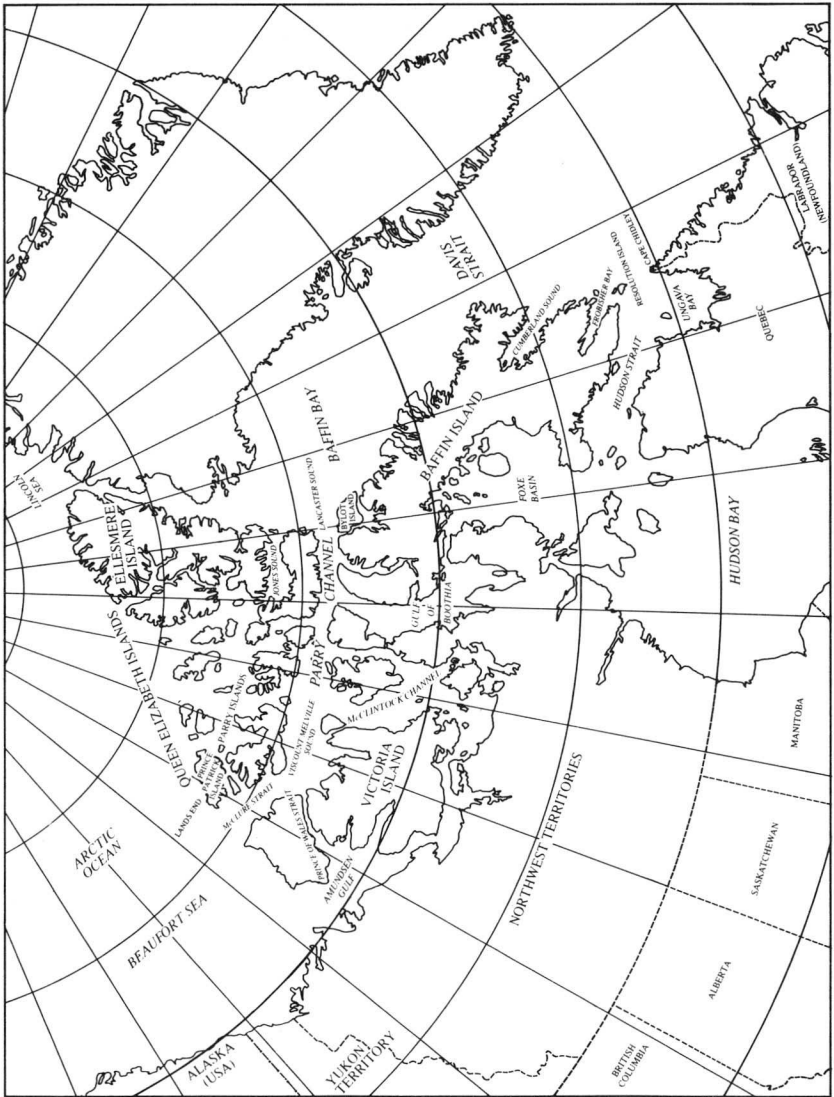
According to *Sailing Directions, Arctic Canada*, "the Northwest Passage spans the North American Arctic from Davis Strait and Baffin Bay in the east to Bering Strait in the west."<sup>25</sup> Although this represents the traditional definition of the Northwest Passage, the present discussion will limit the meaning of the term to the constricted waters within the Canadian Arctic Archipelago between Baffin Bay in the east and the Beaufort Sea in the west.

The Northwest Passage consists of five basic routes, plus at least two variations of those routes (see Figure 7-2). All the routes are potentially feasible for navigation, although not necessarily for deep-draft ships. The choice of the route will depend mainly on the ice conditions, the size of the ship, its icebreaking capabilities or that of the accompanying icebreaker, if any, and the adequacy of hydrographic surveys. Of the five basic routes, only Routes 1 and 2, for the moment, are known to be suitable for deep-draft navigation. Route 3 (and its variation, 3A) and Route 4, which follow the continental coast of Canada for more than half of the distance, are not suitable for deep-draft navigation. Route 5 presently leads only to Routes 3 and 4, but if it should prove possible eventually to avoid certain shoal areas in Fury and Hecla Strait, its variation, Route 5A, could lead to Routes 1 and 2 and be used by deep-draft ships. Route 5 would thus become a viable alternative to Lancaster Sound.

### ***Present Status***

Because of the nature of the legal regime that would be applicable, it is important to determine if the Northwest Passage may be characterized as an international strait. If it may, the applicable freedom of passage under the new right of transit passage would be virtually the same as that on the high seas. If it could not be classified as an international strait, the most that could apply would be the traditional right of innocent passage. On the basis of the test formulated by the International Court in the Corfu Channel Case in 1949,<sup>26</sup> the only decision on this point, a strait

**FIGURE 7-1 Straight Baselines for Canadian Arctic Archipelago**



Source: Canadian Hydrographic Service, Department of Fisheries and Oceans. Map prepared for the author.

must have been a useful route for international maritime traffic before it could be considered an international strait. In the case of the Corfu Channel, the strait had been a very useful route for the flags of seven states which had effected nearly 3,000 crossings over a 21-month period.

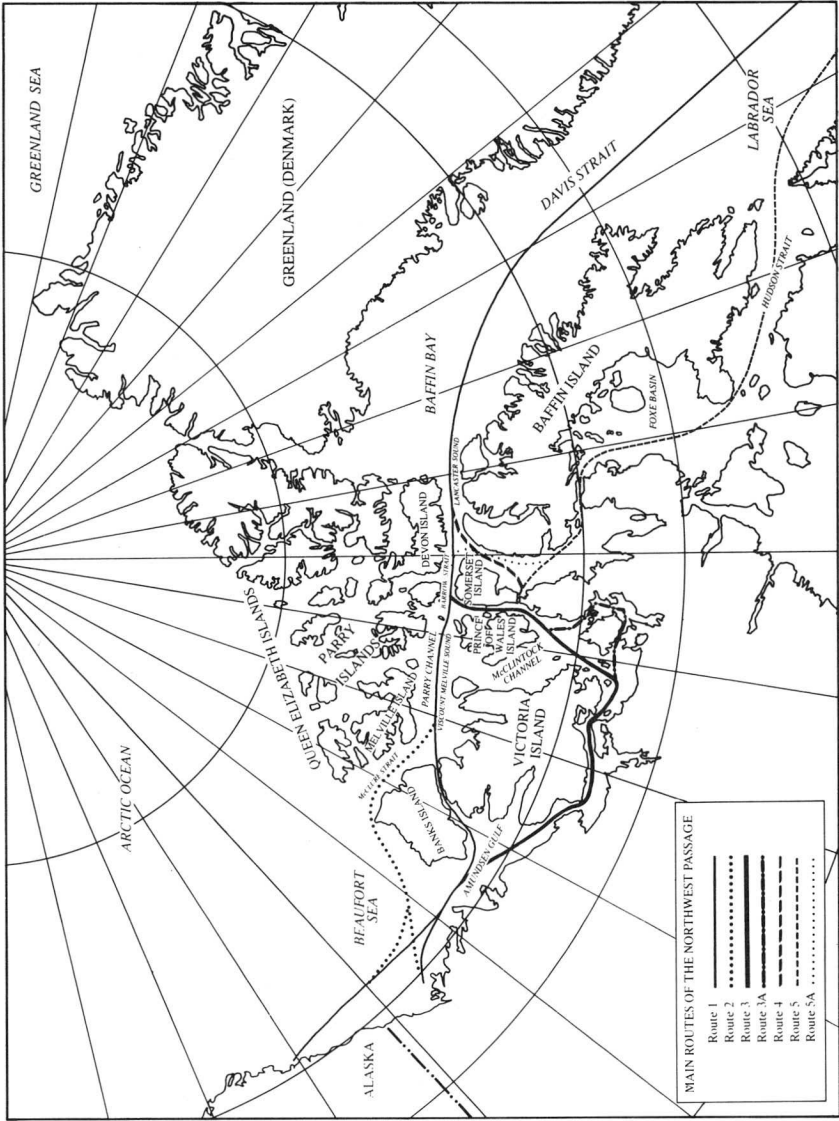
Applying this test to the Northwest Passage it is evident that the criterion fails to be met, since in its 80-year history of exploratory navigation the Passage has seen only 40 complete transits and, of these, 27 were by Canadian ships. The 13 foreign crossings comprised ten American ships, one Norwegian, one Dutch, and one Japanese. The historic Norwegian crossing was made in a herring boat, and the Dutch and Japanese adventure crossings took place in pleasure yachts. As for the American transits, three of them were accomplished by a squadron of icebreakers in 1957, performing hydrographic surveys during the joint Canadian-American establishment of the Distant Early Warning System, and all three ships were led through the narrow Bellot Strait by HMCS *Labrador*. Two American submarine crossings took place to test the feasibility of submerged transits of the Northwest Passage. The USS *Seadragon* in 1960 had a Canadian representative aboard in the person of Commodore O.C.S. Robertson, and the USS *Skate* in 1962 made its crossing within the context of U.S. – Canadian defence arrangements. The other five American transits were made in 1969, when the S/T *Manhattan* tanker, loaded with water, made its feasibility voyage along Route 1 and was accompanied for part of the voyage by the U.S. icebreakers *Staten Island* and *Northwind*. The *Manhattan* had a Canadian representative aboard in the person of naval Captain T.C. Pullen, and was escorted by the Canadian icebreaker *John A. Macdonald*.

It is clear from the above review that by no stretch of the imagination could the Northwest Passage be classified as an international strait. Those who maintain that the Passage may be so classified obviously confuse actual use with potential use. The latter test is the one employed by American courts to determine whether a waterway is navigable or not. This is not the criterion of actual use required in international law and applied by the International Court in the Corfu Channel Case. In addition, it must be pointed out that not one of the few foreign transits which have taken place could be characterized as constituting commercial navigation, not even the voyage of the *Manhattan*, since it carried water and not oil.

### ***Future Status***

Finally, the two related questions which must be answered are whether the Northwest Passage could become an international strait and, in that event, what right of passage would apply.

**FIGURE 7-2 Main Routes of the Northwest Passage**



Source: Canadian Hydrographic Service, Department of Fisheries and Oceans. Map prepared for the author.

The possible internationalization of the Northwest Passage will depend on the degree of international shipping which would take place and the measures which Canada would take to exercise control of such shipping and, possibly, to prevent its internationalization.

On the question of international shipping, it has already begun in the eastern part of the Passage, where minerals are transported from Nanisivik Mine, south of Lancaster Sound, and from Polaris Mine, north of Barrow Strait. It seems to be only a question of time before the shipping of gas from Melville Island, north of Viscount Melville Sound, and the shipping of oil from the Beaufort Sea along the full length of the Northwest Passage, will take place. This oil would probably come from both the Canadian and the Alaskan side of the Beaufort Sea, with the shipping estimated to begin between 1990 and 1995.

Assuming that international shipping will take place, would this result in the internationalization of the Passage? More precisely, would the number of foreign flags and foreign transits be sufficient to put the Northwest Passage in the category of straits being used for international navigation? The answer to both questions is probably yes. It would seem that the only uncertainty is the time at which this would take place, which depends on the intensity of the use. On this point, it will be recalled that the threshold use in the Corfu Channel Case was fairly high, but a sufficient use for the Northwest Passage might be considerably lower because of the remoteness of the region and the absence of alternative routes.

On the question of whether Canada could take certain measures to prevent the internationalization of the Passage, it would seem that three such measures could be adopted. The first and most important measure which Canada could take would be to establish straight baselines around the archipelago, in order to provide an adequate basis for its sovereignty claim over the waters within the baselines from which it would then draw its territorial waters. The baselines being established under customary international law, as applied by the court in the Anglo-Norwegian Fisheries Case, Canada would be in a position to exercise appropriate control over all foreign shipping. The second step would be to accompany its established legal sovereignty by the development of technological sovereignty. As one Canadian official put it recently, "the Arctic has to be won in fact as well as in law." In other words, if Canada is to exercise the necessary control to maintain the sovereignty it claims to have acquired over the waters of the Northwest Passage, it must develop a full range of sea- and land-based services to ensure that its control is factual and effective.

The Department of Transport, in its position statement of 1982 to the Beaufort Sea Environment Assessment Panel, seemed to have recognized this when it said that it should be able to provide the following services: marine navigational aids; icebreaking and escorting; marine search and rescue; marine emergencies/pollution control; marine mobile communications services; ports, harbours and terminals; vessel inspection services; vessel traffic management; marine resupply administration and support; pilotage; and training.<sup>27</sup> The position paper specified that these services would be in addition to those such as hydrography, oceanography, ice properties, ice distribution and movements, meteorology, dredging implementation, and customs services, all of which other government departments would continue to provide.

Of all the above services, perhaps the most important ones for the exercise of effective control are icebreaking and pilotage. Of course, these are services for which a coastal state is entitled to charge foreign shippers. This was the plan of the Soviet Union in 1967, when it invited certain foreign shippers to use the Northeast Passage and to whom it distributed a brochure setting out the rates to be charged. Apparently, the Soviet offer was not accepted, but the important fact is that the Soviet Union insists upon providing those necessary services to any interested foreign shipper. In addition, the regulations of the Northern Sea Route Administration provide for compulsory icebreaker escort and pilotage for all vessels in most of the straits constituting the Northeast Passage.<sup>28</sup>

With the necessary technological tools already at its disposal, Canada could establish and enforce a transit management system which could well become the most feasible way of ensuring effective control over foreign shipping.

A third possible step, which would presume that Canada had acquired both the legal and factual control over the waters of the Northwest Passage, would consist of the conclusion of bilateral agreements with foreign shippers, setting out the conditions for the use of the Passage. Those agreements would, of course, recognize Canada's control over the Passage and provide for the conditions to be met by foreign shippers, such as the use of Canadian icebreaking and pilotage services.

If one can judge from the reaction of certain American participants at a 1981 workshop on Arctic Ocean issues, such an agreement would not be too difficult to conclude with the United States. A summary of the proceedings states that "an American participant agreed with an earlier speaker [also an American] that it might be diplomatically feasible for the United States and Canada to negotiate a bilateral treaty that spelled out specific conditions of transit through the Passage for commercial vessels."<sup>29</sup>



The conclusion of user agreements would follow logically from declarations made by Canada in 1969 and 1970. The prime minister stated in 1969 that "to close off those waters and to deny passage to all foreign vessels in the name of Canadian sovereignty, as some commentators have suggested, would be as senseless as placing barriers across the entrances of Halifax and Vancouver harbours."<sup>30</sup> Again, in its note of 1970 to the United States, the Canadian government reiterated its "determination to open up the Northwest Passage to safe navigation for the shipping of all nations subject, however, to the necessary conditions required to protect the delicate ecological balance of the Canadian Arctic."<sup>31</sup>

On the type of passage applicable for international straits, a consensus was finally reached at the Law of the Sea Conference after much pressure was applied by major maritime powers. This new right is called "transit passage" and is defined in the 1982 convention as follows:

Transit passage means the exercise in accordance with this Part of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone."<sup>32</sup>

As in the case of innocent passage through the territorial sea, the question arises here as to whether the right of transit passage in international straits applies to warships, since there is no mention of them in the convention. The absence here is even more complete in that there is no provision whatever relating to submarines. However, a careful reading of the relevant provisions of the convention, in light of the numerous statements made by the maritime powers at the time of the conference, makes it abundantly clear that the intention was to include warships.

In the first place, the convention stipulates that "all ships and aircraft enjoy the right of transit passage, which shall not be impeded." The applicability of this right to all ships is reinforced by a subsequent provision limiting the laws and regulations which may be adopted by bordering states. This limitation specifies that "such laws and regulations shall not discriminate in form or in fact among foreign ships."<sup>33</sup> One cannot conclude from this alone, however, that it is clear and unambiguous that the right of free transit includes that of submarines.

It is submitted that the ambiguity or obscurity of the provisions already referred to is clarified in that part of Article 39 which specifies the common duties of ships and aircraft while exercising their right of transit passage. That article provides that they shall "refrain from any activities other than those incidental to their *normal modes* of continuous and expeditious transit unless rendered necessary by *force majeure* or by distress."<sup>34</sup>

As succinctly pointed out by Professor O'Connell, "since submarines are by definition underwater vehicles, submerged passage is a 'normal mode' of operation for such craft." And, as further explained by Professor O'Connell, the reason for the express prohibition against submerged passage in the territorial sea and the implied permission for submerged transit in international straits "rests on the essentially different juridical character of the territorial sea from straits."<sup>35</sup>

The above interpretation, based solely on the terms of the convention itself and the ordinary meaning of those terms in their context, is fully confirmed by an examination of the circumstances of the conclusion of the convention. True, the preparatory work is not very satisfactory in that it does not include a complete record of the proceedings of the conference; however, the circumstances of the conclusion of the convention, as they presented themselves throughout the conference, unquestionably confirm the textual interpretation just given.<sup>36</sup>

With the United States having decided to stay out of the convention, the interesting question which arises is whether it could exercise this new right of passage, either now or after the conference comes into force. True enough, a 12-mile territorial sea has now unquestionably become part of customary international law, as has the right of non-suspendable innocent passage in international straits, but this is not the case for the new right of transit passage. The most that can be said for the latter is that it might be at the beginning of an emerging state of customary law. This means that, if the convention should come into force before the complete emergence of this new right, any non-party to the convention, including the United States, could not exercise that right in the Northwest Passage.

Of course, state practice does not always coincide with legal theory. In his March 1983 proclamation of an exclusive economic zone, the President of the United States established guidelines for his country's oceans policy which might be at variance with the above legal analysis. The declaration begins by stating that the United States is prepared to accept an act in accordance with international law as reflected in the results of the Law of the Sea Convention that relate to the traditional uses of the oceans, such as navigation and overflight.<sup>37</sup> However, the proclamation adds: "... unimpeded commercial and military navigation and overflight are critical to the national interest of the United States. The United States will continue to act to insure the retention of the necessary rights and freedoms."<sup>38</sup> The president also warned at the same time that the United States will not acquiesce "in unilateral acts of other States designed to restrict the rights and freedoms of the international community in navigation and overflight and other related high seas uses."<sup>39</sup>

Should these statements be interpreted as indicating that the United States, having decided to reject the convention because it was dissatisfied with the legal regime proposed for the exploitation of the deep-seabed resources, could choose to accept certain new provisions of the convention, such as the right of transit passage through international straits? This would be contrary to the definite understanding throughout the conference that the provisions of the convention were part of a "package deal," and that states were not free to accept some and reject others. Indeed, this is the reason why the ordinary type of reservation is not permitted by the convention. The question is difficult to answer, but it needs to be posed.

To conclude on the status of the Northwest Passage, it may be stated that, although a somewhat lesser degree of use might be required in a remote region such as the Arctic, virtually none has taken place across the Northwest Passage and it cannot possibly be considered an international strait. It does not necessarily follow, however, that it is a national sea route, since Canada's claim to historic waters has never been established or confirmed by the drawing of straight baselines. Consequently, the right of innocent passage in favour of foreign ships must be presumed to exist. Of course, this right may be suspended by Canada if such suspension is essential for the protection of its security. In addition, Canada may enforce against foreign ships its Arctic Waters Pollution Prevention Regulations which, it is submitted, has now been validated internationally by the special Arctic clause in Article 234 of the Law of the Sea Convention. Although the convention is not yet in force, a sufficiently wide consensus has emerged, since the Arctic clause was first introduced at Geneva in 1975, that it may be considered to have already become part of customary international law.<sup>40</sup> However, this special regulatory and enforcement power recognized that the coastal state in ice-covered waters is limited to situations in which there is a threat to the marine environment. More specifically, it covers mainly the case of tankers carrying oil and gas. It would appear impossible for Canada to invoke the special Arctic clause to interfere with the right of transit passage exercised by foreign icebreakers, even if they can be classified as warships. The same absence of power applies to nuclear submarines, aside from possible tanker submarines, which may exercise their right of transit in their normal submerged position.

Considering the above, and now that the Law of the Sea Conference is over, it would seem more urgent than ever for Canada to draw straight baselines around its Arctic Archipelago. Only then would Canada be in a position to ensure that it could exercise the necessary control to protect adequately its Arctic marine environment, the local Inuit population,

and its national security. This sense of urgency was reflected at an international law conference in June 1984, at Queen's University, when the following resolution was adopted:

Canada should design and adopt a comprehensive transit management system for the Northwest Passage. In the interim, and before the Northwest Passage is used for foreign shipping, agreement with other States must be reached regarding, inter alia, compliance with coastal State navigation, routing requirements, and compensation for damage.<sup>41</sup>

The urgency for Canada to draw straight baselines was appropriately underlined also in a recent article by Professor D.M. McRae.<sup>42</sup> Of course, the drawing of straight baselines and the adoption of a transit management system presumes that Canada would also develop the necessary icebreaking and navigational capacity to insist that its services be used by foreign ships.

## Conclusions and Recommendations

The conclusions reached in this paper may be summarized as follows:

First, that Canada has full *territorial sovereignty* over all the Arctic islands.

Second, that Canada has *sovereign rights* over the natural resources of the continental shelf constituting the submarine prolongation of its Arctic lands and islands, subject to the precise limits being established with the neighbouring states.

Third, that Canada's *claim of sovereignty* over the waters of the Canadian Arctic Archipelago and those of the Northwest Passage on the basis of an historic title is of doubtful validity, but it could acquire such sovereignty by the drawing of straight baselines around the archipelago.

The following recommendations follow logically from the above conclusions:

First, that Canada should give high priority to the determination of the *lateral limits* of its continental shelf in the Beaufort Sea, either by agreement with the United States or by third party settlement, judicial or arbitral.

Second, that Canada should give first priority to the drawing of *straight baselines* around the Canadian Arctic Archipelago. It should be noted that, following a three-day conference on International Law: Critical Choices for Canada 1985–2000, held at Queen's University, June 14–17, 1984, the academic and government participants adopted unanimously the following resolution:

To reinforce its claim that the waters of the Arctic Archipelago are internal waters, Canada should draw straight baselines around the archipelago, and publish such baselines on official maps and charts.<sup>43</sup>

## Notes

This study was prepared for the Research Seminar on the North sponsored by the Royal Commission on the Economic Union and Development Prospects for Canada. It was presented on July 6, 1984. At that time, the author did not have the benefit of the decision of the International Court of Justice on the *Gulf of Maine Case*; that judgment was handed down on October 12, 1984.

1. See letter of Danish minister to Lord Curzon, dated April 12, 1920, in J.B. Harkin Paper, Public Archives of Canada, MG 30, C63, Vol. I, Folder July 1919–October 1920.
2. See letter of Dr. Skelton, May 22, 1930, in *Documents on Canadian External Relations, 1926–1930*, Vol. 4, at p. 965.
3. *The North Sea Continental Shelf Cases* (1969) I.C.J. Reports at p. 31.
4. UN Convention on the Law of the Sea, A/CONF. 62/122, art. 76, para. 1.
5. *Canada Oil and Gas Act*, S.C. 1980, c. 81, s. 2(b).
6. *Supra*, note 4, art. 76, para. 6.
7. Such was the opinion expressed by Dr. Hans Weber, a senior scientist with both of Canada's expeditions, in a conference to the Arctic Circle, on December 14, 1982.
8. *Supra*, note 4, art. 83, para. 1.
9. (1982) I.C.J. Reports at p. 92.
10. *Ibid.* at p. 59.
11. *Supra*, note 4, art. 74.
12. See a list of 88 agreements in *Annexes to the Reply Submitted by Canada*, Vol. I (State Practice) at pp. 43–47, December 12, 1983, in the *Gulf of Maine Case*.
13. See *Canada Treaty Series*, No. 9 (1974).
14. For a discussion of this theory, see Donat Pharand, "The Waters of the Canadian Arctic Archipelago in International Law," Part I of a book to appear in 1985.
15. See *North Sea Continental Shelf Cases* (1969) I.C.J. Reports at p. 34.
16. See letter dated December 17, 1973, reproduced in 12 *Canadian Yearbook of International Law* (1974) at p. 279.
17. Statement of Allan MacEachen in Standing Committee on External Affairs and National Defence, *Minutes of Proceedings and Evidence*, No. 24 at p. 6.
18. *Can. H.C. Debates* (April 17, 1970) at p. 6015.
19. *Ibid.* (April 16, 1970) at p. 5953.
20. Standing Committee on External Affairs and National Defence, *Minutes of Proceedings and Evidence*, No. 25 at p. 18; emphasis added.
21. Today, the rest of the waters would be considered part of the exclusive economic zone.
22. See 12 *Canadian Yearbook of International Law* (1974) at p. 27A; emphasis added.
23. See Donat Pharand, "La contribution du Canada au développement du droit international pour la protection du milieu marin: le cas spécial de l'Arctique," (1980) 11 *Études internationales* 441.
24. (1951) I.C.J. Reports at p. 116.
25. Canadian Hydrographic Service, *Sailing Directions, Arctic Canada* (1982), Vol. 1 at p. 1.
26. (1949) I.C.J. Reports at p. 4.
27. Transport Canada, *Position Statement to the Beaufort Sea Environmental Assessment Panel* (1982), Appendix 1: 22–23.
28. See W.E. Butler, *The Northeast Arctic Passage* (1978), at p. 95.
29. D.M. Johnson, ed., *Arctic Ocean Issues in the 1980s* (1982), at p. 22.
30. *Can. H.C. Debates* (October 24, 1969) at p. 39.

31. *Ibid.* (April 16, 1970) at p. 6028.
32. *Supra*, note 4, art. 38, para. 2.
33. *Supra*, note 4, art. 42, para. 2; emphasis added.
34. *Supra*, note 4, art. 39, para. 1; emphasis added.
35. D.P. O'Connell, *The International Law of the Sea* (1982), Vol. I, at p. 333.
36. For an account of those circumstances, see in particular J.N. Moore, "The Regime of Straits and the Third UN Conference on the Law of the Sea" (1980), 74 *American Journal of International Law* 77 at p. 89.
37. Proclamation reproduced in (1983), 22 *International Legal Materials* at p. 462.
38. *Ibid.*
39. M.N. Leich, "Contemporary Practice of the United States Relating to International Law" (1983), 77 *American Journal of International Law* at p. 620.
40. For discussion of this proposition, see, *supra*, note 23.
41. *International Law: Critical Choices for Canada 1985–2000*, Conference held at Queen's University, Kingston, Ont., June 14–17, 1984, adopted unanimously in plenary session on June 16.
42. D.M. McRae, "Arctic Waters and Canadian Sovereignty" (1983), 38 *International Journal* 476.
43. Resolution DR 413, *supra*, note 41.



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## A Southern Perspective on Northern Economic Development

WILLIAM G. WATSON

### Introduction

I must begin with a disclaimer. Unlike most other people at this meeting, I am not at all expert in northern affairs. In fact, most of what little I know about the North I have learned at this seminar. Other speakers have been very careful to define precisely what they mean by “the North.” Until two days ago, “the North” to me meant Mont Tremblant.

I do know something about economics, however, and in particular about the economics of the South. I also suspect I have been invited here because I am a southerner, and have a southerner’s viscera — or, at least, a southerner’s neck pigmentation. In fact, I probably am about to confirm a law of North American sociology, namely that while not all southerners are rednecks, all rednecks are southerners.

I will proceed, then, by dealing first with how I, as an economist, have reacted to some of the things I have read and heard in the last two days, and then will go on to discuss my reactions as a southerner. This part of the presentation may be useful if for no other reason than that it typifies the kind of opposition likely to be met by those who desire to alter the current constitutional status of the northern territories.

### The Dutch Disease

Before coming here I expected I would spend most of my time on a discussion of what economists have christened the “Dutch Disease,” a syndrome that sometimes afflicts industrialized economies that go through resource booms, as the Dutch economy did in the 1970s. Its pathology involves an appreciation of the exchange rate (resulting both from increased exports of resources and from whatever foreign investment may be associated with the boom) and a consequent decline in the

fortunes of the domestic manufacturing sector (see Flatters and Purvis, 1980). In the Canadian context, a northern resource boom would cause difficulties for Canadian manufacturing if the decline in manufacturing output resulting from an appreciation of the Canadian dollar were greater than any increase caused by northern demands for industrial inputs.<sup>1</sup>

Though it is treated as novel in the worldwide economics community, to Canadian economists this style of analysis is familiar. Eric Kierans, perhaps its best known proponent, has been arguing for two decades now that open-door foreign investment policies boost the exchange value of the Canadian dollar to levels that suffocate Canadian manufacturers. I am not much impressed by such arguments, however. On theoretical grounds, they require that factor prices in manufacturing do not adjust to offset the effects of the increase in exchange rates. While such prices obviously are rigid downward in the short run, a major political complaint in recent years has been that domestic inflation can quite effectively whittle away real incomes. On practical grounds, moreover, it can be objected that, despite heavy foreign investment throughout the postwar period, Canadian manufacturing performance has not been at all bad, and, if anything, has improved considerably in recent years. Its share of overall employment has declined — though not by as much as in most European countries — but its share of output has remained more or less constant. What is more, our export performance in manufacturing, especially of end products, has improved dramatically over the last two decades.<sup>2</sup> A final point, of course, is that if those countries that do have natural resources are not willing to develop them, what will be the reaction of those of their trading partners who do not have them? The Arab nations earned the enmity of the West in the 1970s not so much by raising the price of oil as by refusing to expand production at any price.

Having suggested that the Dutch Disease is not a serious problem, I must also say that, on the basis of what I have heard in the last two days, it is not at all clear there will be a resource boom in the North in the next decade or so.<sup>3</sup> Although several people have referred to the 1970s as a decade in which development took precedence over environmental and cultural concerns, Professor Stabler's data show that only 1,130 new jobs in mining were created between 1971 and 1981 (Table 2-6 in this volume). This may have been a jolt for the northern economy, but it would hardly have nudged the Canadian economy. And if growth is expected to be even slower in future, any danger of exchange appreciation may be minimal.

At this point, the question naturally arises, why has northern economic development been so slow? One possible answer is that extraction of northern resources is still largely uneconomic.<sup>4</sup> In this regard, the last few years' experience suggests there may be much more price elasticity in the supply of natural resources than is often thought to be



the case.<sup>5</sup> If so, the development of northern resources — which surely will come some day — will take place not in the next two decades, but at some more distant date.

Without having made a close study of the economics of northern mineral development, however, I would emphasize that this is nothing more than a possibility. One piece of contrary evidence is presented by a recent Economic Council of Canada study that concludes that extraction of Beaufort Sea oil reserves is likely to be profitable at existing oil prices and at scales of operation whose cost-effectiveness heretofore had been doubted (Eglinton and Uffelman, 1984). It obviously would be useful to economic planners to have more such data. One difficulty, of course, is that much of the information required to make judgments about whether development will or will not be economic is in the hands of private firms, many of which may have an incentive to keep such information from the government, in hopes of extracting significant development subsidies. Though governments should be aware of this incentive, it probably is relatively easy to devise regimes under which firms are induced to reveal their true opinions. Competitive bidding for resource rights is one obvious possibility.

There may be other reasons why northern development has been unattractive to many potential investors, however. Several speakers have commented on the considerable uncertainty created by the fact that native land claims have not yet been settled. A standard argument in economics is that when property rights are attenuated in this manner, private economic activity is likely to be discouraged. It would be reasonable to expect, therefore, that once final settlements are made, the rate of private development will pick up. That the pressure for development apparently is not as strong as it was in the 1970s should not be allowed to delay settlement. Michael Asch argues that it is better to do these things right than quick; on the other hand, quick often is right. Delay in these matters may bring on a negative-sum game.

To my mind, a third reason why economic development of the North is proceeding slowly is that there is a strong anti-growth ethic in some segments of the northern population — and in many segments of the southern population interested in the North — as well as a political structure that tends to delay, if not explicitly discourage, investment.

As Fran Abele has said, the North is an overgoverned society.<sup>6</sup> Fully a quarter of all northern workers are employed by one level of government or another, and if Professor Stabler's projections for the next two decades are correct, this ratio may well rise to a third or even higher. Measured by employment, planning probably is the biggest industry in the North. In fact, counting Ottawans, there may well be as many people making decisions about the North as there are living there. Moreover, more than 10 percent of non-native northerners have graduate degrees. Anyone who has tried to extract a decision from a faculty meeting knows

that “highly-qualified manpower” are not given to haste in decision making.

As a neophyte in northern affairs, my reaction to what I have heard about the last two decades of northern policy is that the problem of northern growth has been studied almost literally to death. I must also say that the idea that, by dint of sufficient intellectual exertion, we can find the perfect plan for northern development evidences a touching faith in the sort of naive rationalism that I for one would have hoped left Canadian policy making when Michael Pitfield ascended to the Senate. Our ability to predict the future — let alone plan it wisely — is and inevitably will remain stunted. As long as many people in government believe otherwise, however, firms are likely to continue to face an over-regulated investment environment. Although the question of property rights may be settled soon, potential investors are likely to remain wary of discretionary government regulations of the North. Thus, government-created risk may be as great an impediment to northern development as the natural risk of operating in a hostile geography.

A further difficulty is that northern bureaucrats often work for agencies that have conflicting interests and overlapping jurisdictions. Until the lines of responsibility are untangled this is likely to prove a significant discouragement to investment. On this basis — and, in my view, on this basis alone — provincehood may recommend itself as a means for defining responsibilities more precisely. On the other hand, a large part of the present problem is that a single government (i.e., the federal government) has allowed conflicts among its own departments to slow the decision-making process. A provincial government obviously could be liable to the same difficulty.

The fact that northern development is likely to be tightly regulated has potentially serious implications for our relationship with our trading partners, especially the United States. It is difficult to imagine a regulation-minded government not taking a position on the question of foreign ownership of northern resources. In one form or another, the National Energy Policy approach is likely to be repeated, and favours granted to Canadian developers that are not offered to foreigners. This is bound to hurt our chances of negotiating closer economic ties with the United States, something many southerners now appear to want, and something which many northerners, who depend on exports even more than southerners do, may also come to appreciate. Thus rapid development of the North may cause increased friction with the United States.<sup>7</sup>

Assuming a decision is made to go slow on northern development, it would be interesting to know what effects this will have on the native population. Peter Usher has referred to estimates of the potential productivity of renewable northern resources (for example, animals) that suggest that, with careful husbanding, the output of food from these sources could be doubled. The question then arises, how long will it be

before the native population doubles? With declining death rates and an age structure that in many communities is tilted toward the young end of the distribution, it may not be very many generations before the traditional food supply is pressed to its limits. If so, some degree of industrial expansion may be in the best interest of the native northern population, as well as the population of the South.

## **Taxing Problems**

In the past two days, we have heard arguments that because the cost of living is higher in the North, a personal income tax system that taxes all nominal dollars at the same rate inflicts (presumably unintended) costs on northern development. And, of course, taxing people on their nominal income when their real income is considerably lower is clearly unfair. Almost two decades ago the Carter Commission on taxation enunciated the intuitively appealing doctrine that “a buck is a buck is a buck” and should be treated as such by the tax system. But fairness also requires that the bucks in question be real bucks.

The difficulty here is that we have had conflicting evidence on the extent of the bias imparted by northern costs of living. Jim Dean has suggested that because of the difference in prices, nominal dollars do not go as far in the North as in the South, so that a northerner with a given dollar income is actually worse off than a southerner with the same income. On the other hand, Michael Asch has cited studies that conclude that many native northerners supplement their cash income by hunting and that their average take would have a cash equivalent value of roughly 30 percent of their income. Clearly, a “caribou is a buck is a buck,” and strict application of Carter-type principles of taxation would require that this non-cash income be taxed at the same rate as nominal dollar income. Thus, if there are to be differential tax rates for northerners, it may well be that northern tax rates should be higher than southern rates. But since non-native northerners are more likely to be hurt by higher costs for marketed goods and less likely to benefit from non-marketed income, the effect of taxing real incomes rather than nominal incomes would be to raise tax rates for native northerners and reduce them for non-native northerners, which obviously is a political non-starter. Beyond that, it may be possible to give tax exemptions for northern allowances, though this institutional regime assumes that most salaried northerners are employed by firms that also have employees doing much the same work in the South, so that a northern allowance can be calculated easily. If this is not true, and salaried workers are paid instead by firms operating exclusively in the North, calculating a northern allowance would require the Minister of National Revenue to try to determine what an equivalent worker in the South would earn. This sort of “equal pay for work of equal value” calculation strikes me as all but impossible to do.

There has also been talk of concessionary tax arrangements for firms investing in the North. My instinctive reaction is that the last thing the Canadian corporate tax system needs is another distortion. Beyond this, several things can be said. First, to the extent that corporate tax relief is wanted in order to offset the higher costs of doing business in the North, then it is probably harmful. If costs are higher in the North, this fact should be reflected in lower profits, since economic efficiency requires firms to produce where they can make the highest return on investment. It is not at all clear why the government should get into the business of subsidizing low-return investments in the North. Second, as Dan Usher has demonstrated, there is every reason to expect that, rather than create new investment in an area, regional development incentives will simply change the identity of the firm doing the investment (Usher, 1983). Third, since the appropriate rate of economic development is a controversial issue in the North, it is hard to see why the federal government would wish to align itself with those who favour accelerated growth. This is one instance, clearly, in which the neutrality favoured by economists is also politically expedient.<sup>8</sup>

Another problem in this area concerns the equalization program. Should the territories attain provincial status, then presumably they will be brought into the equalization program.<sup>9</sup> Just how this will affect both their revenues and the expenditures of the federal government is relatively easy to determine, and simulations should be initiated right away, if indeed this has not already been done. One problem that might be mentioned, however, is that the current equalization formula can impose high implicit tax rates on economic development in provinces whose revenues do not enter into the determination of the national average base (see Courchene and Wildasin, 1983). This is not so much a problem of northern development, however, as it is a problem of the formula, and a general solution will have to be found well before the North is brought into the fiscal arrangements.

A final problem in the area of taxation concerns the prospect for sharing natural resource revenues between the territories and the federal government. Mention has been made of the possibility that, instead of either retaining full control over natural resources or ceding them entirely to what by then would be the northern provinces, the federal government should work out arrangements for the Canada Lands similar to those negotiated with Nova Scotia for the offshore. One difficulty here, however, is that the special revenue arrangements that hold under this agreement cease when Nova Scotia's per capita income reaches the national average. The trouble is, depending on which year's data are used, northern incomes are just below or, in fact, have already reached the national average. Any decision to waive this condition is likely to cause complaints from those southern provinces that have negotiated similar agreements. Moreover, any attempt to adjust real incomes for

cost-of-living differences is likely to cause similar demands from southern provinces with higher-than-average living costs. Since provincial positions on the question of regional indexing are likely to reflect how the various provinces could expect to do under a regime of indexing, the prospects for agreement depend on the variance of price levels across the country. And since there is a fair degree of dispersion, the chances for easy agreement are not good.

## Questions of Competition

Mention has been made of the difficulty northern producers have faced in exporting those commodities whose distribution in the South is controlled by national marketing boards. This is not surprising. New competitors always have difficulty cracking government-sponsored cartels, and the cartels themselves often are unable to come to agreement on how to accommodate new production levels. British Columbia's withdrawal from one national marketing scheme was caused by its dissatisfaction with the fact that, despite the rapid growth in the province's economic importance in the last two decades, its quota of national output was virtually frozen at early-1970s levels. But this is just one more argument against marketing boards — as if another were needed.

It should also be mentioned that an economist is bound to worry about the hardness of competition in the small northern market. For at least 150 years, the Hudson's Bay Company dominated the northern economy, both as a monopsonist in the market for furs and a monopolist in the market for finished goods.<sup>10</sup> There can be little doubt that it was The Bay — and not northerners, whether white or non-white — that was best served by this system. Though the lesson the experience should have taught is that anti-competitive regimes are bad for those who must live under them, one obvious fear for the future is that northern economic strategies will involve the establishment of national champions — Dome Petroleum, for instance — which, by virtue of their privileged position, will be able to dominate many local labour markets. The same fears hold for the activities of many of the northern development corporations currently being established. We have already heard how, in deference to the welfare of locally based airlines and in order to establish a good public relations image, many firms no longer are willing to accept hitchhikers on company planes. This is good for the airlines, no doubt, but it obviously is harmful to northern travellers and wasteful of economic resources in that it creates excess capacity in airlines. There is a danger that similar practices will be adopted in other markets, especially those serviced by local firms financed by the northern development corporations. These and similar anti-competitive practices should be discouraged. The idea that what is good for the northern development

councils is good for the North is no less spurious than the old notion that what is good for General Motors is good for the rest of us.

This may be the right place to mention what looks to be an epidemic of rent-seeking in the North, much of it performed by southern professionals, many of them in the social sciences.<sup>11</sup> Rent-seeking occurs when economic agents expend resources in order to get a share of other people's wealth. It involves pure waste either when no useful service is performed in exchange for the payment, or when the choice of who is to receive a share of the rent is essentially arbitrary and could therefore be made without any effort on the rent-seeker's part. John Dales has recently argued that wherever rents appear they will be all but entirely dissipated by such activity (Dales, 1983).

The principal form of rent-seeking in the North involves southerners competing to provide services to Indian and Inuit organizations which, mainly as a result of recent land-claim settlements, find themselves in possession of large amounts of cash. A second source of cash is the various *ex gratia* grants that have been made by the federal government in relation to land-use studies. There apparently is every evidence that the \$20-million impact adjustment grant paid in association with the Norman Wells development has been largely squandered. This is not especially surprising. Where institutional structures are vaguely defined, where the purpose to which funds are to be put is not precisely specified, and where considerable discretion is allowed to those in charge of funds, it is to be expected that little good will come from the expenditure (beyond, of course, the obvious improvement in the welfare of those whose bank accounts it pads).

Unfortunately, the view is abroad that it is paternalistic to enquire into how native organizations spend the money that is paid to them under these various programs. There is also an obvious reluctance to open the question of how these organizations are in fact organized. My own view is that, quite the contrary, not worrying about these questions is the truly patronizing course. Corruption and waste are by no means unique to the North. They are rife in the South, as well. The Special Recovery Incentives Program, which was advertised as being intended to help all Canadians weather the recession, seems mainly to have benefited those Canadians fortunate — or foresighted — enough to live in Liberal ridings.<sup>12</sup> Simply throwing money at native problems without examining how it is spent suggests our concern is more with assuaging our own sense of guilt than with addressing serious attention to the problems of fellow citizens. If natives are to be full partners in Canadian society, they deserve greater consideration from southerners than is involved in what amounts to the payment of tribute. Southerners worry about fellow southerners being short-changed by governmental and quasi-governmental agencies. The least they can do is worry about how natives are treated by band councils and any other organizations that act in their name.

## The Choice of Lifestyle

There has been much discussion about the threat to the traditional native way of life posed by resource development in the North. The economist's customary perspective on these matters places great emphasis on individual choice, and indeed I would argue that, by and large, individuals should be free to choose where and how they wish to live. I realize that a strictly individualistic perspective will be viewed by many people as being inappropriate to the North. We are told by Professor Whittington, for instance, that native peoples place less emphasis on individuality than southerners do and that they are given to consensual, rather than majoritarian, decision making. I am prepared to believe that this is true, although I also suspect that, if so, it is less reflective of preference than it is of the constraints imposed on native northerners by traditional technology and by the strictures of life in a northern climate. But I am also willing to insist that the rights and choices of native *individuals* be respected and, indeed, sought, even if this amounts to cultural imperialism on the part of (what one hopes is) the dominant liberal democratic ideology. The implications for southern life of deciding that some Canadians are not to be permitted full exercise of what southerners regard as their human rights would obviously be ominous.<sup>13</sup>

This is not to deny that there can be market failures, as it were, in the supply of cultures and lifestyles. To a certain extent, a culture is common property. One French-speaking Quebecer may decide that, all things considered, he would prefer to live outside Quebec — without this decision in any way threatening the continued existence of French culture in Quebec. If all French-speaking Quebecers thought this way, however, the culture might well disappear. Similarly, if all native northerners entered the wage economy, the traditional way of life almost certainly would disappear. Though all would feel the loss, no one individual would have an incentive not to choose the wage economy, for his choice to pursue traditional ways would not of itself restore the culture. Thus, just as there may be a role for government in preserving a fishing ground against ruinous competition among fishermen, so there may be a role — in theory at least — for government support for valued lifestyles and cultures.

I am nervous about the transition from theory to practice, however. It would be a very dangerous practice to try to deny people the choice of a new lifestyle simply because some other people — including many whose own choice of lifestyle will not be curtailed — have decided their descendants will be better off if the choice is restricted. In non-Stalinist states, at least, such tactics must give pause. But even if the method of persuasion is gentler, and takes the form of a subsidy to the current lifestyle rather than actual proscription of the new lifestyle, I have reservations. The first question to be asked is how large the subsidy



should be. If, as we are sometimes told, the disappearance of a culture cannot be compensated for, this suggests the amount should be — if not infinite — then at least extremely large. As a southerner — and therefore one of those who can expect to foot the bill — I obviously feel there must be limits to what can be paid. Peter Jull has suggested that one difficulty northerners face is that if they wish to acquire a post-secondary education they generally have to leave home and suffer the culture shock of coming south. The inference I draw is that we should provide extensive access to post-secondary education in the North. As a southern taxpayer, I obviously would wish to know just how much this is going to cost. (And I would not be surprised if it cost a lot.)<sup>14</sup>

The more important point, however, is that if the lifestyle is hard to value, then the appropriate degree of subsidy is hard to decide. It seems to me that, rather than try to fine-tune a subsidy policy, we should worry instead about those cases in which people actually are denied the choice of retaining the old lifestyle, for the really troublesome cases arise when people are *forced* to adopt a new lifestyle. I am appalled to learn that in the 1950s and 1960s the federal government had a policy of actually going out and gathering Inuit into larger communities. To the extent possible, I would prefer to have individual native people make their own choices about how they wish to live. This implies not only that they should be given access to southern ways by means of education, but also that every reasonable effort should be made to assure that resource development does not destroy the renewable resources on which the traditional way of life is critically dependent.<sup>15</sup>

On the face of it, it would seem that the two styles of life may well be able to co-exist peacefully. In the Northwest Territories, the distribution of natives and non-natives across communities apparently has not changed greatly in the last 20 years, despite the significant resource development that has taken place over that period. Non-natives tend to live primarily in the larger settlements, while the native population is scattered across 60 to 80 smaller communities. At some level of development the two ways of life presumably will come into conflict, but for the time being the North would appear to be a big, empty place with room for many different forms of economic activity. I do not wish to underestimate the potential hazards of pollution disasters for what apparently is a rather fragile ecology, but the last 15 years have served to educate even the most rabid developers both of the environmental dangers themselves and of the political dangers of ignoring them.

There has been much talk at this conference about how important it is for northerners themselves to control the pace of their own economic development. This is true so far as it goes, although I would argue that all Canadians should have something to say about the pace of economic development in all parts of Canada. The point I wish to make here is



simply that the expression of northern opinion does not necessarily have to be made collectively. Collective decisions invariably leave some people dissatisfied. A collective decision to go slow on development may be just as unappealing to some northerners as a collective decision in favour of forced growth would be to many others.

A better solution may be to try to satisfy both groups. One way to do this might be to establish areas in which growth will be allowed — “green light districts,” as it were — as well as areas in which growth will be severely restricted. The pattern of the land settlements currently being made would seem to point in this direction, with control over large tracts being ceded to groups that presumably have a considerable interest in maintaining their traditional lifestyle. Of course, it would not be a case of “anything goes” in the development districts, but after tough anti-pollution laws had been written, accelerated development would be permitted.

In their view of environmental and cultural matters, economists are often thought to be hard-headed, if not downright philistine. In fact, the governing values of the profession, which are based on the Pareto criterion, hold economists to a high standard when it comes to endorsing policy initiatives. According to Pareto, a change is an improvement only if no one is hurt by it. Thus, to a first approximation, economists would hope that northern development could proceed without anyone’s welfare being compromised. As suggested, this may well be a realistic possibility. A second possibility is that, although some people’s lives may be disrupted by economic development in the North, it will be possible to compensate them out of the economic benefits that development confers on other citizens. In view of the rather small number of people who live there and the possibly quite large economic benefits to be had from resource extraction, the possibilities for generous compensation appear to be good. On the other hand, it really may be true that nothing can compensate for the loss of a lifestyle. Groups whose way of life is threatened certainly can be expected to make this case as strenuously as possible. But as an economist I am obliged to believe that most things do have their price. In cases where affected groups are uncompromising, however, Pareto may have to cede pride of place to Bentham, the utilitarian. Where the gains to the South are extremely large it may make sense to proceed with development even if this means running the chance of inflicting uncompensated losses on some northerners. I hasten to add that from all we have heard this choice does not present itself in the immediate future, but, leaving normative questions aside, as a simple matter of prediction it would be foolish to ignore the possibility that at some stage overwhelming political pressure for development will emerge in the South. I for one would not automatically condemn a calculus of this sort. While public policy should recognize people’s sense of place, it should also provide a place for sense. Where benefits are large and losses small, albeit uncompensated, development may be justified.

## Provincehood

The burden of much that has been said at this conference is that provincehood is the inevitable — and desirable — political status of the northern territories. Their respective governments may not yet be lobbying for provincial status, and many people here have been at pains to point out that the various native groups so far have steered clear of the subject; but in studying the longer term, many of the same people appear to argue that once responsible government is attained the natural next step is provincehood. If I remember correctly, at least one person has said that it would be hard to imagine how there could be provincial status without full local control over natural resource development.

As a southerner — and a democrat — I am alarmed by the prospect of provincial status for the northern territories. The problems of the North sometimes seem so large that it is easy to forget just how tiny the region's population is. Everybody who lives there — native and non-native — could fit (albeit uncomfortably) into Montreal's Olympic Stadium. Those northerners who still pursue the traditional lifestyle could be seated (very comfortably, indeed) in Ottawa's Lansdowne Park, if not in the Ottawa Civic Centre. To most southern Canadians, the prospect of a mere 68,000 people exercising control over the economic development of 40 percent of the Canadian land mass is nothing short of ludicrous. If significant resource rents did appear in the North, we would find ourselves repeating the controversies of the 1970s, but in spades. Northern citizens would soon be in the position of Kuwaitis, with the one possible exception that, with free migration to the North, large-scale — economically inefficient — migration could be expected to dissipate these resource rents. In fact, I would argue that allowing individual provinces to maintain exclusive control over resource rents is *not* in the Canadian tradition. The Alberta Heritage Fund may look like an exception, but what is often forgotten about the experience of the 1970s is that a large portion — perhaps even the majority — of the oil rents created by the OPEC episode went to non-Albertans in the form of lower-than-market fuel prices.

There would be other difficulties with provincehood. Gordon Robertson has mentioned that the amending formula would have to be changed. Of course, one reason Canada was able to survive for 115 years without a procedure for formally amending its Constitution is that the federal-provincial conference provided a mechanism for informal amendment. It does not follow, however, that the federal-provincial conference will diminish in importance simply because we now do have an amending formula. If the northern territories became provinces, they presumably would expect to play their part in such conferences. As a southerner I am disturbed by the thought that three northern premiers, each representing between 15,000 and 25,000 citizens, would have the

same number of votes as Messrs. Lévesque, Davis, and Bennett, who together represent more than 17 million Canadians. I realize that where geographic representation is at issue, the rule of one-person, one-vote often does not apply. On the other hand, perfect equality of treatment for three new micro-provinces would seem to me to carry the notion of one-province, one-vote to ridiculous extremes.<sup>16</sup>

It strikes me that the rationale for having three provinces in the North, instead of two or one, is also forced. We have heard repeatedly that Yukon is quite different from the Northwest Territories and that the Inuit in the N.W.T. would much prefer to live apart from the Dene. As a southerner, I am obliged to say that some parts of the South are quite different from other parts of the South. Indeed, I would argue that in many instances the variance in lifestyles, culture and behavioural assumptions is at least as great within the average southern province as it would appear to be across the northern territories. If all that is required to justify provincehood is the existence of culturally separate communities, then there probably should be 10 or 15 separate provinces for the Island of Montreal, to take but one example.<sup>17</sup> The argument that, on the contrary, the crucial difference between the northern communities and their southern counterparts is that the northerners were here long before the rest of us seems to me to require an unrealistic degree of historical reconstructionism. To be sure, if Europeans were about to arrive here for the first time we obviously would do things differently this time around. But, like it or not, we are all now in the same constitutional boat. Public policy cannot be devoted to redressing perceived — or even, I would argue, actual — historical inequities.

What I have heard in the last two days suggests that, unfortunately, we have reached a Catch-22 on the question of provincehood. Some speakers seem to suggest that economic development — and therefore population growth — will not proceed in the North until the political institutions of the region are “legitimized,” which I read as a shorthand for provincehood. On the other hand, until there is a larger population in the North, most southerners are unlikely to countenance provincehood. Thus we seem to be in a position of “no growth without provincehood” but “no provincehood without growth.”

The Canadian federation has proved extremely flexible in the past — some would say too flexible. It is to be hoped that some accommodation short of provincehood — perhaps a form of provincehood somewhat short of that experienced by the other provinces — will satisfy northerners’ aspirations for local control. On the other hand, the existing provinces have a clear and legitimate interest in assuring that all provinces have equal status under the Constitution. The doctrine of “special status” was rejected explicitly in the 1960s and so, in the 1970s, was the similar notion of “community of communities.” Canadians will wish to think very carefully before adopting a regime in which some provinces are more equal than others.

## Collective Rights

A final question on which the northern experts at this meeting seem pretty well agreed is the need for some form of collective rights for native northerners. The possibilities that have been mentioned<sup>18</sup> are explicit recognition of native groups and their organizations in the Constitution, and a residency requirement, extending to three years, perhaps, for participation in northern politics. Again, I am not enthusiastic about either alternative. We have a clear tradition in Canada, given voice most recently by Justice Deschenes in his judgment on the mobility provisions of Bill 101, of giving paramouncy to individual over collective rights. In his paper, Gurston Dacks has stated four principles on which he believes any northern political settlement should be based. The first is that all Canadians should have the same political rights — a proposition I expect most Canadians would endorse. But his second principle, that native people should be given (collective) rights not available to other Canadians, directly contradicts this first principle. As an anglophone Quebecer, who might like to have access to some form of protection for my way of life, I resent the fact that other Canadians are to be given rights that I am not to be allowed access to. At the same time, I can see that the notion of collective rights is a slippery intellectual slope, and that even as a member of a minority whose rights have been trammelled in recent years, I may do better in a regime in which only individual rights are recognized.

I also worry about how these collective rights would be arranged. Would they attach to specific Indian and Inuit organizations? Would national assemblies, as it were, be set up? And what would be the rights of individual natives in their relations with these organizations or assemblies? Would there be guarantees, for instance, about secret ballots, the rights of petition, and the means by which representatives are chosen? I suspect some people would argue that southerners have no business dictating to northerners how they should arrange their internal affairs. I disagree. It seems to me that all Canadians have an interest in how other Canadians are treated by those agencies that govern them. Moreover, if northern collectives are to be enshrined in the Canadian Constitution, southern Canadians must have some say about how these organizations operate. There are clear restrictions on the ability of southern provinces to amend their own constitutions. It would be paternalistic to require anything less of northern collectives. I realize that my preoccupation with such matters reflects my liberal-democratic value system, but I do not agree with Michael Asch that, in effect, we are all “culture-relativists” now. If, as some people here seem to suggest, northern culture places less weight on individual human rights than southern culture does, then I for one would be prepared to countenance a legal override of northern customs. In sum, southerners should have no compunctions

about insisting on safeguards for individual northerners in any constitution that recognizes collective rights, and, in any case, they should think long and hard before adopting such a constitution.

On the question of restricting mobility, Alan Cairns has argued that proponents of a residency requirement should not simply assume the legitimacy of such measures is supported by popular opinion. I would go much further and argue that, in fact, Canadian public opinion holds such measures to be illegitimate. In the Bill 101 case, the "Canada clause" is all but certain to be upheld in the courts; moreover, when the alternatives are explained to them, the vast majority of Quebecers, whether English-speaking or French-speaking, say they prefer the "Canada clause" to Bill 101. I would also question what seemed to be widespread agreement in the last two days that the affirmative action clause of the Constitution meets with universal approval. I can understand why local populations and governments might approve of this sort of protectionism, but if it were explained to Ontarians, say, that the clause meant that while Newfoundlanders could come to Ontario and compete for their jobs, they could not go to Newfoundland to compete for jobs in the offshore, I suspect most would think this unfair.<sup>19</sup>

Beyond this lies a more basic point. There is an impression abroad that the new Constitution has granted Canadians a set of legal and political rights they previously did not enjoy. This is, of course, incorrect. The rights in question are human rights and attach to people as a condition of their existence. Governments may or may not enshrine these rights in law or observe them in practice, but they exist nonetheless. The fact that Canada has finally decided to try to codify these rights does not mean they did not exist heretofore. One right most people will guard jealously is the right to live where they choose. The implications for Canadian confederation of violating this right and enabling local governments to impose anything more than honorific residency requirements are far-reaching and disturbing.<sup>20</sup> I obviously would argue that there should be no limitation on my own freedom of mobility, and I suspect most Canadians feel the same way.

## **Conclusion**

If my views are in fact typical of southern views, then it would seem that southerners and northerners have a long way to go before their views of Canada's economic and political development can be reconciled. Whether what is at issue is the pace of northern development or the desirability of provincehood for the territories, I doubt whether there is yet a wide enough consensus to support substantial new departures on these questions.

On the other hand, there does seem to be growing awareness that, while efficient economic change is increasingly important, such change

is a political non-starter unless care is taken to assure that any losers in the process of economic or social adjustment be compensated for their losses. This is as pertinent a message for the North as it is anywhere else in the country. In a highly competitive world economy, continued exploitation of natural resources is likely to be important in Canada. At the same time, resource development in the North involves significant social costs. If growth is to be politically acceptable, these costs must be made good out of the net gains from development.

## *Notes*

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1. Governments likely would be tempted to impose Canadian-content rules on northern developers, though this would be harmful in at least two respects. First, other things equal, it would raise the costs — and therefore lower the pace — of northern development. Second, retaliation by our trading partners might well leave southern manufacturers even worse off.
2. See Watson (1983). I should emphasize that I would not make any of these ratios even an intermediate target of economic policy. Policy should aim at making Canadians richer, and if this requires a smaller manufacturing sector, then so be it.
3. Nor is it clear, even if there is a boom, that there will be substantial resource rents. To the economist, a rent is a payment to the producer of a good or service over and above what is necessary to induce that producer to provide the good or service. The OPEC episode clearly produced rents in Alberta in the 1970s: the price doubled for resources that already were being produced. In the case of the North, however, future price increases for oil and other minerals may serve mainly to bring on-stream supplies that will be only marginally profitable.
4. The fact that the federal government has had to provide such lavish financial incentives to northern development suggests that this may well be the case. On the other hand, the incentives may not have been needed in any economic sense but instead were put into place either as a result of industry lobbying or in order to offset the discouraging effects of other government policies.
5. The most interesting aspect of recent events in the Persian Gulf is the hound that has not barked. The price of oil has been relatively stable despite the realization of last decade's nightmare, namely, the sinking of supertankers in the Gulf by combatant Arab nations.
6. Though she obviously may not share the inferences for policy that I draw from her statement.
7. Of course, any decision to go slow on northern development will cause friction with those of our trading partners who need such resources.
8. On the other hand, it might be argued that if the government does wish to be neutral, tax incentives will be needed in order to offset the discouragement to development caused by overlapping jurisdictions and cumbersome regulatory decision making. Of course, the first-best policy is to do away with these government-created disincentives to investment.
9. In fact, both equity and efficiency require that any of a country's jurisdictions that levies taxes should be brought into the national equalization scheme.
10. It went so far as to issue its own coins, which trappers received in exchange for their furs and then redeemed for goods in the company store.
11. A little-noted aspect of the much-talked-about northern welfare economy is that a good deal of government largesse goes to upper-middle-class whites. Professor Stabler says

that each federal job in the North costs \$130,000. I would be very surprised if every federal employee does \$130,000 worth of good for northerners.

12. Seventy percent of the funds allocated to Manitoba apparently went to the two Liberal ridings in that province — hardly a random distribution.
13. It should not be forgotten that one reason the traditional culture is threatened is that many natives like many aspects of southern culture.
14. I would also like to know why rural people in the North are to get a service that rural people in the South generally are denied. On the question of valuing culture, it might be useful to recall that a distinctive rural culture has all but disappeared in most parts of southern Canada during the last 75 years, though I am not prepared to concede the country is worse off for it.
15. On a related point: Professor Stabler presents what on the face of it are disturbing data about the market incomes, unemployment rates, educational attainment, and degree of mobility of northern natives. On the other hand, there have been suggestions that southern education does not do native northerners much good, and that native northerners are often happy with what southerners would see as underemployment because this leaves them with the time to hunt and trap. Thus, it is entirely possible that data that look as if they may be the result of discrimination in fact reflect the exercise of native preferences. Of course, the implications for public policy, if discrimination really is at work, require that this question be looked into in considerable detail.
16. I also realize that although there are only 125,000 people in Prince Edward Island, it is likely to continue on as a province. I am in print, however, as regarding the existence of a separate government for Prince Edward Island as an unfortunate historical accident (Watson, 1982). It is difficult for me to understand how any theory of federalism can justify the existence of three levels of government for 125,000 people. In many respects, the country would have been better off had the Charlottetown conference been devoted to its intended purpose, namely Maritime union, and negotiations had then been initiated with the Canadas. I believe we should learn from our historical accidents, not repeat them.
17. And, of course, several Island communities have suggested that if Quebec were to separate they would seek provincial status.
18. Such alternatives have not been described in any detail. They clearly would have to be before any consensus could be reached.
19. To their credit, many Newfoundlanders probably would also consider it unfair.
20. To be sure, not all thin edges are attached to wedges. On the other hand, all wedges do have thin edges.

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