

Colonialism and Language in Canada's North: A Yukon Case Study

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(Received 14 August 1995; accepted in revised form 8 January 1996)

ABSTRACT. The relationship between the federal and territorial governments in Canada has been described as colonial because important decisions affecting the territories can be, and have been, imposed upon them by the federal government. In the 1980s, the federal government utilized its power to unilaterally impose constitutional changes which were perceived by Northerners as being contrary to their interests. This Yukon case study exemplifies that colonial relationship in the context of language rights.

Key words: colonial, constitution, federal government, francophones, language, negotiation, territories, Yukon

RÉSUMÉ. On a décrit la relation entre les gouvernements fédéral et territoriaux au Canada comme coloniale parce que les décisions importantes affectant les territoires peuvent être — et ont été — imposées à ces derniers par le gouvernement fédéral. Au cours des années 1980, le gouvernement fédéral a utilisé son pouvoir pour imposer de façon unilatérale des changements constitutionnels qui ont été perçus par les habitants du Grand Nord comme contraires à leurs intérêts. Cette étude de cas au Yukon illustre cette relation coloniale dans le contexte des droits linguistiques.

Mots clés: colonial, constitution, gouvernement fédéral, francophones, langue, négociation, territoires, Yukon

Traduit pour la revue *Arctic* par Nésida Loyer.

INTRODUCTION

Gurston Dacks has described the relationship between the federal and territorial governments as colonial:

Basically, a society is colonial to the extent that major decisions affecting it are made outside it. Colonialism is weakness and dependence ... the North is totally dependent constitutionally on Ottawa. (Dacks, 1981:208)

The history of the Yukon is replete with examples of unilateral federal actions which adversely affected the rights and interests of Yukon residents. The negotiation of an agreement to merge the Yukon with British Columbia in 1937 (Stuart, 1983), the amendment of the Yukon electoral district boundary to include the District of Mackenzie in 1947 (Grant, 1988:189), the transfer of the territorial capital to Whitehorse in the 1950s, and the massive withdrawals of Crown lands from disposition in the 1970s are but a few of the more prominent examples. In the 1980s, the federal government continued the trend by incorporating paragraphs 42(1)(e) and (f) into the *Constitution Act, 1982* over the protests of northern Canadians; dropping territorial issues from the agenda of the First Ministers' Conference on the Constitution in 1983 (*Whitehorse Star*, 16 March 1983:4); and by negotiating the Meech Lake Accord behind closed doors without any territorial representatives present.

In all of the above circumstances the process followed one of two predictable patterns: (1) consultation with Northerners, followed by unilateral federal action despite their objections, or (2) simply unilateral action without consultation. In either

case, northern governments were compelled to negotiate as best they could to have the decisions reversed, or at least their conditions ameliorated. They were compelled to bargain from a position of weakness in attempting to reverse the direction of a federal bureaucracy that was already moving on a plan of action.

One aspect of the constitutional patriation process which was not anticipated to adversely affect Northerners was the entrenchment of French language rights in the Charter of Rights and Freedoms. Language rights became an issue in 1983, when two unilingual English traffic tickets were challenged by a Whitehorse resident in Territorial Court on the basis that they infringed upon his Charter rights. The federal government anticipated the results of the case and moved to impose a resolution of the issue through unilateral amendments to the territories' constitutions. The Yukon Government felt compelled to attempt to mitigate this action through negotiations. This case study exemplifies the colonial nature of federal-territorial relations in the context of a constitutionally based language rights issue.

HISTORY OF LANGUAGE RIGHTS IN WESTERN CANADA

A brief review of western and northern Canada's constitutional history is necessary to understand the legal and constitutional arguments of the language-related court cases launched in the territories in the 1980s. The territories were established following assent of the *British North America Act* in 1867:

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By an Imperial Order in Council passed on June 23, 1870 pursuant to the Rupert's Land Act, 1868 (Br. Stat. 1868, c. 105), the former Territories of the Hudson's Bay Company known as Rupert's Land and the North-Western Territory were transferred to Canada effective July 15, 1870. These territories were designated as the North-West Territories by the Act of SC 1869, c. 3, and as the Northwest Territories by RSC 1906, c. 62. (Canada Year Book, 1989:19–27)

The Riel Rebellion led to the creation of the Province of Manitoba by the passage of the *Manitoba Act* in 1870. Section 23 of this act, a virtual carbon copy of Section 133 of the *British North America Act*, stated that:

23. Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both those languages shall be used in the respective Records and Journals of those Houses; and either of those languages may be used by any person, or in any Pleading or Process, in or issuing from any Court of Canada established under the British North America Act, 1867, or in or from all or any of the Courts of the Province. The Acts of the Legislature shall be printed and published in both those languages. (*The Manitoba Act, 1870*)

The *Northwest Territories Act* of 1875 contained no reference to language, but in 1877 the Act was amended to include a section similar to Section 23 of the *Manitoba Act*. It appeared as Section 110 of the *Northwest Territories Act* of 1880. This section remained part of the Act until 1906, when it was repealed (Supreme Court, Yukon, 26 September 1986:10; Hogg, 1992:55–14 to 55–20).

In the interim, the Yukon Territory had been created by the *Yukon Act* in 1898, and the provinces of Saskatchewan and Alberta came into being in 1905; all were carved out of the Northwest Territories.

For western and northern Canadians, the issue of language had been dead since the 1890s, long superseded by the issues of religion and economics (for example, the Manitoba Schools Question and subsidies for western farmers). This was particularly so in the North, as André Braen notes: "In practice, the French language has not been used in the administration of these territories since 1891" (Bastarache, 1987:95). The enactment of the Charter of Rights and Freedoms changed all that, as francophone Canadians in the west sought to have their Charter rights recognized by western and northern governments. The court cases launched in Manitoba, Alberta, Saskatchewan, and the Yukon in the 1980s relied, at least in part, on the constitutional origins of these jurisdictions (Hogg, 1992).

ROUND 1: TERRITORIAL COURT

In February 1983, Whitehorse resident Daniel St. Jean appeared in Territorial Court in Whitehorse to contest two

traffic tickets he had received, which were printed in English only. Appearing without representation, Mr. St. Jean contended that:

the ticket and legislation pursuant to which it was issued—that is the *Motor Vehicle Ordinance*—must contain equivalent provisions in the French language. In support of his position he relies upon Section 30 and 32 of the *Canadian Charter of Rights and Freedoms* which expressly applies the Charter to the Yukon Territory. (Territorial Court, Yukon, 30 June 1983:1–2)

Mr. St. Jean also argued that Section 20 of the Charter applied. Section 20 states:

(1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where (a) there is a significant demand for communications with and services from that office in such language; or (b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French. (*Constitution Act, 1982*)

Mr. St. Jean argued that Section 20 required "traffic tickets to be in both official languages by virtue of 'the nature of the office' given the seriousness of the offence" (Territorial Court, Yukon, 30 June 1983:2).

Judge Bladon denied the application to quash the tickets:

A careful reading of S. 20 of the *Charter of Rights* reveals that it applies to communications with and services from the Federal Parliament or Federal Government and an office of such Federal institution. S. 20 of the Charter therefore has no application to legislation and proceedings consequent upon the exercise of the authority reposed in the Yukon Council by virtue of S. 16 of the *Yukon Act*. (Territorial Court, Yukon, 30 June 1983:3)

Clearly dissatisfied with Judge Bladon's decision, Mr. St. Jean appealed to the Supreme Court of the Yukon. He soon received federal assistance for his efforts; in October 1983, Secretary of State Serge Joyal authorized his department to provide funding assistance of up to \$25 000 toward St. Jean's legal fees. A departmental spokesperson, Guy Voisin, stated that:

St. Jean's challenge is the first against the federal government. He said since the Yukon is still legally administered by Ottawa, the department decided its statutes fall under federal jurisdiction. For this reason, he said, it decided to fund the appeal. (*Whitehorse Star*, 12 October 1983:3)

Mr. St. Jean's case was scheduled for 22–23 March 1984 in the Yukon Supreme Court; however, before the case was heard, the federal government intervened.

ROUND 2: BILL C-26

On 21 March 1984, Serge Joyal, acting on behalf of John Munro, the Minister of Indian and Northern Affairs, introduced amendments to the *Yukon Act* and the *Northwest Territories Act* in the House of Commons. Munro had briefed the Yukon's Government Leader, Chris Pearson, on 18 March, and Northwest Territories Leader Richard Nerysoo shortly thereafter, on his proposed course of action, and he was not dissuaded by their objections (Government of Yukon, 26 March 1984:49).

Bill C-26, *An Act to Amend the Northwest Territories Act and the Yukon Act*, would have had major impacts on the governance of the two territories: full application of the *Official Languages Act* throughout the territories; invalidation of any ordinance, rule, order, regulation, bylaw or proclamation that had not been printed and published in both official languages by 1 January 1988; authorization to use English and French in territorial courts and legislatures; and the requirement to publish all records and journals of the legislatures in both English and French. The ability to defer or suspend the implementation of provisions of the legislation would have been granted to the Commissioners, who could act without the advice of the cabinets (Bill C-26, 21 March 1984:1–10).

The Minister's reasons for initiating Bill C-26 were outlined in a press release dated 21 March 1984:

Such a step was necessitated by a recent Yukon court case which challenged a traffic violation on the grounds that it was in English only. Although the Territories are under Federal jurisdiction, the legal analysis required for the case revealed that official languages protections likely do not apply in the Territories. In order to be fully consistent with the Federal position on official languages in other parts of Canada, action was required prior to the court case....

The sudden emergence of this court challenge to the official languages protections in the Territories has cut short normal processes of consultation with the Territorial governments, although the desire for improvements in bilingual services has been a topic of discussion over the past several years. (Government of Canada, 1984:1–2)

The press release went on to explain that debate of the bill would be delayed "to provide the opportunity for the Territorial Executive Councils to consider and bring forward their own ordinances on provision of bilingual services. These could then be affirmed through changes to the Territorial Acts, incorporating them into the constitutions of the two Territories" (Government of Canada, 1984:3).

The reaction of the Yukon Legislative Assembly was swift and predictable. On 26 March 1984, Government Leader

Chris Pearson placed the following motion before the Assembly:

THAT the Yukon Legislative Assembly possesses the responsibility for ensuring the development of minority language services in Yukon;

THAT the Government of Yukon has been diligent in developing and presenting to the Yukon Legislative Assembly programs and services which enhance the use of French and aboriginal languages in Yukon;

THAT the Yukon Legislative Assembly has been consistent in its support of these initiatives which further bilingual development;

THAT the introduction into the House of Commons, on March 21, 1984, of Bill C-26, which proposes to apply the official languages provisions of the *Charter of Rights and Freedoms* and the *Official Languages Act* to Yukon, was done without prior consultation with the Government of Yukon or the Yukon Legislative Assembly;

THAT Bill C-26 does not recognize the rights and responsibilities of the Government of Yukon and the Yukon Legislative Assembly for the ongoing development of French language services in Yukon; and

THAT the Yukon Legislative Assembly urges the Minister of Indian Affairs and Northern Development to withdraw Bill C-26 from consideration in the House of Commons. (Government of Yukon, 26 March 1984:42)

In speaking to the motion, members of the Assembly noted that the Yukon Government had for years been requesting amendments to the *Yukon Act* to recognize constitutional changes in the Territory, but that these had been ignored. Others noted that priority should be given to addressing the needs of the Yukon's aboriginal people, whose languages were in danger of disappearing and who greatly outnumbered the miniscule francophone population of the Territory. The major concern, however, was the antidemocratic nature of federal unilateral action on the issue (Government of Yukon, 26 March 1984:42–49).

Thus, while the Members of the Assembly supported the principle of equitable access to services in French and English, they decried the approach taken by the Minister of Indian and Northern Affairs of imposing a federal government solution to the issue (Government of Yukon, 26 March 1984:42–49).

The motion was approved unanimously by the Yukon Legislative Assembly, but, like other unanimously approved motions, it had no impact on the Minister's decision. Other opponents of the federal government's legislation included the Yukon's Member of Parliament, Erik Nielsen, and Opposition Leader Brian Mulroney, who called the federal government's action "bizarre" (*Whitehorse Star*, 21 March 1984:5).

The introduction of Bill C-26 had several consequences: Daniel St. Jean withdrew his appeal (temporarily), and the Government of the Northwest Territories began work on *An Act to Recognize and Provide for the Use of the Aboriginal Languages and to Establish the Official Languages of the*

Northwest Territories, which was subsequently approved by the Government of the Northwest Territories in 1985 (Government of Yukon, 1990:4). The Government of the Northwest Territories had fewer problems than the Yukon Government with the federal bill; it already provided services in six aboriginal languages, and adding one more language was not seen as significantly more onerous.

However, Bill C-26 died after the federal Liberals were soundly defeated in the 4 September 1984 General Election.

ROUND 3: NEGOTIATIONS

The political picture changed substantially after Bill C-26 died on the Order Paper. The Progressive Conservatives under Brian Mulroney formed the government in Ottawa. In the Yukon, a New Democratic Party government was formed under Tony Penikett after the 13 May 1985 territorial election. Despite the change in politicians and governments, the federal government's position on language issues in the Yukon appeared to remain substantially unchanged.

The federal and Yukon governments commenced negotiations on language services in the Yukon in July, 1985. At the same time, Yukon government officials sought the support of Yukon francophones, represented by the Association Franco-Yukonnais, and convinced Mr. St. Jean to postpone his court appeal pending the outcome of the negotiations and enactment of Yukon language legislation (*Whitehorse Star*, 3 March 1986:2).

The Yukon government's interests in the negotiations were to obtain guarantees of funding for provision of French language and translation services, and to be able to provide some measure of aboriginal language services (*Whitehorse Star*, 27 May 1986:4).

These interests were driven by the Yukon aboriginal land claim negotiations and the composition of Mr. Penikett's caucus. The Penikett government had made a land claims settlement its highest priority, and land claim negotiations encompassed the issues of protecting and preserving aboriginal culture and identity. Mr. Penikett had a strong ally in Michael Smith, Chairman of the Council for Yukon Indians, when negotiating for aboriginal language rights in a language agreement. Furthermore, half the members of Mr. Penikett's New Democratic Party caucus were of aboriginal ancestry, and expectations of fair treatment for aboriginal languages in any future language agreement were high.

Negotiations broke off suddenly when the federal cabinet rejected a proposed agreement on 26 June 1986. The reason given for the rejection was that the Yukon should become officially bilingual—the same position held by the former Trudeau government when it brought forward Bill C-26 (*Whitehorse Star*, 27 June 1986:1–2). Government Leader Penikett blamed “regional interests” for the rejection, suspecting Quebec ministers in cabinet of insisting on the imposition of official bilingualism (*Whitehorse Star*, 27 June 1986:1–2).

The Yukon Government had two major reasons for objecting to official bilingualism: there had been no public consultation on the issue; and it would force the Yukon to recognize, on the principle of equity, an additional six aboriginal languages as official languages (*Whitehorse Star*, 27 June 1986:1–2).

The Yukon Government went back to the bargaining table with federal officials in September 1986, while Mr. St. Jean's appeal proceeded to the Yukon Supreme Court on 24 September 1986 (Government of Yukon, 1990:4).

ROUND 4: YUKON SUPREME COURT

Mr. Justice Perry Meyer heard St. Jean's appeal on 24–25 September 1986, and handed down his decision on September 26. The hearing addressed three questions:

1. Must the *Summary Convictions Act* and the *Motor Vehicles Act* be printed and published in both French and English in virtue of s. 133 of the *Constitution Act 1867* and/or in virtue of ss. 16 and 18 of the *Canadian Charter of Rights and Freedoms*?
2. If the answer to Question 1 is in the affirmative, are these Acts invalid by reason of the fact that they were not printed and published in both languages?
3. Is the ticket issued pursuant to the provisions of these Acts, in the English language, invalid by reason of the denial of a right guaranteed by s. 20 of the *Canadian Charter of Rights and Freedoms*? (Supreme Court, Yukon, 26 September 1986:2)

The arguments advanced during the course of the proceedings focused on the very nature of the territorial government. Mr. St. Jean's lawyer, Gordon Sheiner, argued that the Yukon Government was merely an “institution” of the federal government, similar to a corporation or department of the federal government, and that the executive head of the Yukon Government, the Commissioner, was a federal public servant responsible to the Minister of Indian and Northern Affairs. More specifically, he argued that: “the Commissioner in Council is an ‘institution of the Parliament and government of Canada’ within the meaning of s. 16(1) of the Charter” (Supreme Court, Yukon, 1986:16). Thus, pursuant to Section 20(1) of the *Charter*, and section 133 of the *Constitution Act, 1867*, (which states that acts of Parliament and Legislature of Quebec must be printed and published in both English and French), the Yukon's legislation, and the tickets issued pursuant to that legislation, were invalid.

The lawyers for the federal and Yukon Governments argued that the territorial government was not part of the federal government: “The territorial government is no more part of the government of Canada than a municipality is part of a province” (*Whitehorse Star*, 25 September 1986:5). They noted that the Commissioner acted more as a lieutenant governor than as a federal employee, and that the legislature

operated as an independent arm of government, as in the provinces (*Whitehorse Star*, 25 September 1986:5).

In making his decision, Mr. Justice Meyer relied heavily on an analysis of *Blaikie v. A.G. Quebec (No.1)* (1979), 101 D.L.R. (3d) 394 (S.C.C.) and *A.G. Quebec v. Blaikie (No. 2)* (1981), 123 D.L.R. (3d) 15 (S.C.C.), which addressed the issue of the kinds of regulations or orders that would constitute delegated legislation for the purposes of Section 133 *Constitution Act, 1867*. Justice Meyer noted that the *Blaikie* decisions determined that s. 133 applied to regulations enacted by government and to Court rules of practice in federal and Quebec courts, but not to municipal and school bylaws or to “other” regulations (regulations of the civil administration and of semipublic agencies other than government, and municipal and school regulations) (Supreme Court, Yukon, 1986:4–7).

In his analysis, Justice Meyer (Supreme Court, Yukon, 1986:6) commented that “The parallel between municipal bodies and the Yukon Territory is striking and attractive, even if substantial differences obviously exist.” He went on to state:

the general principles enunciated lead me to conclude that the Yukon Territory and its Government and Legislature are not the kind of bodies which the Supreme Court contemplated in *Blaikie (No. 2)* as coming necessarily within the ambit of s. 133, in order not to truncate it and frustrate the intentions of the Fathers of Confederation. (Supreme Court, Yukon, 1986:6–7)

Mr. Justice Meyer noted the parallel between Yukon Legislation and “other regulations,” and commented that the role of the Commissioner in assenting to legislation was equivalent to the role of a lieutenant governor or the Governor General:

In assenting (or withholding assent for that matter) the Commissioner acts as the executive head of the Territory, not as the legal representative of the federal Cabinet, and this notwithstanding s. 4 of the *Yukon Act*, which provides for those cases when he wears a different hat and acts in an administrative capacity only in those areas not delegated to the elected council. (Supreme Court, Yukon, 1986:8)

In dismissing the appeal, Justice Meyer commented, “The Yukon Territory is not a department of the federal Parliament or the federal Government. It is, in my view, an ‘infant province,’ with most but not all of the attributes of a true province” (Supreme Court, Yukon, 1986:13). Consequently, the legislation enacted by the Yukon Government was not delegated legislation covered by s. 133 of the *Constitution Act, 1867*. He also concluded that the Commissioner in Council (the Yukon legislature) was not “an ‘institution of the Parliament and government of Canada’ within the meaning of s. 16(1) of the *Charter*” (Supreme Court, Yukon, 1986:16) for the same reasons he gave respecting the application of s. 133 of the *Constitution Act, 1867* (Supreme Court, Yukon,

1986:17). Finally, he concluded that “the ticket issued is indistinguishable, in legal terms, from the unilingual summons which was in issue in the Supreme Court decisions in *Bilodeau* and *MacDonald*. Thus, a unilingual ticket issued in the Yukon Territory would not be invalid in my view” (Supreme Court, Yukon, 1986:19).

ROUND 5: BILL C-72

Mr. Justice Meyer’s decision did not, of course, constitute a definitive ruling on the Yukon’s constitutional status or the status of its legislation. The immediate consequence of the Meyer decision was the launching of an appeal by Mr. St. Jean. However, given the costs that such an appeal entailed, it was not clear that the matter would have proceeded. This problem was addressed in April 1987 when the Canadian Council on Social Development agreed to fund the appeal (*Whitehorse Star*, 24 April 1987:1–2).

The Yukon Government renewed its efforts to achieve a negotiated settlement, and in early 1987 the Secretary of State agreed to provide the Yukon Government with \$100 000 for improving French language services. The Yukon Government commissioned two studies, which were completed in February and May of that year, that provided specific recommendations on providing French language services in the Territory (Government of Yukon, 1990:5).

In the meantime, the federal government renewed its efforts to make the Yukon officially bilingual through Bill C-72, a new *Official Languages Act* tabled in Parliament in June 1987. As a result, Government Leader Penikett flew to Ottawa on 30 July 1987 to meet with Justice Minister Ray Hnatyshyn and Secretary of State David Crombie to discuss the issue. Although he pressed strongly for a reconsideration of the proposed language agreement already rejected by the cabinet in 1986, his efforts were rebuffed; the federal government intended to force official bilingualism on the Yukon through federal legislation (*Whitehorse Star* 31 July 1987:1–2).

Condemnation of Bill C-72 in the Yukon was vociferous, and not restricted to the government benches. On 16 December 1987, the Leader of the Opposition, Willard Phelps, introduced a motion in the Yukon legislature which was virtually identical to the motion adopted by the legislature on 26 March 1984. This motion was also unanimously supported (Government of Yukon, 16 December 1987:313–316).

While Bill C-72 was slowly making its way through the House of Commons, the Supreme Court of Canada was considering its decision on the *Mercure* appeal. On 25 February 1988, the Court ruled that the Government of Saskatchewan was required either to translate all of its laws into French, or to pass a law making English the only language of the legislature and courts of the province. The Government of Saskatchewan adopted the latter course of action (Hogg, 1992:55–19).

Opposition to Bill C-72 was also becoming apparent in the Northwest Territories. Despite the fact that the Northwest

Territories was largely exempted from the full provisions of the bill, one section required that changes to the Northwest Territories' language legislation be approved by Parliament. This provision was so "repugnant, paternalistic and colonialistic" that in February 1987, the legislature of that territory approved a motion condemning the bill (*Whitehorse Star*, 1 March 1987:6).

ROUND 6: A TIE

As Government Leader Penikett prepared to appear on 28 April 1988 before the parliamentary committee reviewing Bill C-72, he was unexpectedly summoned to a meeting with Justice Minister Ray Hnatyshyn. Hnatyshyn told Penikett that the federal government was now prepared to agree to the Yukon's position and sign an agreement, on the condition that Penikett *not appear* before the committee (T. Penikett, pers. comm. March 1993). Mr. Penikett seized the opportunity to conclude the five-year battle, and the agreement was signed almost on the spot.

The agreement committed the federal government to providing the Yukon Government with \$4.25 million over five years, under contribution agreements, to enable the Yukon Government to provide both aboriginal and French language services throughout the Territory. The Yukon Government agreed to propose language legislation to the Yukon legislature, which the federal government insisted must not be amended without Parliamentary approval; this condition would be effected through an amendment to the *Yukon Act*. However, the federal government also agreed it would not "proceed with any future amendment to the *Yukon Act* or take any other legislative initiative which would have the effect of amending or repealing the Bill contemplated by clause 8, when enacted, or any part thereof without prior consultation with the Yukon" (*Canada-Yukon Language Agreement*, 28 April 1988:6).

The Yukon *Languages Act* was subsequently given assent on 18 May 1988, and the *Yukon Act* amendments were passed by the House of Commons on 7 July 1988. Mr. St. Jean dropped his appeal.

CONCLUSION

This paper does not take issue with the federal government's responsibility for defending minority language rights in the North. Indeed, as André Braen has noted:

To the extent that the French and English languages are the official languages of the Parliament of Canada and of its institutions, and given the Canadian Government's policy of achieving equality for both official languages, it would be surprising in political terms, if the federal authorities did not react to the official establishment of English unilingualism in the territories. (Bastarache, 1987:96)

What offended northern Canadians most was the federal government's reversion to the colonial pattern of addressing important issues by proceeding unilaterally on a course of action without meaningful consultation. For reasons that are clear only to federal officials, Liberal and Conservative national governments felt compelled to take the extraordinary step of introducing legislation into Parliament that would require the Yukon and Northwest Territories to become officially bilingual. This occurred in spite of the fact that the Yukon Government continuously sought to demonstrate good faith and to negotiate a fair and equitable solution for both francophone and aboriginal residents of the Territory.

The federal government's ability to amend territorial constitutions without the consent of the people of the territories is in stark contrast to its powers with respect to the provinces: under Canada's constitutional framework, only provincial governments can amend provincial constitutions (S. 45, *Constitution Act*, 1982).

The Yukon Legislative Assembly unanimously approved resolutions opposing federal legislative initiatives and pressed for a negotiated settlement rather than an imposed solution. At the eleventh hour, presumably to avoid a potentially embarrassing public debate before a parliamentary committee, the federal government reconsidered its position of imposing a solution that did not have public support. In the end, the aspirations of Yukon residents to have the *Yukon Act* amended to reflect constitutional progress were dashed in favour of entrenching a constitutional reversal: northern Canadians lost the ability to determine language rights within their respective territories independently. Provincial governments would not voluntarily relinquish such rights.

The patriation of the Constitution and the enactment of the Charter of Rights and Freedoms were measures designed to extend equality to all Canadians. But for northern Canadians, these measures only emphasized their subordinate status within the federation. The perpetuation of colonial rule in the territories was reinforced by the actions of federal officials to impose solutions on Northerners, rather than empowering them through the inclusive processes of consultation and negotiation. This was evident during the patriation process itself, as well as during the negotiations leading to the signing of the Meech Lake Accord. The profoundly undemocratic nature of colonial rule in the North continues to defy the principles underlying Canada's constitutional patriation process: it was fundamentally unacceptable to Canadians to have to seek British approval for constitutional change, yet northern Canadians are still completely reliant upon the federal government for constitutional amendments. The significance of these factors—the practice of imposing decisions and the ability to amend territorial constitutions without the consent of territorial residents—were evident in the events surrounding Daniel St. Jean's court challenge and the federal government's response. "Plus ça change, plus c'est la meme chose."

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