

Commentary: The Drury Report and Political Development in the N.W.T.

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Government of Canada. Report of the Special Representative. C.M. Drury, *Constitutional Development in the Northwest Territories*. Ottawa, 1980. 194 p.

The Drury Report is an excellent survey of problems of political development in the north. Since its publication in 1980, a number of events have underscored the need for structuring a new governmental process in the N.W.T. The Lancaster Sound Regional Report, continuing discussions with Inuit over the Nunavut proposal, the pending environmental assessment of the Beaufort, the Dene-Metis proposal for "Denendeh," passage of the Canada Act, Bill C-48 and the April 1982 plebiscite on political division in the N.W.T. all indicate an urgency for action. Indeed, given the unchecked power of the federal government in the region, further delays in political development may mean northerners are disadvantaged in resolving issues surrounding the above events. A review of the Drury suggestions is timely in order to determine how well they actually address problems faced by people in the north.

The central issue facing residents in the N.W.T. is, as Mr. Drury (1980:29) puts it, an "inability to control their own affairs." Most of these people have always lived under the direct tutelage of Ottawa. Many depend on the Department of Indian and Northern Affairs (DINA) or the government of the N.W.T. (GNWT) to provide food, clothing, shelter, fuel, medical care, and many other services. With the talk of responsible government and devolution of powers, it is little wonder that expectations have been rising. In fact, most groups in the north are becoming quite vocal about gaining control of their own destiny. This argument, however, is not new. It has been a source of contention for years. Diamond Jenness (1963), in his work on administration in the north, indicated that resentment of government paternalism goes back to the 1920s and 1930s.

This control, however, is not a simple matter. Rather it is an integral component of four other issues considered very important by people in the N.W.T. First, most native people are concerned about preserving their cultural heritage — preserving traditions and values of their culture which they consider important. Second, they desire economic independence — freedom from dependence on Ottawa for the basic necessities of life. Third, they want land — land and control of its resources — which is seen as the key to being able to preserve aspects of their culture and gain economic independence. And finally, they demand a degree of political autonomy; it is considered imperative

to have political decision-making power in order to control their own affairs. Thus, their primary goal is intricately linked with cultural preservation, economic independence, land claims and political development. Any assessment of the Drury Report must be seen in the light of these problems.

The Drury Report follows a decade during which recommendations of The Carrothers Commission (1966) were being implemented. The Carrothers Report, first of all, strongly endorsed development of responsible government in the north. At the same time it advocated a healthy respect for the north's particular cultures and problems as government institutions and procedures evolved. The developmental process began with moving the territorial government to Yellowknife in 1967 and the subsequent creation of elected representative bodies at the community, regional and territorial levels. While elaborate government structures have developed, many people in the north are frustrated by the fact that they do not have political authority. In other words, responsible institutions exist in that representative bodies are elected, but Ottawa retains political power. One of the interesting anomalies of the north is the emergence of an impotent political apparatus.

This anomaly is underscored by the fact that a number of informal political organizations have emerged in the north. These organizations articulate the interests of different groups in the Territories. They include, for example, the Committee for Original People's Entitlement (COPE), The Dene Nation, the Metis Association, Inuit Tapirisat of Canada, hunters and trappers associations, co-operatives, and various advisory organizations, e.g. in education. This dual development — at the formal-legal and informal levels — has politicized many people in the north. In an effort to control their own destiny, they now have the instruments through which they can work to achieve this end and they know how to use them in the political process. Thus, politics in the north today have changed, and some suggestions in the Drury Report are a response to these changes.

1

Mr. Drury was commissioned in 1977 to report to the Government of Canada on a decade of political progress in the N.W.T. and to recommend measures to:

- modify and improve the existing structures, institutions and systems of government;
- extend representative, responsive and responsible government;

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- transfer or delegate federal responsibilities and programs to the Government of the N.W.T.:
- promote native participation in government at all levels;
- devolve powers and responsibilities to the local level; and
- protect native cultural interests (Drury, 1980:1).

The report is interesting in that like the Carrothers Report, Mr. Drury is very aware of the "uniqueness" of people and problems in the north. In this regard, southern models are not always applicable to the situation:

The Special Representative's observations of conditions in the N.W.T. reinforced his conviction that a government structure more relevant to the traditions and circumstances in the Territories was required (Drury, 1980:2).

After these opening remarks, it is surprising that Mr. Drury's work is not innovative. New and dynamic changes are not advocated. On the contrary, the report conveys a sense of resignation about federal presence in the Territories. There is no sense of urgency in the evolution of political change and he offers no specific model for this change. Second, Mr. Drury makes no explicit recommendations *per se*. Instead, he offers a number of "conclusions" at the end of chapters 2 through 7. Interestingly, contained in these conclusions are some very sound proposals, such as the particular role of government in communities. Thus, Mr. Drury attempts to meld a sense of resignation *and* a need for change.

II

Cultural survival, while not addressed directly as a constitutional problem, nevertheless pervades the rationale for almost every suggestion made in the report. Mr. Drury (1980:15) summarizes the issue very well.

The native peoples in the N.W.T. can be thought of as Canadians having "special" interests. They enjoy a social, cultural and political uniqueness, which derives from their aboriginal ancestry and homeland in the N.W.T., their cultural and economic traditions, their relationship to the natural environment and their political values. While their aboriginal ancestry has no agreed-upon legal consequences in Canada, by tradition it carries a moral and ethical dimension of considerable weight. The relationship of native peoples to the land and its wildlife resources is not only economic but also mystical. Their cultural organization is based on the family unit rather than on organizational hierarchies and they traditionally have been collectivist rather than individualist. They are inclined to the sharing of property and material goods rather than to individual ownership, and to oral rather than to written expression. Their political values may be expressed in terms of consensus rather than recorded majority vote; a preference for delegates, rather than representatives; decentralization rather than centralization; a sharing of information and knowledge; and the rule of man rather than the rule of law. The social, cultural and political traditions and values of native peoples in the N.W.T. have been evolving

continually in the face of changing influences and external exigencies, which, as with their counterparts in southern Canada, has required adaptation and has, at times, threatened assimilation.

The key word of course is "assimilation." Indigenous people have never subscribed to the argument that their cultures should not change. Indeed, most realize that survival in a modern, industrialized society requires adjustment which might be termed economic assimilation. However, these people are convinced of the fact that their cultural heritage contains beliefs and values different from those of other Canadians, and that some of these cultural attributes must be retained. In fact, they argue that these attributes not only will help them in adjusting to an alien way of life but will assist them in avoiding total assimilation. As in most cultural groups, the desire to avoid complete assimilation is crucial. There is a compelling desire to transmit part of their cultural heritage to future generations.

One means by which culture is transmitted is via the educational system. Mr. Drury recognized this and his "conclusions" in chapter 4 contain the following.

Education should become a shared jurisdiction between the territorial and local orders of government, with the local level given paramountcy in the elementary field, and the territorial level paramountcy in the secondary and post-secondary fields. This arrangement invites cooperation between both orders of government in all aspects of education and provides an opportunity to make educational policy and administration more responsive to community needs.

Because the field would be a shared one, the GNWT could continue to legislate for elementary education to the extent that the communities choose not to do so. Community governments should have the option to choose and purchase resource materials required for their curricula.

New materials produced either by the GNWT or other agencies should be approved by the community council before becoming part of the local curriculum. Existing native associations and any organizations and corporations resulting from native claims settlements might be particularly well placed to provide the materials in question.

In secondary and post-secondary education, the territorial government should retain prime or ultimate responsibility for the definition, development and delivery of all programs.

The GNWT could transact suitable arrangements with those community councils wishing to manage their local secondary schools (Drury, 1980:44-45).

The proposal would create dual responsibilities in education. Communities would be responsible for early education (primary) where transmission of a system of values is most important. The GNWT would be responsible for secondary education, where it may be more important to offer options which would include preparation for living in or out of the north.

A second area closely linked to the preservation of a cultural heritage is the control of land and renewable

resources. Living off the land (hunting and fishing) has been an integral part of the cultural heritage in the north. If indeed parts of this heritage are to be preserved, the opportunity to hunt and fish should be preserved.

The link between economics and cultural preservation is important for aboriginal peoples. Earning wages "outside" the community may raise the standard of living and create opportunity for northerners. Total dependence on outside employment, however, is not desirable. Resource industries and some types of work in the public sector tend to follow a boom-or-bust pattern. Tying one's welfare totally to this type of employment can be precarious. Not only is it unstable, but it can lead to greater assimilation into the white man's culture. Most native peoples, while recognizing the desirability of a wage economy, do not care to opt for it entirely. They are hopeful that living off the land can remain a critical part of their welfare. K.J. Rea (1968), for example, has pointed out the intricacies of the northern economy, and the dilemma for native peoples when they become too dependent on a wage economy.

Legislation governing inland waters, forests, wildlife, land use, and planning is necessary to protect that heritage. The problem is that at present this responsibility lies with the federal government:

. . . federal primacy means that Parliament can always directly override territorial exercise of these jurisdictions, by repealing the relevant provisions, or by legislating on the subject and thereby displacing the related territorial law. In contrast, in relation to the provinces, Parliament cannot legislate on subjects over which the provinces have exclusive jurisdiction, such as those set out under Section 92 of the BNA Act; nor can it displace provincial legislation in those areas where jurisdiction is concurrent but provincial jurisdiction is paramount (Drury, 1980:75).

Mr. Drury realizes that this position is unacceptable to people in the north. They can never control their own destiny until they have control over lands and resources. A compromise is offered.

The territorial government and Council should assume increased responsibility for decisions on territorial land and resource use. The present federal-provincial allocation of responsibilities in this area is not a good model for the N.W.T. The economic and resource potential of the N.W.T., its land area relative to population, and its continued fiscal dependence, create a situation in which, for at least the medium term, federal interests are necessarily greater in the N.W.T. than they are in the provinces.

Under these circumstances, the federal government should retain its prerogative to legislate on the use of land resources in the N.W.T. in the national interest. For the time being, the federal government should continue to have access to extraordinary resource revenues in the N.W.T. so as to ensure that all Canadians benefit equitably. However, it should not be essential for the federal government to retain ownership of territorial land and resources, nor to regulate their use under normal circumstances.

Crown land and natural resources should therefore be

transferred to the N.W.T., the ultimate objective being full ownership of these public lands by the N.W.T. analogous to provincial ownership of public lands. This will require appropriate amendments to the N.W.T. Act and the Territorial Lands Act. Until such legislation is passed, a first step can be taken under existing law: by Order-in-Council, the federal government can transfer crown lands to the Commissioner for the beneficial use of the N.W.T., although fishing and subsurface rights must be reserved under federal control (Drury, 1980:94).

Suggestions regarding ownership of land and control of resources obviously are among the more controversial parts of the Drury Report. At least two positions are recognized. Federal supremacy now exists in the N.W.T. while provincial autonomy modeled along lines practised in the south is advocated by some N.W.T. groups. Mr. Drury goes a long way toward recommending provincial-type ownership and control but does not compromise federal access to "subsurface rights". The transfer of ownership and control is to go to the N.W.T. The federal government, however, having subsurface rights, is entitled to a portion of the revenue taken from resource extraction.

Resource Revenue "Capping": Territorial revenues from royalties and other resource revenues should be subject to a "cap" beyond which they would be shared with the federal government. The sharing formula should be designed so as to be neither a disincentive to responsible resource development by the GNWT, nor a deterrent to the imposition by the GNWT of royalties, fees and other levies on resource use. It should, moreover, permit recovery by the GNWT of special purpose infrastructure costs associated with the resource development. The sharing formula should be set out in the N.W.T. Act and should be based on an agreement between the federal Minister of Finance and the member of the Executive responsible for revenue and finance. To meet these requirements in an equitable way, the formula might read as follows: "To the extent that annual resource revenues, in excess of agreed infrastructure costs, exceed 10 percent of the annual federal general purpose grant to the N.W.T., the excess resource revenues shall be shared, respectively, between the federal and territorial governments on a 75:25 percentage basis" (Drury, 1980:96).

Drury recognizes the federal government's responsibility for the public interest (i.e. all Canadians). If, in the N.W.T., resource revenues amount to more than is transferred into the area via the federal general-purpose grant, then the 75:25 formula dictates the division of excess revenues. Therefore, with control of the primary-school system and with a high degree of control of land and resources, people in the north could be in a position to maintain aspects of their traditional heritage.

A second problem area addressed in the report deals with the north's fiscal dependence on Ottawa.

Financial arrangements for local and territorial governments in the N.W.T. reflect both the existing and anticipated limited territorial tax base. A substantial portion

of net public funding requirements for those governments, more than 80 percent at present, is met by the federal government under policies and practices which have evolved over the past thirty years, based on federal responsibilities for the N.W.T., and taking into account other federal fiscal priorities. This substantial fiscal dependence on senior governments colours virtually every aspect of government in the N.W.T. (Drury, 1980:107).

Moreover, per-capita government expenditures in the N.W.T. are far higher than in the rest of Canada: "\$5933 as against \$2054" (Drury, 1980:11).

One problem is that at present there is almost no revenue base on which to build independence. In the seven tax-based municipalities (Fort Simpson, Frobisher Bay, Fort Smith, Hay River, Inuvik, Pine Point and Yellowknife), only 64% of revenues are raised locally (Drury, 1980:117). Almost half of this amount comes from property taxes. Of the remaining 44 communities, classified as non-tax-based, no property tax is levied. In these communities only 12% of the revenue raised is from local sources, mostly from sales taxes, licensing fees, etc. (Drury, 1980:118). The absence of a sound tax base, as in most parts of Canada, is the primary reason for this dependence.

Economic dependence should be broken if the north is to develop socially, economically and politically. To do this, local, regional and territorial governments must share in resource revenues. Such a change cannot be accomplished immediately. As Mr. Drury (1980:77) points out, in 1978 revenue from resources amounted to \$10 million, while DINA's budget for the territories was \$42 million. In time this situation will change. Proven oil and gas reserves in the N.W.T. are rising, and more intense exploration indicates deposits of many minerals. It is very possible that 25% of royalties could enable fiscal independence in the future. The key to this possibility, however, lies with the resolution of land claims.

The Drury Report does address the problem of land claims in Chapter 2. "The importance of claims to the native peoples in the N.W.T. lies in the political, economic and cultural benefits that may thereby be achieved" (17). Culturally, for example, "access to surface lands, water and renewable resources is essential to their traditional pursuits of hunting, fishing and trapping . . ." (75). Economically, without control of land and resources and corresponding revenues, there is no possibility of fiscal independence. Reliance on taxes for revenue means that people in the north would continue to be wards of the state. Thus, claims are the key to the overall development for indigenous peoples of the north.

There is, however, a problem linking land claims and political development. By 1973, land claims were recognized:

A federal government policy paper in 1973 established the broad lines of the federal approach. The policy statement suggested that, in exchange for native interests arising out of traditional use and occupancy of land, native peoples would be compensated by a combi-

nation of cash, hunting, fishing and trapping privileges, resource revenue sharing, participation opportunities in local and regional government, economic opportunities and fee simple absolute ownership of certain lands (Drury, 1980:16).

And the necessity for political development was recognized:

In 1975, and again in August 1977, the federal government expressed in policy statements on political development in the N.W.T. that structures and functions of government were not negotiable as part of the land claims. Thus, while supporting the desirability of increased participation and opportunities through public government, such support was not intended to be the object of claims negotiation with the native peoples. Government would not be negotiated on the basis of collective political rights, nor would public government based on ethnicity be acceptable to the federal government, Parliament, or to the Canadian people in general (Drury, 1980:16).

While the federal government did not want the problems linked, Mr. Drury saw the importance of the connection.

As control of their collective destinies cannot be guaranteed through ownership of land alone, but must also include control of the decision-making processes, the claims have become inseparable from the political or constitutional content and process (Drury, 1980:18).

For native peoples, land claims and political development are crucial in obtaining their overall goals.

The final problem to be addressed in the report is that of political development. Indeed, redefining political power is the *raison d'être* of the report. At the outset Mr. Drury recognized two fundamental problems.

While opinions differ widely on the form which government should take in the N.W.T., most residents in the Territories consider the current state of government to be unsatisfactory (Drury, 1980:29).

Generally, it is agreed that political change is essential. Second, while the direction of change is not clear, the goal should be to make government responsive to the "needs and concerns of the people" (Drury, 1980:39).

The fundamental criticism levelled against government in the N.W.T. is that it is neither "by the people" nor "of the people" and, therefore, is unlikely to be "for the people." Both the authority and responsibility for government, it is argued, still rest almost entirely in the hands of the federal government. Despite certain trappings of self-government that have been won by the residents of the North, most northerners feel that they still are being administered from afar as a contemporary colony of Canada.

The sense of frustration, which arises from this inability to control their own affairs, is felt as strongly in the 50 communities spread throughout the 1.3 million square miles as it is in Yellowknife. This frustration underlies the many proposals put forward for constitutional change (Drury, 1980:29).

The problem of political power is one of the anomalies of the north. For almost a decade, there has been much

talk of devolving power to the people. Indeed, institutional structures have been created at the local, regional and territorial levels whereby people select their political representatives. Nevertheless, all the institutional arrangements in the world cannot hide the fact that Ottawa rules. The federal government, under existing statutes, retains ultimate authority in the N.W.T. This fact is a source of irritation to residents of the Territories. They do not accept the fact that they have elected representative institutions, yet no political power. The latter is what they see as their due and they are determined to achieve it by constitutional change.

Designing a new and better arrangement might seem an easy task in constitutional engineering. Basic powers could be divided between levels of government. As mentioned, however, the stakes are high. The federal government does not intend to surrender totally its access to a potentially large revenue source. And people of the north have no intention of remaining under Ottawa's control. What then is the solution to the polarity of these two positions?

Drury initially states emphatically that he is not advocating provincial status:

This Report does not set out either the timing or the conditions for achieving provincial status in the N.W.T. Nor do the conclusions prescribe a provincial model or any other precise model of government (Drury, 1980:4).

He goes on to give his reasons for this stance:

... the alternatives in structures of government and the discrepancies in the boundaries proposed lead to the following questions: which alternatives will most effectively strengthen government and best serve the interests of the people within the N.W.T.; which will give greater political autonomy, greater strength to resist the gravitational forces of southern Canada, and maintain equitable representation of the N.W.T. or its parts in the federal-provincial balance of power? To maintain the level of political autonomy desired in the N.W.T., any eventual province or provinces must themselves have the internal political and economic infra-structure for endurance. The risk otherwise is substitution of the current dependency, federal or territorial, for another dependency, in the form of increased federal, provincial, international or other external accountability.

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The conclusions that follow in this Report will support a united N.W.T. They argue for changes in the federal, territorial and community processes and structures of government, designed to promote increased representation, accountability and responsiveness of government throughout the N.W.T. (Drury, 1980:12).

If a united N.W.T. is advocated, how should powers within be altered to achieve better representation, accountability and responsiveness? A first priority is government at the local or "community" level as it is called in the report. In this vast area where settlements are remote, the community is the central organization for the people. Both Mr. Carrothers and Mr. Drury realized that the self-reliant indigenous people were traditionally suspicious of resigning

their fate to distant, higher levels of government. The role of local government was more relevant in their lives. Therefore, if a degree of self-sufficiency was to be realized, the role of elected community organizations would have to be adapted accordingly.

Unfortunately, community government is viewed by officials in the north as it is in the south. Mr. Drury (1980:49) outlines the problem.

Both the territorial and federal governments view the institutions of local government as administrative extensions of the senior levels. The local councils and committees are treated, by and large, as agents for the delivery of a number of territorially or federally prescribed programs and services. The structures created within the communities, the linkages established between the levels of government, and the type of interaction and communication flowing between the levels have been designed by the senior levels almost exclusively to meet their particular objectives and priorities. Such an approach, because it lacks a local focus, is counter-productive to the development of a strong autonomous local level of government. It is important that both senior levels of government develop the attitude and practice of considering community councils as clients to be served and supported.

The problem exists not only with officials but also with the people. The anomaly of the north is very real at the community level:

... the same phenomenon occurs at the community level as at the territorial level: despite the existence of fully elected representative bodies, there is a sense of powerlessness and a feeling that government is being "administered" from afar (Drury, 1980:34).

The present role of community councils does nothing to alter this sense of powerlessness.

The current jurisdictional areas of municipal councils relate primarily to the physical operation of hard services and include services such as water, sewerage, garbage collection, road maintenance, zoning and community planning. The soft services, namely social and cultural matters, education and land management, are largely excluded from the local process of decision-making. Many residents of the smaller communities regard the soft services as being critical to their lives, but ones over which they have little influence. In particular, there is concern that land-based cultural values and the local focus on hunting, trapping and fishing are in jeopardy because of externally-imposed decisions on land use in the vicinity of these communities (Drury, 1980:35-36).

Mr. Drury's design (1980:42) would change the role:

The suggestions made here are designed to strengthen community government in the N.W.T. by increasing political authority and responsibility at the local level. For a number of reasons, movement in this direction is necessary and, indeed, crucial to political development in the N.W.T.

These reasons include: a natural community orientation in the culture; a natural community orientation in the environ-

ment; the development of political and administrative experience; and a check on higher levels of government (Drury, 1980:42). With this justification, the place community organizations have in the governing of the N.W.T. is altered significantly.

The territorial and federal governments should recognize a real and distinct first tier of government at the local level. At such time as the N.W.T. Act is revised, an article should be added that would explicitly recognize the municipal order of government in the N.W.T. and specify those jurisdictions in which the communities would have *paramount authority* [italics added]. Communities should, however, be permitted to choose to exercise such responsibilities as they feel ready to accept. The N.W.T. Act should also permit communities to delegate any of their responsibilities to regional structures (Drury, 1980:43).

Added jurisdictional responsibilities for community councils cover land and resource management, education, social programming and housing (Drury, 1980:43-47). Lands around the community would be divided into two categories. Community "boundaries" would include lands immediately surrounding the community site. Legal possession of these lands would include the responsibilities of ownership and control, exercised by councils. The size of these boundaries would depend on community size, services provided and anticipated growth. At the time the report was published, 15 of 51 communities had formalized community boundaries through the Block Land Transfer program, and Mr. Drury suggests all communities determine community boundaries. Administrative and by-law authority and jurisdiction of boundary lands should be the responsibility of community councils and these procedures would no longer require GNWT approval.

A second category includes specific lands beyond community boundaries. These lands would be designated a community's "sphere of influence".

If requested by a community council, senior levels of government should commence discussions with the council with the object of delineating an area outside the community boundary to be designated as that community's sphere of influence. The area set aside as the sphere of influence should be defined according to the community's need to protect its interests. Matters or activities that are to be the subject of joint discussions should be identified. Such items as surface land use within the area, regional planning and renewable resource management would appear to be appropriate elements for joint regulation and management.

The boundaries of the spheres of influence, the activities of joint interest and the decision-making processes should be formalized in participation agreements between the appropriate levels of government (Drury, 1980:44).

In a sense, communities in the north would become almost like Greek city-states. Lands immediately around the city would be governed by local authorities; lands surrounding the city-state, i.e. enough land to make the city-state self-sufficient, would be under the jurisdiction

of the city-state. The difference, of course, is that the communities in the north are not "sovereign". They remain within the jurisdiction of Canada, as would any province or municipality.

Another important jurisdiction pertains to education. As already pointed out, educational responsibilities would fall between community councils and the territorial government. The responsibility for primary education would be an additional function for community councils.

Services considered most important to residents of communities — social programs and housing — would be transferred to community councils. In his report Mr. Drury conveys the feeling that communities can probably best decide the scope and direction of these services.

Community government should be able to respond more effectively and responsibly to the social needs of their communities within a context that acknowledges the continuing federal and territorial responsibilities. Social measures that are part of national programs should remain within the jurisdiction of the federal or territorial governments. These would include payments such as family allowances, unemployment benefits and old age pensions. The GNWT should retain paramountcy in the fields of social assistance, child welfare and correctional services where territorial standards are required or where there is an interface with the judicial system. However, the GNWT should adopt an active role in developing a process for the decentralization of the management of these programs to community governments at an appropriate time.

In all other areas of social programming and planning, the community order of government should have the option to assume full responsibility for community social programs or to request the GNWT to continue providing the services.

Financial arrangements for social services for which the community is responsible should permit local allocation of funds among various priorities. The overall level of funds available to the community for these purposes should eventually be determined by formula financing. This is further discussed under the financing of community governments in chapter 6.

In the areas where the GNWT retains ultimate responsibility, such as social assistance or child welfare, but the community opts to take on responsibility for program delivery, funds should be provided by the GNWT to the community through specific purpose grants. The associated administrative and financial arrangements should be formalized in agreements setting out the responsibilities and commitments of each government, and should be signed by the chairman of the community council and the designated Executive Committee member (Drury, 1980:46).

Responsibility for services would be a joint endeavor between community councils and GNWT. Communities would have the option of assuming a greater role in the delivery of services. Financing, according to Drury, would remain the responsibility of the GNWT.

For people in the north, viable government at the community level is synonymous with gaining control of their

own affairs. Native people argue they can best solve local problems at the local level. Mr. Drury goes a long way in suggesting decentralization of responsibilities to communities. In fact, the GNWT is committed to devolution, and an interesting experiment is on trial in Fort Good Hope. Also in many communities more educational instruction is done in the native language.

Increased jurisdictions for community councils would in effect grant them "paramount authority" in specified areas. This change is one of the more innovative suggestions made in the Drury Report and does not follow the model of provincial-municipal power arrangements in southern Canada. In fact, the suggestions are a real departure from tradition in the Canadian experience. Municipal governments have not enjoyed a particular constitutional status. Rather, they are considered "creatures of the provinces." Their legal and fiscal capabilities are determined by provincial charter. Should a change like this be implemented, it would offer people in the communities an opportunity to control many of the affairs they consider essential in their lives.

Political changes are suggested for other levels of government. Regional councils, for example, could be formed if communities in a designated region opt for them. In terms of jurisdictions, they would function somewhere between community councils and the GNWT. Specific responsibilities, such as regional planning, regulatory and administrative functions and responsibility for regional institutions, could be assigned to these councils (Drury 1980:53). One regional entity now exists, the Baffin Regional Council, and one is proposed by COPE, the Western Arctic Regional Municipality (WARM). The role of these organizations is still evolving but there seems to be a place for them in the political design. They would operate as loose confederations of local communities.

The GNWT would undergo a significant transition. Basic powers of the federal government, exercised through DINA, the Commissioner and the Executive, would be transferred to the Territorial Council and its Executive (Drury, 1980:49-52, 55, 57-68).

According to Drury, however, the office of the Commissioner would not be abolished. "Ultimately, the Commissioner's position should evolve to the more formal role of a contemporary lieutenant governor" (57). This evolution would take place when the territorial government "has achieved greater certainty with respect to revenues and the process of devolution to the local community has been firmly set in train. . . ." (57).

The Executive Committee is now made up of the Commissioner, Deputy Commissioner, two appointed members and three to seven members of the elected Territorial Council. Gradually, elected members of the Council would "assume the formal and actual burden of government in the N.W.T." (61). The Executive would then consist of elected members and function as a cabinet, with members

holding GNWT portfolios. Responsibility of the Executive would be to the Territorial Council.

The Territorial Council would function as the legislative body of the N.W.T. Currently, 22 members are elected from constituencies throughout the Territories. As responsibilities are taken from the federal government, they would be assumed by the Council. The federal government's shadow would remain in terms of its entitlement to a share of resource revenue. And, as it does in other parts of Canada, it would exercise federal responsibilities under the BNA Act (now the Canada Act), e.g. defence. The GNWT, regions and communities would then divide responsibilities accordingly. Thus, in time the GNWT would come very close to functioning like a province.

A final change in the existing structure affects the Ministerial portfolio. Responsibility for the N.W.T. now falls to the Minister of Indian and Northern Affairs. Mr. Drury (1980:59, 90) suggests that this responsibility be transferred to a proposed federal Minister of State for Federal-Provincial-Territorial Relations. The change, Drury feels, "should facilitate the change in the federal approach to an inter-governmental relationship with the GNWT." Functions now under DINA would be dispersed to ministers responsible for all of Canada, e.g. health services, housing, etc. In addition, a new Ministry for Native Peoples would be formed to "represent the interest of the native people in the Canadian constitutional forum" (138). With exceptions, the N.W.T. should be equal to provinces in its relationship with the federal government.

III

The Drury Report cannot be characterized as a radical document. In fact, many people in the N.W.T. are apt to dismiss it as merely a reflection of the federal government's interest. Indeed, there is little in the report with which Ottawa might argue. No compelling time frame is offered for constitutional change; no suggestion is made for provincial status that would jeopardize disposition of resource revenues; no structural changes are put forth which cannot be accommodated within the Canada Act; and no change is advocated for altering existing geographic and political boundaries. Other than phasing out absolute control in the region, the only real loss to Ottawa would be 25% of resource revenues.

This, of course, would not be a net loss for the federal government. The territorial portion of resource revenue would begin to accrue after Ottawa had been repaid a portion of the general-purpose grant, i.e. the federal government's special grant to the GNWT to maintain services. Therefore, by giving up access to a quarter of resource revenues in the N.W.T., Ottawa could achieve two objectives. The financial burden of supporting the GNWT would be removed. The GNWT could become financially independent without having to rely on property

or transaction taxes. While accomplishing these objectives, Ottawa would retain 75% of resource revenues for the public purse.

Although the report is favorable to Ottawa's position, should it be dismissed by people in the N.W.T.? In fact, the report contains significant suggestions which could be used by groups in the area as they pull together their arguments for constitutional change. First, it suggests that a portion of resource revenues accrue to the GNWT. While the 75:25 formula will not please all individuals, two factors must be considered. As Mr. Drury notes, the federal government will never surrender all rights in the area. In the name of the "public interest" a share of resource revenues must go to the Canadian treasury. Territorial resources, then, would be shared by residents of the N.W.T. and the people of Canada.

Development of resources in the region is only beginning. Technology now exists which makes extraction of resources in the north feasible. As world supplies diminish and prices rise, development of these resources from one-third of the surface area of Canada may become one of our largest industries. Therefore, the 25% cut must be seen in terms of its potential. In time, this revenue might more than free the N.W.T. of fiscal dependence on Ottawa. As a model for resolving claims, such an agreement might avoid some of the pitfalls now evident in the James Bay and Alaska settlements. Unlike a cash settlement, revenue would continue to be generated as long as resources were extracted.

Secondly, the Drury Report suggests increasing significantly the role of community councils. If the report is used as a blueprint, elected community councils would have control of their primary educational system, control of community lands, authority in management of "spheres of influence", and control of essential services. This shift in responsibilities may not appear dramatic, but is considered essential by people whose primary orientation is the local community.

The third positive change is an actual decentralization of power from Ottawa to the GNWT. For example, the transfer of power from the Commissioner and his Executive to the elected Council and its Executive would be devolution. In fact, the GNWT has started devolution. Many administrative duties and responsibilities of the Commissioner's office have been delegated to the Territorial Legislature and Cabinet.

While the above suggestions are positive, they do not answer all the criticisms and concerns of people in the N.W.T. today. At least three major issues remain to be addressed by the federal government. First, Ottawa has not responded officially to the Drury Report. After more

than two years there has been neither endorsement nor rejection of Drury's suggestions. While events important to people in the north continue to occur, the federal government has made no move to alter the constitutional arrangement for the GNWT. The silence on this issue is deafening.

Secondly, the GNWT has embarked on a policy of devolution. In fact, the N.W.T. now has a cabinet and legislature, and powers of the Commissioner have been transferred. This is a *de facto* change. Legally, the federal government has made no move to formalize a new process. One cannot help but question whether the government will tolerate change to a point and then draw the line, or whether a continuous evolutionary process will be permitted. The problem could spark a serious constitutional confrontation.

And finally, the federal government continues to pass important pieces of legislation affecting people in the N.W.T. Bill C-48 is an example. Many residents of the N.W.T. feel that *the way* in which resources are developed is as important as the revenue from development. Therefore, the question is whether individuals and groups in the N.W.T. will have an opportunity to express their views on the nature of developmental property. Devising a process by which inputs could be formalized is an important issue for many residents of the N.W.T. Action on this problem is needed *before* the guidelines for resource development are established.

Indeed, the absence of a federal response to the Drury Report is conspicuous. Ottawa must clarify its position before events continue to overtake the situation.

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