

CONSTITUTIONAL CHANGE IN THE CIRCUMPOLAR
PERIPHERY: A COMPARATIVE CASE STUDY

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DOCTOR OF PHILOSOPHY

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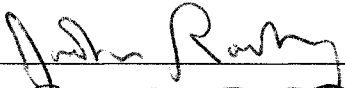
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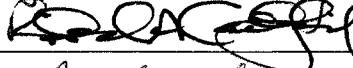
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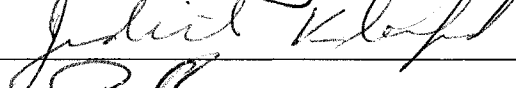
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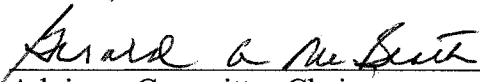
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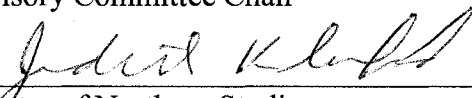






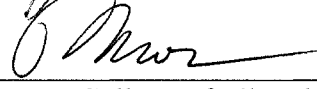


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Abstract

This dissertation probes the origins of intercultural conflict and regional disparity in the circumpolar North. The dissertation asserts that the national governments of Denmark, the United States and Canada have utilized policies of internal colonialism in Alaska, Greenland and the Yukon Territory, and that those policies have shaped intercultural relations and contributed to regional disparities in their northern jurisdictions. Michael Hecther's and Dale Johnson's definitions of internal colonialism are utilized for the purposes of this study.

The dissertation uses a comparative case study approach, reviewing how national government policies evolved and were applied in Alaska, Yukon and Greenland. It treats Alaska and the Yukon as similar cases, while Greenland is examined in a separate chapter as a dissimilar case.

The dissertation provides an historical analysis and comparison of national policies towards aboriginal peoples, and shows how those policies were applied differently in Alaska and the Yukon than they were in the southern United States and Canada. These policies exacerbated conflict between the aboriginal and non-aboriginal populations due to the cultural division of labor that was created. The dissertation then examines the impact of federal policies on the economic development of Alaska and the Yukon. Thirdly, the dissertation examines the history of constitutional change, and compares the struggle for Alaska statehood with efforts to achieve provincial status for the Yukon.

The dissertation concludes that policies of internal colonialism have been

detrimental to the social and economic well-being northern peoples, but that responses to these policies have generated creative new approaches and agreements.

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Chapter 1

Introduction

The purpose of this dissertation is to explore the roots of conflict in modern northern societies. The premise of this dissertation is that modern social conflicts in the North have their roots in national policies of internal colonialism, that continue in large measure to this day. These policies have divided northern communities along racial lines, and have obstructed efforts to build strong local economies. National policies, combined with exploitation by national and transnational corporations, have impeded northern development. At the same time, many northern economies depend on national government expenditures for generating economic activity in their region.

A variety of events in recent decades, beginning in the late 1950s, have slowly begun to shift more power for resolving conflicts into the hands of northerners: the granting of statehood and Home Rule to Alaska and Greenland; the settlement of land claims in Alaska and parts of the Canadian North; the development of oil and gas resources in Alaska; and the devolution of powers to some local governments, represent some of these changes. At the same time, some conflicts have become more acute and complex, or have defied resolution: the impasse over subsistence hunting and fishing in Alaska; the stalled negotiations on Kaska land claims in the Yukon; the rise of separatism amongst some Saami in Finland.

Thus, a central dynamic of northern societies involves the relationships between the aboriginal and non-aboriginal peoples, how their rights are defined and exercised, and the conflicts between them. Kenneth Coates has argued that the reality

of the North can best be understood in terms of “struggles.”¹ While this statement can be applied to any region, it does suggest that an exploration of various forms of conflict may provide useful insights into the unique social characteristics of a region. One set of struggles he highlights involves the struggle between indigenous and non-indigenous peoples:

Scholars and public observers have often drawn attention to the dissonance between indigenous and newcomer perceptions of place. In Canada, the phrase “Homeland or Hinterland” has come to symbolize the simple reality that indigenous and non-indigenous people conceptualize the land and therefore their futures in the region in strikingly different ways. This tension remains a core element in the struggle for control of the North.²

This dissertation will examine the relationship between the aboriginal and non-aboriginal peoples of Alaska, Greenland, and the Yukon Territory, in the context of their struggle for stronger constitutional recognition and constitutional rights. These rights are, for the most part, granted or determined by national governments, and it is the role of national governments that is the focus of this dissertation.

This will be a study of land claims and devolution – the transfer of powers from national governments to regional governments, and the conflict between conceptions of how those powers should be apportioned between aboriginal and non-aboriginal populations. The struggle for empowerment by northern indigenous

¹ Kenneth Coates, “The Discovery of the North: Towards a Conceptual Framework for the Study of

peoples through land claims, and the struggle for statehood and provincial status by non-indigenous peoples, are parallel processes, as noted by Colorado University law professor, Charles F. Wilkinson:

Indian treaty negotiations are parallel in concept to negotiations with representatives of prospective states over statehood. Both kinds of transactions sought to resolve territorial boundaries, land ownership, and governmental authority. A statehood act is “a ‘solemn agreement’ which in some ways may be analogized to a contract.” A treaty between the United States and an Indian tribe “is essentially a contract between two sovereign nations.”³

Gurston Dacks has noted that, “Nowhere do the conflicts within northern society and between North and South make themselves more acutely felt than in the issue of native claims.”⁴ And, Oran R. Young suggests that:

The recent experience of the Arctic offers a variety of fascinating cases worthy of close examination by those interested in the links between the exercise of political authority and the availability of secure sources of public

Northern/Remote Regions,” *The Northern Review*, No. 12/13, 1994, pp. 37-38.

² Kenneth Coates, 1994, p. 38.

³ Charles F. Wilkinson, *American Indians, Time, and the Law*, New Haven: Yale University Press, 1987, p. 102. Internal quotation from P. Gates, *History of Public Land Law Development*, 1968.

⁴ Gurston Dacks, *A Choice of Futures: Politics in the Canadian North*, Toronto: Methuen Publications, 1981, p. 50.

funding.

The story of devolution in the Arctic is complicated ... by concerted efforts to advance the cause of tribal sovereignty in some parts of the region, a movement that, in some ways, runs counter to the conventional pattern of devolution⁵

Linked to the issue of political devolution is the issue of economic development and resource transfers. Oran Young stated it best when he wrote:

Somewhat more enlightened policies toward the communities of the Far North feature efforts to promote political autonomy through the establishment of home rule arrangements. But such policies become shams when they are not accompanied by serious efforts to provide a reasonable basis for economic self-sufficiency and when home rule is coupled with arrangements that ensure a continuation of de facto economic dependence. The results are even worse when the idea of promoting political autonomy is combined with continuing outside control over the principal resources of the communities.⁶

Around the circumpolar North, aboriginal peoples and subnational governments are seeking sources of funds for economic development initiatives that will provide employment and independence. Unfortunately, they often seek these

resources in competition with each other. Oran Young notes that tribal governments and public governments will compete for the same sources of revenues, and that the results of this competition are decidedly unclear.⁷

Another piece of this puzzle relates to the role national governments play in aggravating or mitigating the impact of international forces on local and regional communities in the North. The relationship between national governments, sub-national governments, and aboriginal entities (governments, associations, tribes, and bands) is depicted in Figure 1. This figure places the relationship within the national and international arenas to demonstrate the linkages that exist and the influences that impact the processes of conflict resolution and constitutional change. National and international events may limit or expand opportunities for court challenges, negotiations, and legislative change as outlined later in this chapter. Similarly, the consequences of negotiations or other local processes may have an impact on other groups and processes at the national and international level.

The Comparative Approach

The comparative approach to studying northern political development appears to be most appropriate. This is a study of northern peoples, both aboriginal and non-aboriginal, seeking political power and economic development, and comparative studies in the past have focused on these types of issues. As noted by premier comparativist David Apter:

⁵ Oran R. Young, *Arctic Politics: Conflict and Cooperation in the Circumpolar North*, London: University Press of England, 1992, p. 20.

⁶ Oran Young, 1992, p. 51.

⁷ Oran Young, 1992, p. 20.

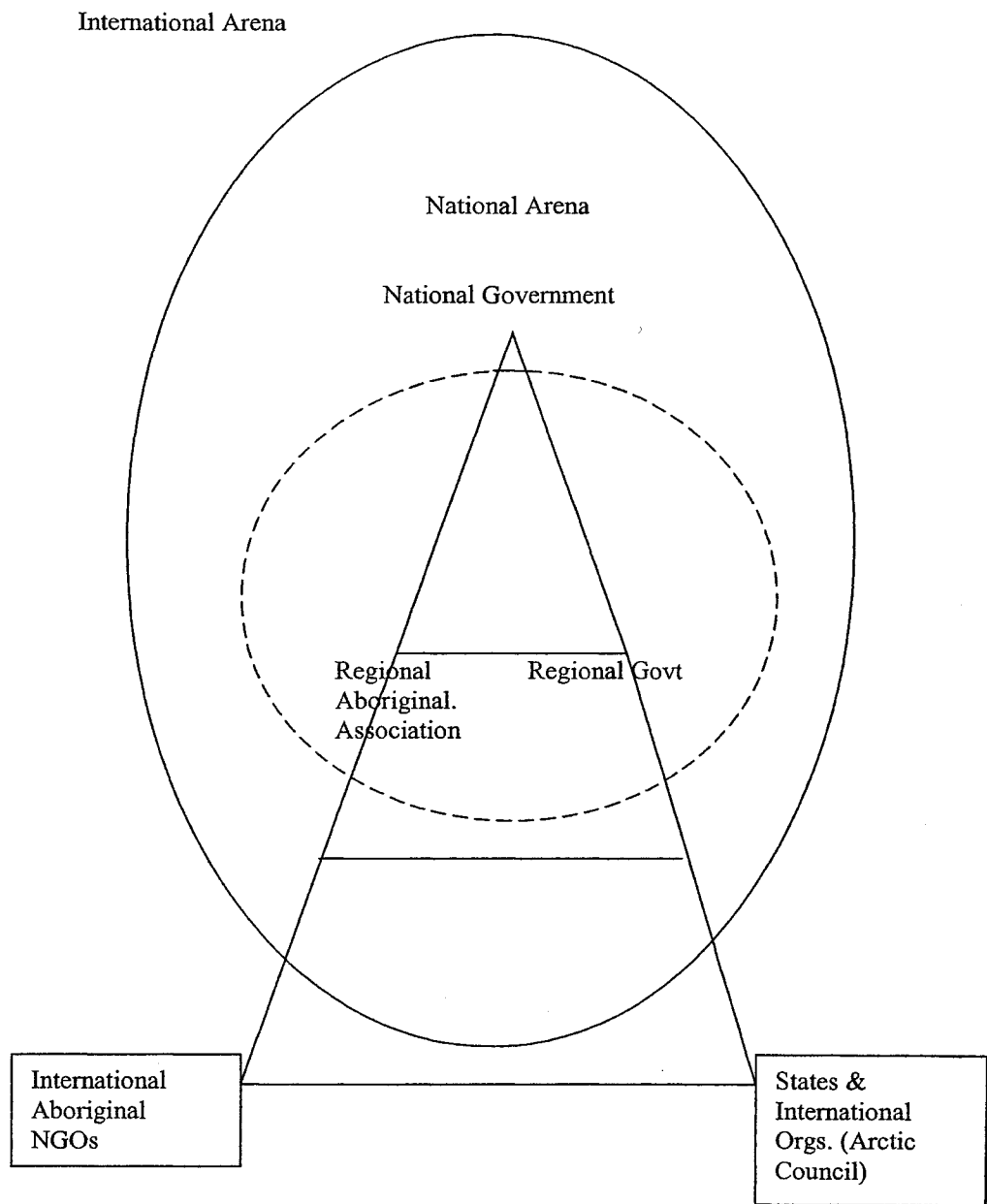


Figure 1
Context Diagram

From the start, comparing has been a particular way of connecting ideas derived from political philosophy and theory to political events and phenomena. The primary emphasis is on power. The purpose is to determine what difference differences make between the ways power can be deployed – not power in general ... but as organized in political systems and generated at national and subnational levels. Interpreting the significance of differences in the uses and allocations of power by different political systems is the common enterprise underlying various alternative approaches to comparative politics.⁸

Many comparative studies since the 1960's have focused on development issues in the developing world, including decolonization, democratization, economic development and political development.⁹ These studies laid the groundwork for understanding the impacts of modernization on rural populations dependent on

⁸ David E. Apter, "Comparative Politics, Old and New," in Robert E. Goodin and Hans-Dieter Klingemann (eds.), *A New Handbook of Political Science*, Oxford: Oxford University Press, 1996, p. 372.

⁹ Gabriel A. Almond and James S. Coleman, (eds.), *The Politics of Developing Areas*, 1960; Lucian W. Pye, *Aspects of Political Development*, 1966; Barrington Moore, *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World*, 1966; Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century*, 1993; Leonard Binder, et.al., *Crises and Sequences in Political Development*, 1971; Myron Weiner and Samuel Huntington, (eds.) *Understanding Political Development*, 1987; Gabriel Almond and Sydney Verba, *The Civic Culture: Political Attitudes and Democracy in Five Nations*, 1965; Charles Tilly, (ed.), *The Formation of National States in Western Europe*, 1975; Samuel P. Huntington, *Political Order in Changing Societies*, 1968; J.A. Raffaele, *The Economic Development of Nations*, 1971.

subsistence agriculture (peasant societies), and the importance of these populations in effecting radical social change.¹⁰

This study compares and contrasts two jurisdictions with the Yukon Territory. Alaska was selected as a jurisdiction that was “relatively similar” to the Yukon, especially in its territorial era, and Greenland was selected as a jurisdiction that most clearly contrasts with the Yukon. Both jurisdictions have advanced constitutionally in comparison with the Yukon Territory, and it is hoped that a study of these jurisdictions will reveal lessons that will enhance the Yukon’s ability to advance as well. The details of selection are set out in the following section.

Summarizing a generation of research in comparative politics, Mattei Dogan and Dominique Pelassy comment that, “A comparison between ‘relatively similar’ countries sets out to neutralize certain differences in order to permit a better analysis of others.”¹¹ They also note that, while proximity is not necessarily linked to similarity:

in the search for analogy the most natural approach is to limit the analysis to a geographical area that, in effect, delineates a homogenous milieu in more than one respect: history, culture, level of development – so many dimensions can be used as elements of control.¹²

¹⁰ Barrington Moore, 1966; Theda Skocpol, *States and Social Revolutions: A Comparative Analysis of France, Russia, and China*, Cambridge: Cambridge University Press, 1979.

¹¹ Mattei Dogan and Dominique Pelassy, *How to Compare Nations: Strategies in Comparative Politics*, Chatham: Chatham House Publishers, Inc., 1984, p. 118.

¹² Mattei Dogan and Dominique Pelassy, 1984, p. 118.

Thus, similar cases are like matched cases in experimental and control groups, enabling the researcher to limit the number of exogenous factors influencing the dependent variable.¹³

Dogan and Pelassy note that comparativists sometimes “try to find analogies in contrasting political systems. But comparison will always be made at the point where the analogy cuts across the contrast.”¹⁴ While Greenland is very different from the Yukon and Alaska, its aboriginal population also has numerous social problems that are similar to those found among the indigenous peoples of Alaska and northern Canada. Furthermore, the Greenlandic economy is highly dependent on natural resources and transfer payments from Denmark. This suggests that there is a common causal factor that links the problems of modern Greenland with those of the Yukon and Alaska, despite the numerous differences that are evident.

The Choice of Case Studies

The Yukon and Alaska share a great deal in terms of history and geography. They are, of course, in close proximity to each other, and events in one have had profound influences on the other. Indeed, the boundary between them was for many years ignored, especially by aboriginal peoples whose kinship relations spanned the border. The exact location of the boundary was not surveyed until 1912, some 45 years after Alaska came under the jurisdiction of the United States, and prior to that,

¹³ Gerald McBeath, *pers. comm.*, 2002.

¹⁴ Mattei Dogan and Dominique Pelassy, 1984, p. 127.

aboriginal peoples, fur traders and prospectors all traveled relatively freely within the region, although there was friction related to the boundary dispute.¹⁵

Alaska and the Yukon were both opened to exploration as a result of the fur trade and prospecting, and impetus for settlement came about as a result of the Klondike gold rush, from 1896 to 1899. Canadian authorities were so concerned about the influx of Americans during the gold rush that they mobilized a special military unit, the Yukon Field Force, to provide support to the Royal Northwest Mounted Police in the region.¹⁶

The population and demographics of each jurisdiction have fluctuated with their boom and bust economies, which have been closely linked. The region's fur bearing animals attracted early exploration and exploitation, followed by gold rushes that boosted development for short periods of time. Both territories lapsed into economic doldrums after the gold rushes, until World War II. World War II was a major economic "boom" that had profound impacts on both territories: population, infrastructure, access, and communications were all transformed.¹⁷

While events in the Yukon have had impacts in Alaska, events in Alaska have more often had significant implications for the Yukon. For example, the discovery and exploitation of oil and gas in Alaska have resulted in major efforts to develop

¹⁵ Kenneth Coates and William Morrison, "Transcency in the Far Northwest after the Gold Rush: The Case of the Princess Sophia," *Interpreting Canada's North*, Toronto: Copp Clark, 1989, p. 187; Norman Penlington, *The Alaska Boundary Dispute: A Critical Reappraisal*, Toronto: McGraw-Hill Ryerson Ltd., 1972, p. 36; Melody Webb, *Yukon: The Last Frontier*, Vancouver: UBC Press, 1993, pp. 242-246; Morris Zaslow, "The Yukon: Northern Development in a Canadian-American Context," in Kenneth Coates and William Morrison, (eds.), *Interpreting Canada's North: Selected Readings*, Toronto: Copp Clark Pitman Ltd., 1989, pp. 135-136.

¹⁶ Norman Penlington, 1972, p. 36; Melody Webb, 1993, p. 168.

pipeline proposals to transport these resources through the Yukon along the Alaska Highway corridor. There have also been cooperative efforts between the two jurisdictions in areas like wildlife management. Robert Mccandless gives several examples of cooperative efforts:

Alaska was another influence on Yukon wildlife policy.

The governor of Alaska was a frequent correspondent with the Yukon on wildlife matters because of similar geography and shared borders. ... in June 1919, Governor Thomas Riggs asked Yukon Commissioner George F. Henderson to assist Alaska in enforcing its closed season on beaver but he also raised the matter of the Migratory Birds Treaty and its unfair treatment for northern residents.... Later ... in 1939, cooperation between the two territories was to result in a joint patrol of the border area on a search for violators of wolf bounty regulations.¹⁸

More recently, the two jurisdictions have cooperated on a variety of fish and wildlife management measures involving the Porcupine caribou herd, the Forty Mile caribou herd, and salmon management and enhancement in the Yukon River.

Both jurisdictions are sparsely populated, with a low population density. Both have large population centers (Anchorage and Whitehorse) which dominate

¹⁷ Terrence Cole and Elmer Rasmuson, *Banking on Alaska: The Story of the National Bank of Alaska*, Vol. 1, Anchorage: National Bank of Alaska, 2000.

¹⁸ Robert G. McCandless, *Yukon Wildlife: A Social History*, Edmonton: The University of Alberta Press, 1985, p. 39.

economically and politically, and a scattering of smaller municipalities spread across the region. Indigenous peoples made up the majority of the population of Alaska until World War II, and have been a minority ever since. In the Yukon, they have been a minority since the gold rush.¹⁹ At the same time, the large majority of indigenous people in the region have provided a stable population base, while non-indigenous peoples have been highly transient. Indigenous peoples also make up the majority of the population in the rural areas of the region, while non-indigenous people are concentrated in a few large municipalities.

Both Alaska and the Yukon have served as gateways to each other's territory: the White Pass and Chilkoot trails, and the Yukon River served as transportation corridors to the gold fields. The White Pass and Yukon Route railway and riverboats became vital transportation services for both regions. Many migrants found their way to the interior of Alaska by taking the railway to Whitehorse and travelling down river, rather than making the long sea voyage to St. Michael, and then making another long voyage upriver from there.²⁰

In his 1969 paper contrasting the evolution of territorial governments in the Yukon and Alaska, Morris Zaslow noted that:

Canada and the United States followed widely contrasted approaches towards the settlement and development of their frontier territories that were reflected in the histories of

¹⁹ Terrence Cole, "Jim Crow in Alaska: The Passage of the Alaska Equal Rights Act of 1945," *The Western Historical Quarterly*, Vol. XXIII, No. 4, 1992, p. 430; Kenneth Coates, *Best Left as Indians: Native-White Relations in the Yukon Territory, 1840 – 1973*, Montreal: McGill-Queen's University Press, 1991, p. 74.

their colonial dependencies along the Yukon River....Those histories are a unique opportunity to view the two opposed experiments in frontier administration under almost ideal conditions. Most of the elements in both situations were the same – the time, the physical environment, the type of settler, and the settler’s goals. The major variable, the contrasting effects of the colonial programmes of the controlling powers during the period of the Klondike gold rush, can readily be gauged. By examining this wider situation one may better approach the regional trait that is shared by all of Canada’s northern territories – their colonial dependence upon Ottawa or the provincial capitals.²¹

Alaska and the Yukon are both products of federal systems, and both have been territories for most of their histories: Alaska from 1912 until 1959, and the Yukon has been a territory since 1898. They both had a colonial relationship with their respective federal governments while territories. Referring to the Canadian North, political scientist Gurston Dacks stated that: “The North can be studied as a society – actually a set of societies – but it can only be understood as a colony. Basically, a society is colonial to the extent that major decisions affecting it are made outside it. Colonialism is weakness and dependence.”²²

²⁰ Melody Webb, 1993, pp. 205-224.

²¹ Morris Zaslow, 1989, p. 134.

²² Gurston Dacks, 1981, p. 208.

As territories, the Yukon and Alaska did not possess all the rights and privileges that were enjoyed by other sub-national governments (states and provinces) in their countries, and many decisions affecting them were made in Washington, Seattle and Ottawa. Claus-M Naske described Alaskans' territorial status in this way:

As territorial residents, they could not vote in Presidential elections, and were represented in Congress by one voteless delegate. Travelers between Alaska and Seattle had to pass through customs, yet young Alaskan males were drafted into the armed forces. The executive branch of the federal government appointed the territorial governor, the four district court judges and other leading officials. Congress acted as a municipal government for the territory, and the construction of any sewer system, ball park or other civic improvement had to be approved by national lawmakers. The weak territorial legislature had no role [sic] authority for passing any laws which might override the power of federal officials, and it was not allowed to manage Alaska's lands, fish, fur, and game resources. In addition, any territorial law was subject to a Congressional veto.²³

Yukon residents were in similar circumstances. The Yukon government's chief executive officer was a commissioner appointed by the federal cabinet.

Although the Yukon had a Member of Parliament with voting privileges, it did not have a seat in the Senate. Judges for Yukon's courts were federally appointed as well. The Yukon government had management responsibility for commissioner's lands only – a minute fraction of the land base of the territory. In Alaska and Yukon, federal governments owned and controlled about 99.8 percent of the land. The federal government owned and controlled all the Yukon's non-renewable natural resources, water resources, fisheries, and forest resources on federal lands. Like Alaska, the Yukon government had no ability to amend the federal legislation that served as its written constitution, and the legislation the Yukon government passed could be vetoed by parliament, the federal cabinet, or the Minister of the Interior by ministerial directive. Furthermore, all Yukon legislation was subordinate to federal legislation.

Indigenous peoples in both Yukon and Alaska had unresolved land claims as treaties to surrender aboriginal title had never been negotiated.²⁴ The federal governments of both Canada and the United States have a special trust or fiduciary relationship with the aboriginal peoples within their countries that supercedes local jurisdiction. Consequently, aboriginal peoples in both jurisdictions have struggled to have their rights recognized and protected through federal legislation. For example, the issue of subsistence harvest rights has been a long-standing one in both Alaska and Yukon.²⁵

²³ Claus-M. Naske, *A History of Alaska Statehood*, Lanham: University Press of America, Inc., 1985, p. 281.

²⁴ Donald C. Mitchell, *Sold American: The Story of Alaska Natives and Their Land, 1867-1959: The Army to Statehood*, Hanover: University Press of New England, 1997; Kenneth Coates, 1991.

²⁵ Theodore R. Catton, "Glacier Bay National Monument, the Tlingit, and the Artifice of Wilderness," *The Northern Review*, No. 11, 1994, pp. 56-82; Robert McCandless, 1985; Donald Mitchell, 1997.

The subordinate status of the people and governments of Alaska and Yukon, and the unresolved land claims, resulted in demands for change in both territories. Beginning in the early 1900s, Alaskans began demanding statehood, and Yukon residents sought provincial status. There were also demands to settle outstanding land claims. These demands were, for the most part, ignored, until other events, such as World War II, resulted in economic and demographic changes that added impetus to the demands. The details of the processes leading to change are the subject of this study.

If Alaska provides the best example of a case similar to Yukon's, Greenland provides the best example of the most dissimilar case. Greenland contrasts in as many ways as Alaska is similar: it is a large island, dominated by a permanent ice cap, and its development has been shaped by continental European influences rather than by British. It has a large Inuit majority clustered in communities along its coastline, and its people subscribe to a state religion. The Greenland economy is based on the extraction of resources from the sea that have been marketed through corporations with state secured monopolies. It is part of Denmark, which is a unitary state (albeit with some federal characteristics). National policies towards Greenlanders differed greatly from those of the United States and Canada toward their aboriginal populations.²⁶ However, Greenlanders suffer from many of the same social problems that afflict indigenous peoples in northern North America: high rates of alcoholism, tobacco use, suicide, and infant mortality. As in other circumpolar societies,

Greenlanders have a significantly reduced life expectancy when compared with the non-Native population in the same country.²⁷

Application to the Circumpolar North

All sub-national jurisdictions in the circumpolar North face significant and similar issues of political, economic and social development. For example, the problem of providing adequate education, health, and social services to remote rural communities is similar throughout the Arctic, and northern economies are resource based, extractive, and dependent on investment capital from locations far to the South.

More specifically, many jurisdictions face constitutional issues that continue to exist to this day. Alaska's aboriginal and non-aboriginal peoples are engaged in a bitter debate over subsistence harvest rights that involves both federal and Alaska governments. This is a constitutional issue that has its roots in territorial Alaska and the struggle for statehood. Greenland's aboriginal population lobbied effectively for Home Rule in the 1970's, but the Danish government's ongoing involvement in Greenland's affairs through military treaties, joint jurisdiction over natural resources, and in other fields continues to create friction. Greenland also continues to rely heavily on Danish transfer payments for its economic well being.

Other areas of the circumpolar North where this dissertation may be applicable include northern Russia and the Saami region of the Nordic countries.

²⁶ Ole Marquardt, "Reservation, Westernization or Annihilation: A Comparison of U.S. Indian Policy and Danish Eskimo Policy in the Nineteenth Century," in Ingi Sigurdsson and Jon Skaptason, (eds.) *Aspects of Arctic and Sub-Arctic History*, Reykjavik: University of Iceland Press, 2000, pp. 68-79.

There we find aboriginal peoples in conflict with regional and national governments over issues related to land and resource use, subsistence harvest or grazing rights, and economic dependency. However, this dissertation would be less applicable in those regions because of the different constitutional histories and laws. Nevertheless, I will touch upon some of the similarities.

The aboriginal peoples of Russia were subjected to a different process of modernization than western aboriginal peoples after the 1917 Revolution. State directed initiatives, based on socialist ideological principles, replaced capitalist investment as the catalyst for change. Traditional languages and cultures were suppressed and non-aboriginal labor was imported to promote exploitation of northern resources.²⁸ In northern Russia, the Russian Association of Indigenous Peoples of the North (RAIPON) was formed in 1990 to “protect the interests and lawful rights of the peoples it represents, including their right to land, natural resources, and self-government in accordance with international standards and Russian legislation, and their right to resolve their own social and economic problems.”²⁹ The indigenous peoples needed to organize themselves when they found that their interests were in conflict with the northern public governments in the 1980s. The RAIPON website comments that:

At first, Party and Soviet officials supported the rapidly

²⁷ Statistics Greenland, *Greenland Kalaallit Nunat 1997 Statistical Yearbook*, Nuuk: Kalaallit Nunaanni Naatsorsueqqisaartarfik, 1997.

²⁸ Nikolai Vakhtin, “Native Peoples of the Russian Far North,” *Polar Peoples: Self-Determination and Development*, London: Minority Rights Group, 1994, pp. 29-80; Victor A. Shnirelman, “Hostages of an Authoritarian Regime: The Fate of the ‘numerically-small peoples’ of the Russian North under Soviet Rule,” *Etudes/Inuit/Studies*, Vol. 18, No. 1-2, 1994, pp. 201-223.

emerging social and political movement of northern peoples as an independent force; then that support gave way to political struggle and opposition to regional authority and local self-government. In many regions, strong opposition by the authorities is manifested in complete disregard for indigenous peoples and violation of their lawful rights and interests. Government representatives are trying to continue policies of paternalism toward and control over indigenous peoples; often they do not know or acknowledge international standards for human and aboriginal rights and they do not understand the goals of the movement.³⁰

Like the aboriginal peoples of the Russian North, the Saami peoples of the Nordic countries have found it necessary to organize in order to protect their interests. and have formed a variety of associations since 1945. However, this has not prevented the erosion of their legal rights. Sunna Kuoljok and John Utsi of the Swedish Mountain and Saami Museum note that:

Even today the Swedish state is of the opinion that it is better suited to administer the lands of Sapmi than the Saami are. As late as 1992 the Swedish parliament passed a law under which the Saami are no longer allowed to make their own decisions about hunting and fishing on

²⁹ <http://www.raipon.org>, March 11, 2001.

their lands.³¹

The Saami have been divided by international boundaries that were imposed by external forces, and by legal decisions. Hugh Beach has commented that:

Internally, the Saami face the difficult task of healing the divisions within them caused by the various imposed legal categorizations. While many of these divisions were and are unjust and unjustifiable, there is no doubt that the traditional Saami livelihoods cannot alone sustain the entire Saami population....The important point is that in these internal matters, within the framework of their rights, the Saami be allowed to make their own allocations.³²

It is clear from these examples that the debates over the appropriate allocation of aboriginal and regional government rights are far from over. How these issues are resolved will depend on the effectiveness of conflict resolution processes and the role national governments play in these processes. And it is likely that many of these struggles will require constitutional changes in order to be resolved.

Northern Constitutions and Constitutional Change

This dissertation examines the process of constitutional change. Political scientists Richard Van Loon and Michael Whittington have noted that, “ the constitution can be viewed as a device that modifies human behaviour, for a

³⁰ <http://www.raipon.org>, March 11, 2001.

³¹ Sunna Kuoljok, and John E. Utsi, *The Saami: People of the Sun and Wind*, Jokkmokk: Ajtte, Swedish Mountain and Saami Museum, 1993, p. 52.

constitution is one of the *independent variables* that influences the political process. Second, the constitution can be viewed as a reflection of the political culture; in this sense, it is a *dependent variable*, which is itself a product of societal forces.”³³ In this dissertation the focus will be on the constitution as the dependent variable.

“Constitution” is here defined broadly to include federal or national laws that constitute governing charters for defined populations and sub-national jurisdictions. For example, in Canada the *Indian Act* is the federal law that governs the operations of the vast majority of Indian bands (also known as First Nations) in the country. The *Indian Act* is subordinate to the national *Constitution Act*, but serves as the “constitution” for First Nation governments in Canada. All band laws must be formulated and approved in a manner that meets *Indian Act* requirements.³⁴ The *Indian Act* is ordinary federal legislation, which can be amended by parliament at any time, with or without the consent of the Indian people of Canada. In the Yukon, some First Nations have removed themselves from *Indian Act* governance by ratifying land claim and self-government agreements that have granted them self-government. In Canada, treaties and land claim agreements are protected under section 35 of the *Constitution Act*, which supercedes the *Indian Act*.

In similar fashion, the *Yukon Act* serves as the Yukon’s primary constitutional document. The Yukon’s constitutional situation differs from that of the provinces of

³² Hugh Beach, “The Saami of Lapland,” *Polar Peoples: Self-Determination and Development*, London: Minority Rights Group, 1994, p. 205.

³³ Richard VanLoon and Michael Whittington, *The Canadian Political System: Environment, Structure and Process*, Toronto: McGraw-Hill Ryerson Limited, 1987, p. 166.

³⁴ Donna Lea Hawley, *The Indian Act Annotated*, Second edition, Toronto: The Carswell Company Limited, 1986.

Canada. Provincial constitutions are recognized and protected in the Constitution of Canada, so that only provincial governments can amend provincial constitutions.³⁵ In contrast, the *Yukon Act*, and other federal legislation affecting the territory, can be amended by the federal government without the consent of the Yukon government or the residents of the Yukon.

Greenland's *Home Rule Act* is also national legislation, and it may not be protected as part of the Danish constitution. Consequently it could potentially be amended without the consent of the people of Greenland. However, the people of Greenland have much more authority over their lands and resources than do the people of northern Sweden, Finland and Norway where there are only weak regional authorities under the direct control of the state. The Saami people in these jurisdictions have their own parliaments, but these bodies are advisory only, and do not control the lands the Saami use.

Alaska stands out as the only jurisdiction in the circumpolar North with unambiguous autonomy as a full-fledged state within the United States. However, it should be recalled that statehood was granted by the federal government only after decades of struggle by Alaskans for this constitutional status.³⁶ Furthermore, the federal government still exercises substantial powers over sixty percent of the land base of Alaska, and is responsible for administering a wide range of legislation which affects Alaskans, (such as the *Alaska Native Claims Settlement Act* (ANCSA) and the *Alaska National Interest Lands Conservation Act* (ANILCA)). The federal

³⁵ Government of Canada, *Constitution Act, 1982*, Section 47.

government also regulates hunting and fishing on federal lands and waters in Alaska (unlike most other states) due to the impasse over subsistence harvest rights in Alaska. University of Alaska professor Stephen Haycox has stated that ANCSA and ANILCA have had major impacts on Alaska, and that, “Probably the history of no other region of the United States has been so thoroughly determined by just two acts of Congress.”³⁷ Haycox may have overstated the case, but there can be no doubt that federal legislation, which is shaped by many interests beyond Alaska’s boundaries, has significant impacts on the state.

Constitutional change has been the “holy grail” of northerners for decades. It is the primary legal mechanism by which people can gain greater control over their lives and reduce the influence of distant decision-makers (usually officials of national governments that lack knowledge of, and empathy for, northern issues).

Both Alaska and Greenland have advanced constitutionally: Alaska became a state in 1959 and Greenland achieved Home Rule in 1979, while the Yukon’s constitutional progress has struggled, and the prospects for provincial status are dim. It is hoped that a study of the conditions leading to statehood and Home Rule will provide some guidance to Canadian territories about how to achieve a greater degree of autonomy through constitutional change. At the same time, it is hoped that this study would also provide some better understanding of the economic underdevelopment of northern regions and of aboriginal populations, and provide some insight into how the conditions of underdevelopment might be changed. Finally,

³⁶ Claus-M. Naske, 1973.

I hope to demonstrate how history has shaped the economic and social relations of northern jurisdictions and to suggest some ways to address their social conflicts. The resolution of these issues is in the national interest, since the North, in its current underdeveloped situation, represents a drain on the national economy, and the problems and conflicts found there reflect poorly on national policies and on Canada's image internationally. The linkages amongst these various components will be discussed in the methodology of this study, outlined in Chapter 2.

The Yukon has faced a number of questions from those who oppose constitutional change or doubt the viability of change. These can be summarized as follows:

1. Is the territory economically viable? Can it finance its own operations? Does it have a sufficient tax base (population)? If not, what are the prospects for development?
2. Are there opponents to change? If so, are they internal or external, or both?
3. Are there unresolved issues preventing change? (eg. unresolved land claims)
4. Are there institutional or legal impediments to change? (eg. constitutional constraints).

The nature of these questions point to the independent variables of this study

³⁷ Stephen Haycox, *Frigid Embrace: Politics, Economics and Environment in Alaska*, Corvallis: Oregon State University Press, 2002, p. xi.

and clarify their relationship to the dependent variable: constitutional change may be precluded if national authorities perceive that there are significant political, social, economic, institutional or legal barriers to change. The methods to address these issues then are through legal actions, political action (including lobbying), negotiations, and economic development. The independent variables then become court decisions, political decisions, and negotiated agreements that effect constitutional change, and economic development, which affects attitudes about the viability of change. (See Figure 1a)

The correlation between independent and dependent variables becomes clear when, for example, a court decision results in the federal government amending a law which affects the powers of a provincial, territorial, state or aboriginal government. Similarly, the recommendations of legislative committees and the negotiation of a land claims agreement can also lead to changes in the governing laws that may enhance or reduce the powers of that government. Additionally, an amendment could empower one government at the expense of another. For example, the signing and implementation of the Tetlit Gwitchin land claim resulted in the transfer of land out of the control of the Yukon government and gave control of that land to a non-resident First Nation.

The relationship between economic development and constitutional change is more nebulous, and the debate often contradictory. Some authors argue that the North's vast resources should be managed as national resources for the benefit of the nation, while others point to the fact that many northern areas are poverty stricken

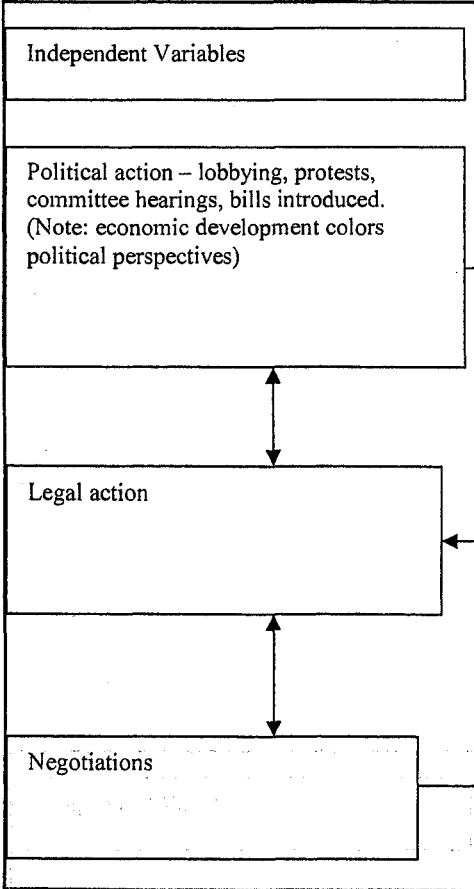
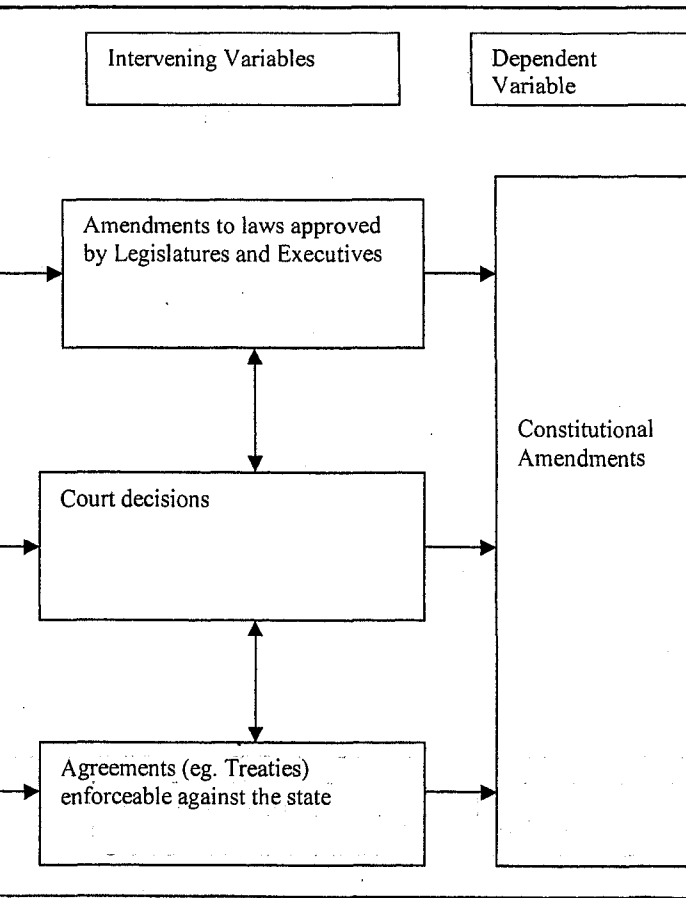


Figure 1a
Variables



and incapable of raising sufficient revenues to adequately fund their own governments. Both arguments denigrate local ownership and control of the resources. On the other hand, indigenous and non-indigenous northerners view local control of northern resources as an important element in achieving self-government.

Economic development can be measured by many indicators, such as levels of employment/unemployment, levels of investment, per capita income, sources and levels of revenues, and so on. For the purposes of this dissertation, specific indicators do not need to be identified, as constitutional debates seldom delve to that detail. More important is the perception of whether or not a particular jurisdiction is “ready” or “able” to sustain a greater degree of autonomy. The issue of economic development and constitutional change will be explored in greater detail in Chapter 4.

A general framework for amending constitutions is outlined in Figure 2. The model suggests that constitutional change comes about as a result of demands originating within a country. These demands can be processed through a variety of mechanisms: congressional or parliamentary committees may hear public perspectives and make recommendations for legislative change; negotiations may occur between those demanding change and executive or legislative agencies; or an issue may be brought to the courts, resulting in a decision that has constitutional consequences. Bringing matters to court may also serve as an incentive to bring parties to the negotiating table to try to reach an out of court settlement. Other mechanisms, unique to particular countries, may also be utilized: for example,

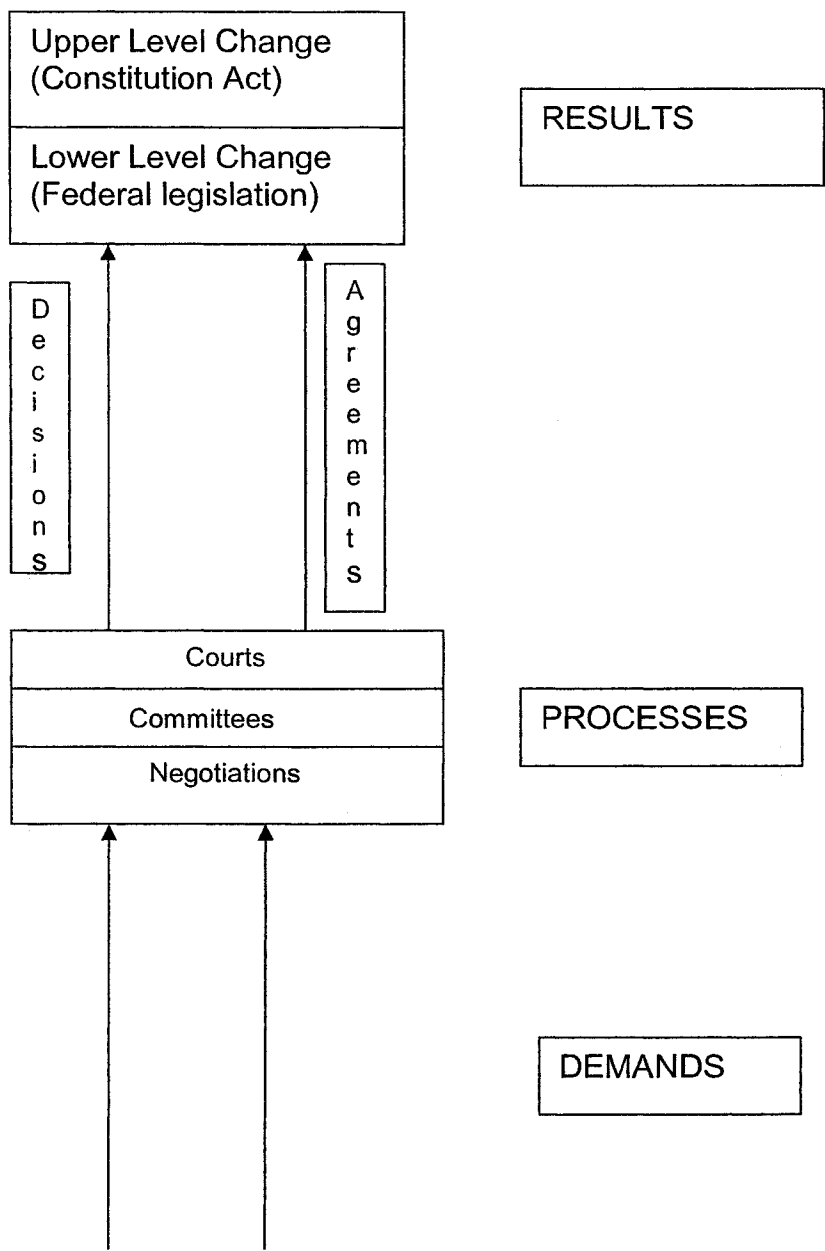


Figure 2

Processes Leading to Constitutional Change

Canada has a forum of first ministers' conferences that can negotiate agreements that can lead to constitutional amendments.

As noted earlier, these processes can lead to decisions and agreements that can result in legislative change. The changes may be in federal legislation, or in sub-national or national constitutions. For convenience, changes to ordinary federal legislation and sub-national constitutions can be referred to as "lower level changes," while changes to national constitutions can be referred to as "upper level changes."

The Role of the National Governments

It is important to point out that the common feature of all these processes is the need for action by the national government, which has the power to either effect or facilitate change, as well as the ability to veto change. Comparative political studies in recent decades have sought to "bring the state back in" – to recognize the role of national governments as independent forces that have interests which may differ from those of national elites. Theorists Nicos Poulantzas and Bob Jessop argue that the state possesses a "relative autonomy" with respect to national elites, and must be considered a separate factor in equations involving national economic development.³⁸ Rather than merely serving the interests of the capitalist class, the state can play one or more of several roles in the economy. Jessop states that, "the state may be seen as a legal sovereign that controls economic activity, as a referee or umpire that intervenes in economic disputes, as one economic agent among others, or

as a political agent whose actions may promote or hinder economic performance.”³⁹

The implications of this argument are significant:

the economic state apparatuses and their means of intervention are not neutral, but are integrated into the movement of capital and constitute a field of conflict between different interests. This means that state intervention has inherent limitations in securing the conditions for capital accumulation and is always subject to the inevitable influence of various class and popular-democratic struggles. It also means that the adequacy of particular policy instruments and general forms of intervention will vary not only with changes in economic structure but also with changes in the balance of political forces. Related to these arguments is the further point that the forms of political representation also have distinct effects on the efficacy of forms of intervention. This in turn implies that the failure of specific policy measures or general instruments may be due to the inadequacy of the forms of political representation with which they are linked, rather than to mistaken economic analysis. It means as well that the reorganization of the state

³⁸ Nicos Poulantzas, *Political Power and Social Classes*, London: NLB and Sheed and Ward, 1973; Robert Jessop, “Recent Theories of the Capitalist State,” *Cambridge Journal of Economics*, Vol.1, No. 4, 1977, pp. 353-374. (unpaginated copy supplied by author).

³⁹ Robert Jessop, 1977, unpaginated.

apparatus may be necessary before economic problems can be resolved.⁴⁰

In other words, the form of state intervention in the economy, or the lack of intervention, is the result of complex economic, political and social forces. A variety of factors can limit the ability of minorities and sub-national jurisdictions from having an effective voice on national issues or on regional development: state policies may preclude involvement and state structures and processes may not include regional or minority representation. When system changes are proposed other regional governments may block reforms or prevent inclusion (representation) and national economic interests may lobby for the *status quo*. International interests may also seek to maintain their privileged position in developing regions.

National governments exercise their power and authority through policy instruments, and the comparison of public policies toward northern peoples is an important element of this study. Leichter notes that comparing public policies:

enlarges the basis for comparing and evaluating political systems; it allows us to test more conclusively the relationship between public policy and various independent variables; and it provides us with the opportunity to compare and evaluate the experiences of different nations in trying to find policy solutions to public problems.⁴¹

⁴⁰ Robert Jessop, 1977, unpaginated.

⁴¹ H. Leichter, "Comparative Public Policy: Problems and Prospects," in L.J. Cantori and A.H. Ziegler, (eds.), *Comparative Politics in the Post-Behavioral Era*, Boulder: Lynne Rienner Publisher, 1988, p. 342.

Summary

National governments continue to play a large role in circumpolar northern jurisdictions, through inordinately large expenditures of public funds (on a per capita basis), policy and legislative initiatives, and through land and resource ownership and control. They can foster or inhibit changes that have economic, political and social consequences. By studying the role of national policies in the evolution of northern jurisdictions we can assess which policies resulted in changes that were advantageous to northern populations, and which policies inhibited constructive development and created social and political conflict. We can also assess how national governments have responded to demands for constitutional changes and devolution of powers to foster local solutions to social and economic problems.

Complex social, political and economic forces that make outcomes difficult to predict shape the policies of national governments. Historical analyses help to reveal how those forces shaped the policies and processes of national governments that have enabled or inhibited constitutional change. We now turn to the histories of Alaska and Greenland, which will prove useful to those in other northern jurisdictions faced with the challenges of fostering political, economic, and constitutional change.

Chapter 2

The Circumpolar North

Defining the Circumpolar North

The circumpolar North and the Arctic have been defined in a variety of ways. Kenneth Coates has noted that definitions of the region have been based upon geographical constructs, spatial constructs, socio-cultural factors, economic determinism, climatic considerations, political structures, evolutionary concepts, and self-definition. He argued that most of the approaches lacked credibility because they ignored self-definition – the opportunity for northern people to define for themselves what “North” meant. He did, however, give credibility to political structures:

Perhaps the most widely-adopted definition of the North is encapsulated in political boundaries. In most countries with Northern territories, the Northern extremities are expressed in political structures or jurisdictional boundaries. In the United States, Alaska is an obvious politically-defined region....Administrative units provide a sharp, functional ... definition of Northerness. Because of the practical operation of political units, such jurisdictional definitions are both appealing and legitimate.¹

¹ Kenneth Coates, “The Discovery of the North: Towards a Conceptual Framework for the Study of Northern/Remote Regions,” *The Northern Review*, No. 12/13, 1994, p. 21.

The Canadian House of Commons Standing Committee on Foreign Affairs and International Trade accepted Oran R. Young's definition of the circumpolar region as including Alaska (except Southeast Alaska), the Canadian territories, northern Quebec, Labrador, Greenland, Iceland, Norway, Finland, the Russian North, and the adjacent seas.² Defined this way, the circumpolar North has geographic consistency but lacks political coherence: it is a mixed array of nation states and subnational jurisdictions with varying degrees of autonomy and many different socio-economic characteristics. One country, Iceland, has no aboriginal population, while all the others have aboriginal populations that vary greatly in proportion to the non-aboriginal population. Iceland does not fit in other ways, as Political Science professor James Gladden states:

The arctic as a circumpolar region cuts across the sovereign territory of several arctic nation-states. This division sets up a north-south dynamic of political conflict between the two regions of each country. This is true for all of the arctic states, except for Iceland. It is the only nation-state with sovereignty over a part of the arctic region that does not fit into the north-south category of the politics of geography. Iceland also has no ethnic divisions, given that its small citizen body has a shared culture.³

² Government of Canada, *Canada and the Circumpolar World: Meeting the Challenges of Cooperation into the Twenty-First Century*, 1997, p. 2.

³ James Gladden, "Origin of Political Conflict in Arctic Wilderness Areas," in A.E. Watson, L. Alessa, and J. Sproull, (compilers), *Wilderness in the Circumpolar North: Searching for Compatibility in*

To provide greater comparability, we must find a definition that permits us to hone in on the region's unique features and common characteristics. One means of doing so would be to ascertain how the peoples within this region identify themselves.⁴ I would thus propose a definition of the circumpolar North as consisting of those subnational jurisdictions found substantially north of the sixtieth parallel that are recognized as "the North" by their subnational governments. These subnational jurisdictions would include Canada's northern territories (the Yukon, Northwest Territories, and Nunavut), Alaska (United States of America), Greenland (Denmark), the province of Lapland (Finland), Norbotten and Vasterbotten Counties (Sweden), Troms, Nord-Trondelag, Nordland, Svalbard and Finmark (Norway), and the Oblasts, Okrugs and Republics found north of the sixtieth parallel in Russia. This definition fits well with the concept of the Northern Forum, a non-profit, international organization of subnational governments located in ten northern countries, established in 1991.⁵ The definition does, however, exclude independent countries (i.e. Iceland), which have the ability to pursue their own foreign and domestic policies, the northern portions of provinces, which are not separate legal entities (such as northern Quebec), and some regions that are included in the Northern Forum. While broader definitions that include countries and portions of provinces are recognized and accepted, this

Ecological, Traditional, and Ecotourism Values, Fort Collins: Rocky Mountain Research Station, 2002, p. 11.

⁴ The problem with using this method is that some jurisdictions many would not normally consider northern define themselves as northern. The Northern Forum has several members from Japan and China that are not considered part of the circumpolar North by most people in the West. Thus the Northern Forum has representation from 10 countries, while the Arctic Council includes the "Arctic 8" countries as members.

⁵ <http://www.northernforum.org/aboutusbody/php>, February 28, 2001.

definition will be used for the purposes of this dissertation, and the term “Arctic” will be used synonymously with the term “circumpolar North.”

Common Characteristics of the Circumpolar North

Kenneth Coates has suggested that the primary characteristics of northern/remote regions can be encompassed in four broad categories: relationship to the outside world, internal politics, socio-cultural characteristics, and structural characteristics.

In terms of the relationship to the outside world, Coates and Gurston Dacks both argue that external forces or authorities determine the pace and nature of change in northern regions. For example, they point to the large subsidies and transfer payments that national governments make to support northern governments and their operations, which help to stabilize volatile boom and bust economies, and social experiments conducted by national governments, (such as the Matanuska colony experiment in Alaska and the high arctic relocations of Inuit in the Canadian North).⁶

They also point to other aspects of external control that drive or inhibit change in northern regions, such as economic domination by national and multi-national corporations, and world market forces, such as fluctuating oil and mineral prices.⁷

With respect to internal politics, Coates argues that northern jurisdictions “tend to be embroiled in intense internal struggles that have limited the regions’ ability to present and protect their interests against outside forces.”⁸ These internal

⁶ Gurston Dacks, *A Choice of Futures: Politics in the Canadian North*, Toronto: Methuen Publications, 1981, pp. 19-20. Kenneth Coates, 1994, p. 24;

⁷ Kenneth Coates, 1994, pp. 24-26; Gurston Dacks, 1981, pp. 24-25.

⁸ Kenneth Coates, 1994, p. 26.

disputes stem from entrenched differences between the interests of the aboriginal and non-aboriginal populations in the North, between various communities and municipalities, and between permanent and transient populations. Examples would likely include the impasse over subsistence harvest rights in Alaska, the appropriate role of the territorial government in the Northwest Territories,⁹ and the debate over Denmark's role in managing mineral resources in Greenland.

The socio-cultural characteristics of the North reinforce the tensions related to internal politics. Ethnic cleavage, racism, a large number of transients, and a sense of isolation contribute to a complex array of health and social problems. A variety of indicators of health and social well-being have indicated that northern populations suffer from high rates of teen suicide, alcohol abuse, drug abuse, domestic violence, family breakups, and other problems.¹⁰ Indeed, the health and social problems found in the circumpolar North tend to be far worse than in the remainder of their host countries. Nunavut, for example, has a crime rate that is six times the Canadian average. Northern populations have a higher infant mortality rate, and northerners are much more likely to die by accident or suicide.¹¹ According to one recent report, "Alaska Natives now have a 30 percent higher risk of dying from all cancers than

⁹ Kirk Cameron and Graham White, *Northern Governments in Transition: Political and Constitutional Development in the Yukon, Nunavut and Western Northwest Territories*, Montreal: The Institute for Research on Public Policy, 1995.

¹⁰ Kenneth Coates, 1994, p. 31.

¹¹ James B. Goes, "Health: National Trends in an Alaska Setting," in Clive S. Thomas (ed.), *Alaska Public Policy Issues: Background and Perspectives*, Juneau: The Denali Press, 1999, p. 128; Donald C. Mitchell, *Take My Land, Take My Life: The Story of Congress's Historic Settlement of Alaska Native Land Claims, 1960-1971*, Fairbanks: University of Alaska Press, 2001, p. 533; Debra L. Schindler, "Theory, Policy, and the Narody Severa," *Anthropological Quarterly*, Vol. 64, No. 2, 1991, p. 74; Government of Yukon, *Health Status Report*, 1998, pp. 1-2.

White Americans....,” and cancer is the leading cause of death in that population.¹² In addition to health problems associated with socio-economic status, northern peoples are also exposed to health risks based on geographic location, and decisions made by governments and industries in southern regions. For example, the Arctic Monitoring and Assessment Program recently released a report indicating that Inuit are exposed to high levels of environmental toxins that are deposited by wind and ocean currents, and that, “Canadian Inuit are exposed to higher levels of chemical toxins than virtually any other population group in the world....”¹³

The structural characteristics of the circumpolar North are perhaps the most obvious: cold harsh climates, limited agricultural production, small populations, poor rural infrastructure, remoteness from the centers of power, and resource based, extractive economies.

Geographically, the northern subnational jurisdictions are distant from their national centers. They are located in the far north of their host countries, far from the national capital cities. It is often time consuming to travel to these regions, and once there, transportation infrastructure is less developed than in the southern regions of the country. Many communities in the circumpolar North are accessible only by boat, plane, helicopter, or snow machine.

The climate in the circumpolar North is normally colder than in the rest of their host countries. By definition, they are located North of the sixtieth parallel. Their seasons are characterized by long daylight hours in summer, and short daylight

¹² *Fairbanks Daily News-Miner*, August 7, 2002.

hours in winter. They are home to large populations of migratory species, both wild (caribou, migratory birds, salmon, polar bear), and domesticated (reindeer in the Nordic and Russian North).

With the exception of a few large cities, such as Anchorage and Murmansk, the circumpolar North is sparsely populated, with widely dispersed, small communities and a low population density.¹⁴ There are large populations of aboriginal people living in the region, and they form a larger percentage of the population than in the southern regions of their host countries.¹⁵ There are also settler populations living in the region, often sharing communities with the aboriginal population, although there are also communities composed of mostly aboriginal peoples or only settlers.

The economy of the circumpolar region is based on resource extraction: mining, fishing, logging, and oil and gas production. Government spending, including defense spending, is also a major component of northern economies. With the exception of Lapland (Finland), there is little secondary processing or manufacturing. Long distances from markets, poor transportation infrastructure, and lack of investment capital and economies of scale discourage manufacturing and industrial enterprise. Agricultural production is largely absent, due either to poor soils and climate, or competition from southern producers. As a consequence, northern economies are subject to periodic booms and busts, spurred by sudden discoveries of

¹³ *National Post*, October 3, 2002.

¹⁴ Oran Young, *Arctic Politics: Conflict and Cooperation in the Circumpolar North*, London: University Press of New England, 1992, p. 33.

ore bodies or price fluctuations. Alongside the wage economy exists a mixed subsistence economy, utilized largely by the aboriginal population. The northern economy can thus be described as underdeveloped.¹⁶ The colonial nature of the northern economy is discussed in greater detail, below.

To underscore this description of northern characteristics, the Northern Forum organization states that northern regions share the following common characteristics:

- economies based upon the extraction of natural resources;
- lack of internal capital resources;
- limited infrastructural development;
- harsh climates and vulnerable ecosystems;
- diverse and relatively strong indigenous cultures; and
- sparse populations.¹⁷

The Northern Forum website elaborates on this list by noting that their regions also have small, youthful populations, economies reliant upon outsourcing of all goods, high operating costs, infrastructure that is oriented in North-South directions,

¹⁵ Stephen Haycox, *Frigid Embrace: Politics, Economics and Environment in Alaska*, Corvallis: Oregon State University Press, 2002, p. 8; Government of Canada, 1997, p. 204.

¹⁶ Kenneth Coates, 1994, pp. 32-33; Stephen Haycox, 2002, p. x; Government of Yukon, *Yukon Development Strategy*, 1986; Government of Canada, *A Northern Political and Economic Framework*, 1988; Gurston Dacks, 1981, pp. 12-27; Halldor Asgrimsson, "Address of Halldor Asgrimsson," in Ingi Sigurdsson and Jon Skaptason, (eds.), *Aspects of Arctic and Sub-Arctic History*, Reykjavik: University of Iceland Press, 2000, p. 23; Victor Shnirelman, "Hostages of an Authoritarian Regime: The Fate of the 'numerically-small peoples' of the Russian North under Soviet Rule," *Etudes/Inuit/Studies*, Vol. 18, No. 1-2, 1994, pp. 212-214.

¹⁷ Northern Forum, *Activity Report*, Winter 2000, p. 1.

and, “Limited influence on national government and multinational corporate decision-making.”¹⁸

The Circumpolar North and the Developing World

The parallels between development issues in northern regions and the developing world, formerly known as the “Third World,” have intrigued academics for many years, and this comparison has been reflected in conference proceedings, papers and books. In 1983, University of Toronto professor Franklyn Griffiths proposed that the Arctic be considered a part of the Third World. His hypothesis focused on the locus of decision-making:

The initial reaction to the hypothesis may be one of disbelief, <<Third World>> suggesting tropical heat waves and newly independent or neo-colonial status.

Upon reflection, however, it will be recognized that the term also connotes underdeveloped and developing areas whose evolution is substantially affected by decisions issuing from remote metropolitan centres, and whose population experience both an erosion of traditional culture and a sense of powerlessness to determine their own future in the midst of externally generated change.¹⁹

¹⁸ Northern Forum, 2000, p. 1. It should be noted that the observation about “limited influence on national government and multinational corporate decision-making” may be somewhat subjective. While some people in Alaska may believe that their representatives have limited impact nationally, other analysts observe that, “Alaska has exceptional national influence given the seniority of its congressional delegation..” G. McBeath, *pers. comm.*, April 3, 2003.

Griffiths also compared the capacity of the aboriginal populations of the Arctic with those of the developing world, and predicted that, “As the rate of industrialization and modernization picks up in the Arctic, the region will experience some of the same phenomena as have occurred in other developing areas.”²⁰ The phenomena he refers to include increased transnational collaboration among aboriginal peoples, a heightened readiness to block some types of development projects, and renewed efforts to alter the terms on which development takes place.²¹

Economist Lise Lyck examined Greenland’s economy and compared it to Third World economies. She concluded that Greenland’s economy was not a Third World economy, despite the fact that it shared a number of characteristics of a Third World economy.²² One of these characteristics is the asymmetrical North – South trade pattern that many Arctic jurisdictions exhibit.²³

In Canada, Gerard Duhaime, the Director of the Inuit and Circumpolar Study Group at Laval University, appeared before Canada’s House of Commons Standing Committee on Foreign Affairs and International Trade and linked the problems of northern economies to the social crises in the North:

[He]... described the “Third World” character of

¹⁹ Franklyn Griffiths, “Arctic Third World: Indigenous People and Resource Development,” *Cold Regions Science and Technology*, Vol. 7, 1983, p. 350.

²⁰ Franklyn Griffiths, 1983, p. 352.

²¹ Franklyn Griffiths, 1983, p. 352.

²² Lise Lyck, *Arctic International Trade: A Study on the Greenlandic International Trade Regime*, Copenhagen: New Social Science Monographs, 1999.

²³ Nafziger identified 17 characteristics of underdeveloped countries. Lyck applied these to Greenland, and noted that Greenland had some of the characteristics of an underdeveloped country, but not others. She noted that Greenland was a democracy; that it did not have a high proportion of the labor force engaged in agriculture or the subsistence economy; that it did not have inadequate technology or

extractive export-oriented resource exploitation that brings little positive benefit to local economies, the extreme dependence on the “industry” of government (and on many imported inputs, including food supplies), and a social crisis that cannot easily be addressed.... These trends are apparent throughout the circumpolar North²⁴

The idea that regions in the circumpolar North share characteristics with the developing world includes Alaska, the richest of the North’s subnational jurisdictions. Disaffected Alaskans have pointed out that:

Bound politically to the United States, a First World industrialized country, Alaska has many attributes which make it more a Third World nation. Except for some oil refining, fish, wood products and natural gas processing, Alaska has virtually no manufacturing. It is dependent for its survival on the development and sale of its raw natural resources.²⁵

This perspective was echoed by Alaska economist George W. Rogers, who wrote:

The natural resource, raw material base of the Alaska economy might lead to the state being likened to a Third World economy with external forces determining and benefiting from economic activity at the expense of the local population. Certainly, the

capital; it did not have low savings rates; it did not have rapid population growth; and it did not have low literacy and school enrollment rates.

²⁴ Government of Canada, 1997, p. 136.

raw material/external influences/outside investor element of the analogy is accurate, but whether Alaska is a “colony” of the lower 48 is very debatable.²⁶

While some Alaskans, such as history professor Stephen Haycox, still assert that Alaska has a colonial economy,²⁷ most Alaskan economists feel that Alaska has transcended economic colonialism, although they remain concerned about Alaska’s ongoing dependency on oil extraction for the state’s economic good fortune.

However, one can argue that, as a developing region, the circumpolar North faces severe competitive disadvantages relative to the southern developing world: the long distances from markets, lack of infrastructure, and high construction and operating costs make it difficult to compete with other exporting countries. The Usibelli coal mine in Alaska is a case in point. The mine recently lost a contract to supply coal to Hyundai Merchant Marine Company Limited because Usibelli was underbid by two coal suppliers in Indonesia, which were closer to Hyundai’s operations in Korea. The loss of the contract resulted in the loss of mining jobs in Alaska and cutbacks in rail service and maintenance on the Alaska Railroad.²⁸ These disadvantages can be offset to some extent if subsidies are provided to northern businesses, and Alaska has been able to provide some support to local businesses

²⁵ M. B. Roberts, *Going up in Flames: The Promises and Pledges of Alaska Statehood Under Attack*, Anchorage: Alaska Pacific University Press for Commonwealth North, 1990, p.12.

²⁶ George W. Rogers, “The Alaska Economy and Economic Issues: An Historical Overview,” in Clive S. Thomas, (ed.) *Alaska Public Policy Issues: Background and Perspectives*, Juneau: The Denali Press, 1999, p. 30.

²⁷ Stephen Haycox, 2002, p. x.

²⁸ *Fairbanks Daily News-Miner*, September 18, 2002. Contracts for Usibelli coal were subsequently renegotiated with Hyundai and Korea East-West Power in October, 2003. See *Fairbanks Daily News-Miner*, October 17, 2003.

because of its oil wealth. Other northern regions have to rely on subsidies from federal programs.

A further difficulty is that subnational jurisdictions lack the bargaining power that developing nation states possess when negotiating with trans-national corporations (TNCs). Developing nations have greater capacity to develop or purchase expertise, leverage financing, nationalize industries, form cartels, alter foreign policies, and influence trade agreements, amongst other things, which enables them to negotiate favorable terms with TNCs. In contrast, subnational jurisdictions lack sovereignty, and often have to negotiate with their national governments to try to obtain exemptions from policies that restrict their trade practices, ability to leverage financing, etc. Alaska's experience with the *Jones Act* and the *Export Administration Act* are cases in point.²⁹ In the Canadian North, the federal government maintains the ability to approve or veto loans the Yukon government negotiates.³⁰

Finally, it should be noted that resource extractive economies do not escape dependency even where state or government intervention is successful in negotiating favorable agreements or obtaining control of extractive industries. Sociology professor Peter Evans has pointed out that:

Nowhere has increased state control over local productive facilities provided escape from the negative features of dependence on international markets. An expanded state role

²⁹ M.B. Roberts, 1990; Alaska Statehood Commission, *More Perfect Union: A Plan for Action*, 1983, pp. 11-13.

³⁰ Government of Canada, *The Yukon Act*, 2001, S. 23.

has not only been unable, with the temporary exception of OPEC, to force favorable raw material pricing changes, it has also failed to reduce price variability.³¹

While the circumpolar North, as a region, may be characterized as underdeveloped, there are some within the northern economy who are more disadvantaged by its colonial structure than others. The concept of northern underdevelopment can also be viewed from the narrower perspective of strictly aboriginal underdevelopment. Thomas Berger, who studied aboriginal communities and living conditions in the Yukon, Alaska and British Columbia, describes it this way:

With the independence of so many Third World nations, the condition of and the claims of indigenous peoples who are locked into nations they can never hope to rule must now be considered. They constitute the Fourth World, and it extends from Alaska to Tierra del Fuego; it encompasses the Ainu of Japan, the Aborigine of Australia, the Maori of New Zealand, the Sami of Scandanavia, and the tribal peoples of the Soviet Union, China, India, and Southeast Asia.

Attempts by the indigenous peoples of the Fourth World to achieve self-determination face greater odds than most nations of the Third World have had to meet.³²

The conditions Berger refers to include, on average, higher rates of unemployment, lower levels of education, and higher rates of illness, incarceration, and death. Lacking education and skills for competing in an increasingly technological and internationally oriented economy places this population at an ongoing risk of economic displacement. At the same time, many aboriginal people maintain an attachment to a subsistence economy or subsistence lifestyle for their livelihood, or for supplementary income, including such activities as reindeer herding, trapping, whaling, hunting and sealing. A significant amount of conflict in the circumpolar North today relates to subsistence harvest rights and the impacts of the industrial economy on lands and waters that sustain subsistence lifestyles.³³

The idea that northern jurisdictions share characteristics with developing countries suggests that the rich literature on development may be useful for analyzing development issues in the circumpolar North. Before proceeding, however, it is important to clarify that the circumpolar North is not part of the developing world. The fundamental difference is that much of the circumpolar North resides within advanced western democracies – within countries that can be considered part of the “core” or “center” in center/periphery terminology. Another large segment exists

³¹ Peter Evans, “Foreign Capital and the Third World State,” in Myron Weiner and Samuel Huntington, (eds.), *Understanding Political Development*, New York: Harper Collins Publishers, 1987, p. 330.

³² Thomas R. Berger, *Village Journey: The Report of the Alaska Native Review Commission*, New York: Hill and Wang, 1985, pp. 176-177.

³³ Richard Caulfield, *Greenlanders, Whales, and Whaling: Sustainability and Self-Determination in the Arctic*, Hanover: University Press of New England, 1997; Stephen Haycox, 2002, pp. 152-156; D. L. Schindler, “Theory, Policy, and the Narody Severa,” *Anthropological Quarterly*, Vol. 64, No. 2, 1991; Peter J. Usher, *The Value of Wildlife in Northern Canada*, P.J. Usher Consulting Services, 1983; Edward R. Weick, “Northern Native People and the Larger Canadian Society: Emerging Economic

within the former “Second World,” the Russian North, which underwent rapid modernization in the context of a Soviet model of development.³⁴ The 2002 United Nations Human Development Index, which ranks 173 countries on a composite scale incorporating life expectancy, income and education indicators, ranked Norway, Sweden, Canada, the United States, Iceland, Denmark and Finland amongst the top 14 countries in the world. Russia ranked somewhat lower, at number 60.³⁵ One consequence of being located within core countries is that national governments have the ability to subsidize, directly and indirectly, northern populations, governments and industries. Thus northern residents in core countries receive a disproportionately large amount of federal funding as compared to residents of southern jurisdictions. In Alaska, this amounted to about \$13,000 Can. per person in 1999 (the highest in the United States); in Greenland, \$10,500 Can. per person, and in the Yukon Territory, approximately \$12,000 Can. per person, in 2002.³⁶

Another critical difference is the socio-economic context of the circumpolar North. Many developing countries possess large numbers of people living on marginal agricultural plots - which might be referred to as peasant populations.

Relations,” *The American Review of Canadian Studies*, Vol. XVIII, No. 3, 1988, p. 318; Government of Yukon, *Yukon Development Strategy: A Public Discussion Paper*, 1986. Thomas Berger, 1985.

³⁴Debra L. Schindler, 1991; Graham Smith, (ed.), *The Nationalities Question in the Soviet Union*, New York: Longman Inc., 1990, pp. 304-309; Nicolai Vakhtin, “Native peoples in the Russian Far North,” *Polar Peoples: Self-Determination and Development*, London: Minority Rights Group, 1994, pp. 29-70.

³⁵ *The Globe and Mail*, July 23, 2002.

³⁶ *Fairbanks Daily News-Miner*, April 18, 2000, p. A-3; Paul Harris, *pers. comm.*, Oct. 1, 2002; *Globe & Mail*, Feb. 18, 1999, p. A25. The figure for Greenland was calculated from the information provided in the *Globe & Mail* article: the Danish subsidy of \$588 million divided by the Greenland population figure of 56,000, yielding an average \$10,500 per person in 1999. Finn Larsen estimated the subsidy at \$14,000 Can. per person in 1992. See, Finn Larsen, “The Quiet Life of a Revolution: Greenlandic Home Rule 1979-1992,” *Inuit Studies*, Vol. 16, Nos. 1-2, 1992. p. 214.

Samuel Huntington, Theda Skocpol, and other theorists have noted the importance of this class to important social revolutions that have resulted in rapid development.³⁷

This contrasts with the generally small amount of agricultural activity and low population density in the circumpolar North, and the migratory nature of northern populations – both aboriginal and non-aboriginal – until the 1950s when settlement was forced on many aboriginal populations. Hugh Brody contrasts the aboriginal hunter/gatherer heritage with that of the farmer heritage, and demonstrates how the pursuit of agriculture has led to the colonization of hunter/gatherer societies.³⁸

Furthermore, northern regions continue to have a large number of non-aboriginal transient workers who migrate in and out in order to take advantage of seasonal job opportunities, or employment in “fly-in, fly-out” operations, such as at Prudhoe Bay in Alaska. Kenneth Coates maintains that tensions between permanent residents and transients is one of the defining characteristics of northern regions.³⁹ Furthermore, it seems clear that transients have less of a stake in the long-term issues affecting the North, and are less likely to fight for changes that would benefit the North.

A third major difference between the developing world and northern societies relates to the structure of land ownership and management. In the circumpolar North, vast areas of land remain under public ownership and control to this day. Most of the

³⁷ Samuel Huntington, *Political Order in Changing Societies*, New Haven: Yale University Press, 1968; Barrington Moore, *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World*, Boston: Beacon Press, 1966; Theda Skocpol, *States and Social Revolutions: A Comparative Analysis of France, Russia and China*, Cambridge: Cambridge University Press, 1979.

³⁸ Hugh Brody, *The Other Side of Eden: Hunters, Farmers, and the Shaping of the World*, Toronto: Douglas and McIntyre, 2000.

³⁹ Kenneth Coates, 1994, pp. 38-39.

land in the Yukon, Northwest Territories, Nunavut, Alaska, Greenland and the Russian North is owned and managed as a public resource. This means that national or regional governments still have a strong role to play in determining how the land base will be utilized and managed. This differs significantly from many developing countries where the productive land base was alienated to private ownership since colonial times, thus reducing the role of public policy makers or requiring governments to expropriate land for public purposes. In many developing countries, the issue of land reform has been one of the most significant political issues, while in the North, land planning has been the issue of contention, with national, regional, and increasingly, aboriginal, governments involved.

Theories of Development and Underdevelopment

If we accept the premise that the circumpolar North constitutes a unique, underdeveloped region of the world, with characteristics that differ from those of the developing world, the problem we are faced with is to explain why the region is underdeveloped, and what can be done to effect development. Two streams of thought have guided comparative analysts and dominated development theory in the twentieth century: modernization theories and dependency theories.⁴⁰ Modernization theory evolved after World War II and built upon advances in sociology, social psychology, and political anthropology. It developed, in part, as a reaction to Marxism and the perceived threat of revolution in developing countries. Its approach is generally linear – suggesting that societies proceed through a series of stages on the

path to political and economic development toward a western style of democracy. Many western countries believed they could assist the process of modernization by providing targeted economic assistance.⁴¹ Modernization studies focused on the process of social change and the impacts of urbanization, secularization and industrialization on traditional cultures.⁴² The problems, or “crises,” of identity, legitimacy, penetration, distribution, and participation often characterize this process.⁴³

Dependency theory evolved from the Marxist tradition of dialectical analysis and depicts the world as consisting of a “centre,” (or “core”), the developed, industrialized states, and the “periphery,” also known as the developing world. Later, the concept of “semi-periphery,” was added, which consisted of states that existed somewhere between the developed and developing regions. This relationship developed as a consequence of the growth of capitalism since the sixteenth century.⁴⁴

The conception of the circumpolar North as “periphery” has gained wide acceptance in the academic world amongst northern historians. For example, economic historian Halldor Bjarnason states that:

The theme ‘Centre and Periphery’ with regard to the Arctic

⁴⁰ David E. Apter, “Comparative Politics, Old and New,” in Robert E. Goodin and Hans-Dieter Klingemann (eds.), *Handbook of Political Science*, Oxford: Oxford University Press, 1996, p. 381.

⁴¹ Samuel Huntington, 1968.

⁴² Samuel Huntington, 1968; Janet M. Billson, “Social Change, Social Problems, and the Search for Identity: Canada’s Northern Native Peoples in Transition,” *The American Review of Canadian Studies*, Vol. XVIII, No. 3, 1988, pp. 307-308.

⁴³ Leonard Binder, *et.al.*, *Crises and Consequences in Political Development*, Princeton: Princeton University Press, 1971.

⁴⁴ Thomas D. Hall, (ed.), *A World-Systems Reader: New Perspectives on Gender, Urbanism, Cultures, Indigenous Peoples, and Ecology*, New York: Rowman and Littlefield Publishers, Inc., 2000, p.5;

and Sub-Arctic region is a highly relevant one. This particular kind of relations is an important and intrinsic part of its history. By definition, the pair of terms describes a pattern of imbalance, where a core or centre of power exercises its impact on a less powerful area, be it a hinterland or separate region lying far off. Hence, this type of relations pertains not only to external relations but also to internal relations. History shows that when this kind of power imbalance ... arises, it can cover a wide range of political, economic, social, and cultural issues.⁴⁵

In his book, *Internal Colonialism*, Michael Hechter sets out the differences in the two models quite clearly. He refers to the modernization approach as the diffusion model of development, and the dependency approach as the internal colonialism model. Under the diffusion model, increased contact between the core and periphery results in industrialization, cultural integration, and economic development. The industrialization process results in social dislocation and the disruption of traditional societies and economies, until the traditional populations are integrated into the dominant society.⁴⁶

Hechter makes two important points about the diffusion model of interest to this study: the importance of national government action to the formation of political

Immanuel Wallerstein, *Unthinking Social Science: The Limits of Nineteenth Century Paradigms*, Cambridge: Polity Press, 1991, p. 109-115.

⁴⁵ Halldor Bjarnason, "Centre and Periphery: Introduction," in Ingi Sigurdsson and Jon Skaptason, (eds.), 2000, p. 35.

⁴⁶ Michael Hechter, *Internal Colonialism: The Celtic Fringe in British National Development, 1536-1966*, Berkely: University of California Press, 1975, pp. 6-8.

culture, and the weakness of the model for explaining underdevelopment in developed economies. With respect to the former, Hechter notes that the interaction of cultural groups, by itself, does not foster national development. Instead:

The active role of the central government is stressed, particularly in the establishment of what is often termed a national 'political culture'. Control of the national information network enables a regime to set national goals, create a national identity, teach needed skills, centralize its power, extend the effective market, confer status on certain groups at the expense of others, and generally manipulate large numbers of individuals through well-developed techniques of mass persuasion.⁴⁷

Hence, the role of national governments in fostering social and economic change is vital in the modernization, or diffusion, model of development.

With respect to the appropriateness of the model for explaining underdevelopment within industrialized nations, Hechter notes that the hypotheses generated by cultural diffusion theories "were derived from considering Third World failures of the integration process, [and thus] they are not very applicable to the collectivities in developed societies. It is difficult to argue that peripheral groups in

⁴⁷ Michael Hechter, 1975, p. 25.

industrial societies are economically, politically, and culturally isolated from the core.”⁴⁸

Hechter contrasts the internal colonialism model with the modernization model: “The internal colonial model does not predict national development following industrialization, except under exceptional circumstances.”⁴⁹ Instead, the core exploits the periphery socially and economically:

The spatially uneven wave of modernization over state territory creates relatively advanced and less advanced groups.

As a consequence of this initial fortuitous advantage, there is crystallization of the unequal distribution of resources and power between the two groups. The superordinate group, or core, seeks to stabilize and monopolize its advantages through policies aiming at the institutionalization of the existing stratification system.⁵⁰

Hechter characterizes this relationship as a “cultural division of labor,” which serves to prevent acculturation, rather than foster it.

The core/periphery relationship also determines the type of economic development that will occur within the periphery. The economy of the core region has a diversified industrial structure, while the economy of its periphery is dependent upon, and complementary to, the core. The peripheral area will supply the core with raw materials for its industries. Industrial development in the periphery, if any exists,

⁴⁸ Michael Hechter, 1975, p.26.

would be specialized and export-oriented. Compared to the core, the peripheral economy will be sensitive to price fluctuations that are set in the international market place. Furthermore, "Decisions about investment, credit, and wages tend to be made in the core. As a consequence of economic dependence, wealth in the periphery lags behind the core."⁵¹

World-system theorist Immanuel Wallerstein asserts that racism and underdevelopment are inextricably linked with the world capitalist system:

Racism and underdevelopment ... are more than dilemmas. They are ... constitutive of the capitalist world-economy as a historical system. They are primary conditions and essential manifestations of the unequal distribution of surplus-value. They make possible the ceaseless accumulation of capital, the *raison d'être* of historical capitalism. They organize the process occupationally and legitimate it politically. It is impossible to conceptualize a capitalist world-economy which did not have them.⁵²

Dependency theorist, Dale Johnson elaborated on the concept of internal colonialism by defining it this way:

Economically, internal colonies can be conceptualized as

⁴⁹ Michael Hechter, 1975, p. 9.

⁵⁰ Michael Hechter, 1975, p. 9.

⁵¹ Michael Hechter, 1975, pp. 9-10.

⁵² Immanuel Wallerstein, 1991, p. 92.

those populations who produce primary commodities for markets in metropolitan centres, who constitute a source of cheap labour for enterprises controlled from the metropolitan centres, and/or who constitute a market for the products and services of the centres. The colonized are excluded from participation or suffer discriminatory participation in the political, cultural, and other institutions of the dominant society. An internal colony constitutes a society within a society based upon racial, linguistic, and/or marked cultural differences as well as differences of social class. It is subject to political and administrative control by the dominant classes and institutions of the metropolis. Defined in this way, internal colonies can exist on a geographic basis or on a racial cultural basis in ethnically or culturally dual or plural societies.⁵³

Utilizing this definition we can identify two manifestations of internal colonialism in the circumpolar North: the political and economic colonialism of sub-national jurisdictions, and the cultural colonialism of aboriginal peoples. Some regions and populations, such as Alaska, have developed more than others, but it can be argued that all regions in the circumpolar North continue to experience some form of dependency related to internal colonialism. This includes the Russian North, where Anthropologist Debra L. Schindler argues that:

In a system which is similar in many respects to Hechter's (1975) model of internal colonialism, the Far North functions as an internal colony, which is politically, economically, and culturally dominated by non-indigenous personnel (primarily Russians) from the core. Social stratification, which places members of the indigenous populations at the bottom of the ladder reinforces the cultural distinctions between core and periphery. Northern development within this context reflects the concerns of the core: modern industrial extraction of resources from the periphery; efficient transportation of raw materials; and the training and retention of a qualified labor force.⁵⁴

Some dependency theorists, such as Andre Gunder Frank, prescribed socialism or withdrawal from the world capitalist system as the cure for dependency: the power of the multi-national corporations could only be countered by socialist policies that placed the means of production in the hands of the state.⁵⁵ However, in his 1984 book, *The Economics of Developing Countries*, E. Wayne Nafziger critiques Frank's version of dependency theory by noting that there were examples of developing countries that actually developed while extensively penetrated by foreign

⁵³ Dale Johnson, James D. Cockcroft, and Andre G. Frank, *Dependence and Underdevelopment: Latin America's Political Economy*, Garden City: Doubleday and Company, Inc., 1972, p. 277.

⁵⁴ Debra L. Schindler, 1991, p. 71.

capital: “Taiwan and South Korea both experienced real per capita growth of over 6 percent per year, and decreased income inequality during the 1960s and 1970, while highly dependent upon trade, assistance, and investment from the United States and other capitalist countries.”⁵⁶ He went on to suggest that:

The solution to these problems is not withdrawal from the world capitalist system, but, rather, a more selective policy in dealings with capitalist countries. Trade, economic aid, capital improvements, and technological borrowing from developed countries should be such that investment is directed into priority industries. Discouraging foreign monopoly power; encouraging domestic enterprise; preventing heavy debt burdens; avoiding substantial technological dependence on outsiders; and protecting infant, domestic industries should all be part of this selective strategy.⁵⁷

Nafziger’s recommendations are supported by Peter Evans’ study of the technology development strategies of South Korea, Brazil and India published in 1995. Evans discovered that states exhibiting “embedded autonomy” had the ability to foster developmental strategies and policies in targeted economic sectors, and

⁵⁵ Teresa Hayter, *Aid as Imperialism*, Baltimore: Penguin Books Inc., 1971; E. Wayne Nafziger, *The Economics of Developing Countries*, Belmont: Wadsworth, 1984, p. 165.

⁵⁶ E. Wayne Nafziger, 1984, p. 166.

⁵⁷ E. Wayne Nafziger, 1984, p. 167.

demonstrated that these policies could promote national economic development, often in partnership with foreign companies.⁵⁸

Nafziger's recommendations appear to presuppose state capacity to develop and implement effective policies of economic development. Evans, on the other hand, qualifies his findings by noting that not all states possess embedded autonomy, and for countries that do not, development may not be an option. Thus the capacity of a state becomes a crucial variable in whether or not policies leading to development can be formulated and carried out. Wallerstein notes a second factor related to this question:

The great argument in favor of state-organized attempts to retain surplus created within the frontiers is that the state is the only agency potentially capable of going against the strong currents of unequal exchange flows structurally central to the functioning of the capitalist world-economy. This is a very strong argument and has secured wide support. The great negative, however, of that

⁵⁸ Peter Evans, *Embedded Autonomy: States and Industrial Transformation*, Princeton: Princeton University Press, 1995. Evans' work is a small part of the broader literature on the developmental state model. Interested readers should consult the following texts for a fuller understanding of the model: Chalmers Johnson, *MITI and the Japanese Miracle: The Growth of Industrial Policy, 1925-1975*, Stanford: Stanford University Press, 1982; Marco Orru, Nicole Woolsey Biggart, and Gary G. Hamilton, *The Economic Organization of East Asian Capitalism*, Thousand Oaks: Sage Publications, 1997; Robert Wade, *Governing the Market: Economic Theory and the Role of the government in East Asian Industrialization*, Princeton: Princeton University Press, 1990; Masahiko Aiki, Hyung-Ki Kim, and Masahiro Okuno-Fujiwara (eds.), *The Role of Government in East Asian Economic Development*, Oxford: Clarendon Press, 1997; Samantha F. Ravich, *Marketization and Democracy: East Asian Experiences*, Cambridge: Cambridge University Press, 2000; Jose Edgardo Campos and Hilton L. Root, *The Key to the Asian Miracle*, Washington: Brookings Institution, 1996; and, Gary Gereffi and

argument is that the state as an agency requires decision-making actors, those who occupy the key political and bureaucratic posts. And these persons have a direct interest as a subgroup in the choice of priority between an emphasis on growth/catching up and equality. It is clear that economic self-interest pushes them towards the growth and “catching-up” goal.... As long as solutions are framed and sought at the national level, the dilemma will remain....⁵⁹

The issue of *capacity* is more significant for developing countries than for developed countries, and there would appear to be no question that the “Arctic Eight” nations (other than, perhaps, Russia) possess “embedded autonomy,” and thus the capacity, to implement policies of economic change in their underdeveloped regions. The issue, then, as Wallerstein appears to suggest, becomes one of *willingness* to adopt and implement policies that foster internal equality instead of, or in addition to, economic growth.

In a 1988 paper in *Arctic*, political scientist Michael Pretes utilized the dependency approach to compare underdevelopment in the Canadian North with underdevelopment in the Amazon basin of Brazil. He commented that, “dependency theory is particularly effective in explaining the underdevelopment of some regions within a developed state, and this is where much of the future applicability of the

Donald L. Wyman, *Paths of Industrialization in Latin America and East Asia*, Princeton: Princeton University Press, 1990.

⁵⁹ Immanuel Wallerstein, 1991, p. 120.

model lies.”⁶⁰ Pretes concluded that the model proved useful for explaining underdevelopment in the Canadian North

Despite the foregoing, it should be noted that dependency theory has been criticized from many perspectives, and it has never been a reigning theoretical paradigm. Pretes summarized many of the criticisms of dependency theory, and of Andre Gunder Frank’s approach in particular. He noted that criticisms of the theory suggested that: it de-emphasizes the importance of class relationships; terminology and definitions in the theory tend to be vague; it emphasizes external exploitation, and ignores possible internal explanations that might complement the external exploitation; it fails to recognize the existence of traditional economies; and, it focused too much on the world system.⁶¹

Another author, David G. Becker, a government professor at Dartmouth College, has argued that the predictions of dependency theorists have not proven accurate:

The conduct of many ‘associated’ bourgeois sectors during and since the transition to constitutional governance has not conformed to dependency predictions. And a glance at recent world and regional affairs turns up a truth that should prove fatal to all conceptions of capitalist imperialism. Whereas ‘national interests’ ... and the interests of dominant classes are increasingly congruent throughout Latin America and the rest

⁶⁰ Michael Pretes, “Underdevelopment in Two Norths: The Brazilian Amazon and the Canadian

of the Third World, the two sets of interests are increasingly divergent from each other in the metropolitan capitalist countries.⁶²

In other words, the alignment of interests within nations in both the developing and developed worlds is contrary to what dependency theorists predicted.

With respect to the application of colonialism and neo-colonialism theories to the North, anthropologist Paul Nadasdy has criticized these approaches as being oversimplistic. He notes that First Nation societies have resisted assimilation and many continue to live their complex cultures. At the same time, he comments that these theoretical approaches have tended to treat the state as a monolithic entity, and have not adequately addressed the complexity of modern state governments, which have competing and often contradictory interests.⁶³

Despite these criticisms, many of the elements of dependency theory remain useful and cogent, as Wallerstein's world systems theory demonstrates. As well, Michael Pretes' comparative analysis of "Two Norths," and Michael Hechter's analysis of intercultural relations and regional disparities in Great Britain, demonstrate the utility of this approach for understanding underdevelopment within core countries, and consequently, for analyzing intercultural relations and regional disparities within the circumpolar North. This dissertation focuses on Michael Hechter's approach, rather than Andre Gunder Frank's world system approach.

Arctic," *Arctic*, Vol. 41, No. 2, 1988, p. 110.

⁶¹ Michael Pretes, 1988, p. 111.

⁶² David G. Becker, "Beyond Dependency: Development and Democracy in the Era of International Capitalism," in D.A. Rustow and K.P. Erickson, (eds.) *Comparative Political Dynamics: Global Research Perspectives*, New York: HarperCollins Publishers, 1991, p. 107.

Hechter's model of internal colonialism examines the impact of national policies on newly incorporated regions. This approach is useful because Alaska, the Yukon, and Greenland were all regions which were incorporated into larger countries as a result of the actions of national governments, and the peoples who lived there were subjected to national policies designed to incorporate the new region into the larger core. The dissertation makes a qualified application of the internal colonialism hypothesis to Alaska, the Yukon, and Greenland by adding the concept of the developmental state to the equation. It is, in essence, a hybrid of internal colonialism and developmental state approaches, with a focus on specific social forces and historical experiences.

This approach is complicated by the fact that dependency theories are rooted in the histories of Latin American countries, while the developmental state model is based on the experiences of the "miracle economies" of East Asia. The colonization and decolonization histories of these regions differ significantly from each other, and, of course, from the histories of jurisdictions in the circumpolar North. It is hoped that systematically testing the applicability of these theoretical approaches in the circumpolar North will prove useful for understanding the dynamics of the decolonization.

Summary

The subnational jurisdictions of the circumpolar North exhibit economic characteristics that can be found in many developing countries: resource extractive

⁶³ Paul Nadasdy, *Hunters and Bureaucrats: Power, Knowledge, and Aboriginal-State Relations in the*

(colonial) economies; external decision-making over issues that affect economic development; reliance on “Outside” investment capital; and a dual economy. Furthermore, these jurisdictions are frequently torn by issues related to race, or racially defined rights. Some jurisdictions, like Alaska and Greenland, have greater autonomy granted to them by national governments, and thus a greater range of jurisdiction and more options for dealing with social and economic issues. Yet, it appears unlikely that these jurisdictions will be able to overcome their dependency issues or their social/racial issues without some form of national government intervention.

Dependency theorists suggest that the evolution of world capitalism has shaped the international economy as we know it today. Wallerstein and Hechter expanded dependency theory to demonstrate how race relations within advanced, core countries could also be explained. We can refer to these economic and social relationships as forms of internal colonialism. Comparativists, such as Peter Evans, have demonstrated that some countries with sufficient capacity and certain characteristics (embedded autonomy) have been able to reduce their dependency through deliberate policy formulation and implementation.

Can subnational jurisdictions in the circumpolar North overcome their economic dependency? This dissertation will examine the issue from a historical and public policy perspective. The issue of race relations (aboriginal rights) is related to economic development in several ways: the ongoing existence of a subsistence

Southwest Yukon, Vancouver: UBC Press, 2003.

economy and subsistence harvest rights raises questions about land management and development (eg. should the Arctic National Wildlife Refuge be opened to oil development?); aboriginal land claims have raised significant issues about land ownership and the jurisdiction of aboriginal governments; and, as Kenneth Coates argues, struggles between aboriginal and non-aboriginal peoples in the North have prevented northerners from focusing on the real issues of northern development.⁶⁴ In other words, the resolution of outstanding issues related to race-based rights can contribute to economic development and self-government.

Constitutional development in the North is important to economic development as well. By defining “constitution” broadly to include important federal legislation such as ANCSA, we capture important policy instruments of economic as well as social significance. Thus constitutional change can foster or hinder economic development, and subnational governmental involvement in such change is important.

This dissertation takes the position that constitutional change can play a key role in addressing the issues of importance to northern peoples. Comparing the processes of constitutional change in three circumpolar jurisdictions will help us to understand the dynamics of change, and provide lessons on how the process can be made more effective.

Internal colonialism theory will assist us in understanding how economic and social relations evolved in the North by showing how increasing contact between aboriginal and non-aboriginal peoples resulted in the subjugation of aboriginal

⁶⁴ Kenneth Coates, 1994, p. 41.

interests to those of the non-aboriginal population. This subjugation was aided by national government policies of internal colonialism. These policies also subjugated the interests of the non-aboriginal northerners to those of southern interests, resulting in colonial economic and political relationships.

Chapter 3

The Evolution of Indian Policy in North America

This chapter reviews the history of the evolution of Indian policy in the United States, Canada, and their subnational units Alaska and the Yukon. Its purpose is to consider the evidence in support of the thesis that the indigenous peoples¹ of North America were treated as internal colonies of Canada and the United States, and specifically, to discuss how those policies were applied differently in Alaska and the Yukon than in the provinces and the lower 48 states. While northern indigenous peoples were as much internal colonies as southern indigenous peoples, their demands for equal treatment with their southern counterparts (the right to enter into treaties) were rebuffed by national governments until the twentieth century. Furthermore, the agreements reached with northern indigenous peoples differed considerably from the treaties that were made in the provinces and lower 48 states.

Indian Policy in the Colonial Context

Historian Sarah Carter has noted that:

Historians of Western Canada have been reluctant to consider that what took place here was part of a global pattern of intensified conflict over land and resources. Rather, the dominant narrative has stressed the unique nature of the society that has taken root, devising Western

¹ Note: there is no consistent terminology for referring to aboriginal peoples in the circumpolar North, which consist of Indians of many tribes, Metis peoples, Inuit, and many others. In general, the term Natives is preferred terminology in Alaska, First Nations is commonly used in Canada, and Inuit or

Canada's own brand of 'exceptionalism.' Historians tended to assign good marks to what they see as the orderly and peaceful development of the West through sound federal preparatory measures (national policies): the treaties, the North-West Mounted Police, the railway, and the Dominion lands policy.²

These policies are frequently contrasted with the violence associated with the pacification of the American West, often ignoring that western expansionism in Canada sparked two violent rebellions. A brief review of the settlement history of North America is necessary to put aboriginal/settler relationships into perspective and to provide an understanding of how national policies towards aboriginal peoples evolved. (Figure 3 provides a concise version of this comparison).

North America was originally viewed as an economic opportunity to be exploited for its resources, and settlement was not the objective. Thomas Berger, a former Canadian judge and sympathetic observer of aboriginal peoples, commented that:

In much of North America, especially in what is now Canada, the Europeans at first had no intention of settling the country. They cared only that fur was abundant and could be marketed in Europe. The fur trade was a partnership between European

Greenlanders in Greenland. When referring to multiple ethnic groups, the terms "aboriginal people" or "indigenous peoples" will be utilized.

² Sarah Carter, *Aboriginal People and Colonizers of Western Canada to 1900*, Toronto: University of Toronto Press, 1999, p. 101.

	<u>British/Canadian System</u>	<u>US System</u>
1760	1763 Royal Proclamation	
1770		1776 Independence
1780		1783 Indians become Congressional responsibility 1789 BIA placed under War Dept.
1800		
1810	War of 1812 Indians side with British	
1820		
1830		1831 Marshall decision (ignored by President)
1840		1849 BIA transferred to Dept. of Interior (detrribalization policy)
1850		
1860	1867 Confederation (Indians fed. resp.)	1867 Purchase of Alaska
1870	1871-1929: 13 treaties signed 1876 First Indian Act passed	1871 Indians become wards of state (end of treaties)
1880		1887 Dawes Act (reserves broken up - individ. parcels)
1890		
1900		
1910		
1920		1924 Indians become citizens
1930		1934 Indian Reorganiz. Act - tribal gov'ts established
1940		
1950	1951 Revised Indian Act passed	1952 Termination Policy initiated (urbanization)
1960	1960 Indians given vote	1968 Indian Civil Rights Act
	1969 White Paper on Indian Policy	
1970	1973 Calder decision	1971 ANCSA
	1973 Land Claims Policy adopted	1978 BIA accepts reinstatement of tribes w/treaty rights
1980	1982 Abor.&treaty rights in constitution 1984 COPE Claim settled	
1990	1994 - 4 Yukon claims settled	
2000		

Figure 3

The Evolution of Indian Policy in North America

traders and the Indians who, as hunters and trappers, gathered the furs.³

Canadian columnist, political commentator, and author, Peter C. Newman concurred with Berger's assessment, pointing out that, other than allowing Lord Selkirk's Red River experimental settlement, the Hudson's Bay Company actively discouraged settlement in the area under its control.⁴

On the west coast, the Russians reached Alaska in 1741, but here too, settlement was not the objective. As Claus-M. Naske and Herman Slotnick remark in their history of Alaska: "Following Bering, Russian influence in Alaska was felt in varying degrees, but at no time was there ever more than a fraction of the Native population or land under Russian control. Those Russians who came were mainly private individuals interested in the fur trade. Few settled permanently."⁵

Thus, the pattern was the same on both coasts: state sponsored expeditions leading to discovery, followed by small scale private exploitation of furs, in turn displaced by state sanctioned monopoly exploitation by large capitalist corporations: the Hudson's Bay Company and the Russian-American Company.⁶ Settlement took

³ Thomas R. Berger, *A Long and Terrible Shadow: White Values, Native Rights in the Americas, 1492-1992*, Vancouver: Douglas and McIntyre, 1991, p. 55.

⁴ Peter C. Newman, *Empire of the Bay: The Company of Adventurers that Seized a Continent*, Toronto: Penguin Books, 1998, p. 17.

⁵ Claus-M. Naske and Herman E. Slotnick, *Alaska: A History of the 49th State*, Norman: The University of Oklahoma Press, 1987, p. 23.

⁶ Claus-M. Naske and Herman E. Slotnick, 1987, pp. 23-30; Peter C. Newman, 1998.

place in large measure to facilitate fur trade activities and to fulfill, often grudgingly, the terms of company charters.⁷

International events had profound implications for North Americans, even at the early stages of colonization. European wars were extended to North American soil, where Indians were recruited as allies by both sides in the conflict. Treaties signed in Europe moved boundaries and changed land ownership without regard for aboriginal interests in the land.⁸

In the early years of colonization, the Indian tribes, such as the Iroquois, were organized military forces to be taken seriously in all military campaigns, as well as the key to success in the fur industry. Indian tribes negotiated effectively for tools and luxury items that made their lives easier, and protected their strategic and economic interests through military alliances. However, their populations dwindled as European diseases swept across the continent in periodic epidemics, and their military power waned as the European population swelled.⁹ Trade relations also resulted in the gradual increase in dependency on the manufactured goods provided by traders. One historian summarizes this group dependency:

It was not until the commercialization of trapping and whaling that native people ... became inextricably inter-

⁷ Claus-M. Naske and Herman E. Slotnick, 1987, pp. 36-37.

⁸ Thomas R. Berger, 1991, pp. 56, 61. Peter C. Newman, 1998, p. 357.

⁹ Thomas R. Berger, 1991, pp. 32-34, 56-57; Janet M. Billson, "Social Change, Social Problems, and the Search for Identity: Canada's Northern Native Peoples in Transition," *The American Review of Canadian Studies*, Vol. XVIII, No. 3, 1988, p. 302; Kenneth Coates, *Best Left as Indians: Native-White relations in the Yukon Territory, 1840-1973*, Montreal: McGill-Queen's University Press, 1991, p. 13; Vine Deloria and David E. Wilkins, *Tribes, Treaties, and Constitutional Tribulations*, Austin: University of Texas Press, 1999, pp. 19-20.

twined with white economic and social institutions....

For the Dene, the fur trade stimulated and perpetuated by the Hudson's Bay Company and the rival North West Company created a significant dependence on non-native material culture.¹⁰

During the fur trade years, the Indians generally worked with, and allied with, European powers in North America. Conflict was often internal – tribes and nations warred with each other for economic advantage in trade relations.¹¹ However, as the American colonies grew, pressure to move westward and settle new lands also grew. Conflicts between Indians and settlers increased and the British authorities felt that action needed to be taken to reduce tensions. The Royal Proclamation of 1763 was intended to provide a legal and rational mechanism for acquiring Indian lands and to protect the interests of Indian tribes. However, it was resented by the New England settlers, who wanted to move West, and it became one of the grievances launched against the British government in the Declaration of Independence.¹²

This is perhaps the key to understanding the difference between the evolution of British and American policies towards Indians in North America: the British (and, at the same time, the Russians in Alaska), viewed the Indians as positive economic forces which provided the labor for the efficient exploitation of the fur resources of North America. Historian Sarah Carter noted the Northwest fur trade dictated that:

¹⁰ Janet M. Billson, 1988, p. 300.

¹¹ Augie Fleras and Jean L. Elliott, *The Nations Within: Aboriginal-State Relations in Canada, the United States, and New Zealand*, Toronto: Oxford University press, 1992, p. 135.

¹² Augie Fleras and Jean Elliott, 1992, p. 134.

In order to acquire this resource, Aboriginal people could not be enslaved, captured or forced into labour.... rather, their assistance was essential, as both trapping and transporting required the expert knowledge of those best acquainted with the environment.

Europeans had little or no interest in encouraging intensive colonization that would irrevocably alter the environment on which the trade depended. The way that relations evolved was also determined by the interests, calculations, and activities of the Aboriginal participants.¹³

The British and Russians desired the ongoing cooperation of the Indian tribes, while the Americans sought to utilize their lands for settlement and agriculture. In the American colonies, the Indians were viewed as impediments to settlement and economic expansion. The policies of the Hudson's Bay Company discouraged settlement in the West, which might disrupt the fur economy, while the American colonies along the eastern seaboard sought the freedom to acquire Indian lands to exploit for other economic purposes. Thus, economic interests dominated the structure of North American policies toward aboriginal peoples in their earliest iterations.

¹³ Sarah Carter, 1999, p. 36.

Internal Colonialism

Internal colonialism commences at the point where a national government displaces a foreign government as the colonial power, and establishes policies and practices which discriminate against a population or region.

The theory of internal colonialism model suggests that increased contact between center and periphery results in a cultural division of labor that fosters and maintains a relationship of exploitation and social stratification. Racism and racist policies are an expected outcome, including policies that serve to exploit or marginalize the subordinate populations. A review of state relations with, and state policies towards, aboriginal populations in North America will serve to clarify the evolution of state policies respecting aboriginal peoples in Alaska and northern Canada.

The Evolution of American Indian Policy

In the United States, the policies of internal colonialism began with the War of Independence. The Declaration of Independence sets out the views of the American colonists clearly: while "...all men are created equal," and "...endowed by their Creator with certain unalienable Rights..."", the colonists viewed the Indians as "...the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions."¹⁴ Indians were not considered citizens of the United States, and the Declaration set the tone for U.S. Indian policy for the next several decades. As the state expanded

¹⁴ www.law.indiana.edu/uslawdocs/declaration, Sept. 26, 2002.

westwards, it encountered tribes who resisted the expansion, resulting in guerrilla style wars that lasted until the 1890s.

The responsibility for developing policy on Indians was assumed by the U.S. Congress, (successor to the continental congresses) which proclaimed in 1783 that white people could not settle on, or purchase, Indian land without the permission of Congress. Then, in 1787 the framers of the U.S. constitution gave to Congress exclusive jurisdiction to make treaties with Indians.¹⁵ Indian issues were scattered across government departments, including the War Department, from 1789 until 1834, when they were consolidated in the Bureau of Indian Affairs.¹⁶ President Washington adopted a three part Indian policy in 1789 that sought to: regulate trade and land transactions with Indians, conclude treaties for land cession, and assimilate Indians by encouraging their “addiction” to white products.¹⁷ The federal government entered into a number of treaties with Indians between 1789 and 1871, but these did not prevent encroachment on Indian lands or eliminate conflict. In the early years, the federal government lacked the capacity to prevent state encroachment on Indian lands, while later on it lacked the willingness to recognize Indian rights.¹⁸ The policy of removal was adopted by James Monroe in order to acquire Indian land, and legal

¹⁵ Thomas R. Berger, 1991, pp. 69-70; Charles F. Wilkinson, *American Indians, Time, and the Law: Native Societies in a Modern Constitutional Democracy*, New Haven: Yale University Press, 1987, p. 8.

¹⁶ Vine Deloria and David Wilkins, 1999, p. 40.

¹⁷ Donald C. Mitchell, *Sold American: The Story of Alaska Natives and Their Land, 1867-1959: The Army to Statehood*, Hanover: University Press of New England, 1997, pp. 18-19.

¹⁸ Thomas R. Berger, 1991, pp. 70-72; Donald C. Mitchell, 1997, pp. 17-19.

decisions, such as those issued by Justice John Marshall in the 1820s and 30s, were overridden.¹⁹

Chief Justice John Marshall issued three decisions in the 1820s and 30s that provided the foundation for U.S. laws towards its aboriginal peoples thereafter. In *Johnson v. M'Intosh* (1823), Justice Marshall determined that tribes retained aboriginal title to lands they transferred to other parties, unless the lands were disposed of by, or to, the federal government.²⁰ In his *Cherokee Nation v. Georgia* decision (1831), Justice Marshall “laid down the principle of the trust relationship: the legal and moral responsibility of the federal government to protect the vital interests of ‘dependent sovereign’ tribes.”²¹ Finally, in *Worcester v. Georgia* (1832) Marshall determined that “the laws of Georgia were void within the borders of the Cherokee Nation.”²² Davis S. Case, an authority on Alaska Native law, noted that, taken together:

Three elements of the federal-Native relationship emerge from the rule of discovery and Marshall’s analysis of aboriginal title. The first is a federal obligation to protect the Indian right of occupancy from incursion or trespass. The second is the power of the federal government to extinguish aboriginal title.... [and third is] the right to

¹⁹ Thomas R. Berger, 1991, pp. 73-84.

²⁰ David S. Case, *Alaska Natives and American Laws*, Fairbanks: University of Alaska Press, 1984, p. 49.

²¹ Gerald A. McBeath and Thomas A. Morehouse, *Alaska Politics and Government*, Lincoln: University of Nebraska Press, 1994, p. 99.

²² David S. Case, 1984, p. 50.

compensation for any further taking of the reserved (recognized) lands.²³

Unfortunately for the Indians, the federal government of the day refused to enforce Marshall's decisions, and the benefits of those decisions were not to be realized for many decades. In the interim, the relationship between Indians and the federal government changed considerably. Congress passed legislation in 1834 that established the Bureau of Indian Affairs, and "the rights of most Indian tribes became a matter of administrative option rather than nationally enforceable law."²⁴

The policy of removal was no longer feasible once settlers reached the west coast, as there was no longer any place to remove Indians to. Consequently, a new policy had to be found. Congress approved a new form of removal, whereby Indians were placed on surveyed reservations that were to be protected from encroachment by settlers.²⁵

The new policy did not bring peace to the West, as Indians were forced onto smaller and smaller reserves. Resistance against settlers and federal forces continued until the 1890s. By then, their population had been reduced by disease, warfare and starvation to less than 250,000.²⁶

The Bureau of Indian Affairs was transferred to the Department of the Interior in 1849.²⁷ As the Indian wars began to wane, the department launched new policy

²³ David S. Case, 1984, p. 50.

²⁴ Vine Deloria and David E. Wilkins, 1999, p. 40.

²⁵ Thomas R. Berger, 1991, p. 87.

²⁶ Augie Fleras and Jean Elliott, 1992, 142.

²⁷ Vine Deloria and David Wilkins, 1999, p. 40.

initiatives that were designed to promote the assimilation of Indians into the dominant society.

Federal policy was altered in 1871, when Congress declared that Indian nations and tribes would no longer be recognized as nations with which the United States would contract by treaty, although the federal government continued to negotiate agreements with Indian tribes that served as “treaty substitutes.”²⁸ Indians became wards of the state and could only exercise powers that were delegated to them by Congress. In 1887 the *Dawes Act (General Allotment Act)* was passed by Congress, which broke up communally held reservation land into individually held parcels; any surplus remaining after division was to be sold to non-Natives. According to sociologists Fleras and Elliott, “the Dawes Act was the first piece of legislation explicitly intended to destroy indigenous cultural organization.”²⁹

The Bureau of Indian Affairs managed the detribalization process through the reserve system, and, as Fleras and Elliott note:

By the end of the century its success was evident; the reserve system had effectively destroyed the cultural, social, economic, and political systems of the aboriginal peoples. The BIA had the mandate to fill this vacuum – to acculturate and govern the Native people....

The result in this case was a continuation of the greed, incompetence, and exploitation that had already come

²⁸ Charles F. Wilkinson, 1987, p. 8.

to characterize the behaviour of the larger American society towards the aboriginal people.³⁰

Indians were recognized as citizens of the United States in 1924, and in 1934 the New Deal Administration of F.D. Roosevelt embarked on a program to strengthen Indian self-government. However, as with past administrations, the Indian tribes were not consulted on the new initiative.

The *Indian Reorganization Act* of 1934 was also designed to assimilate Indians into American society, but the basic tenets of the law were substantially different from detribalization. Tribes were encouraged to hold common lands and the breaking up of reserves into individual plots was halted. Bands and tribes were encouraged to adopt their own constitutions. But traditional forms of governance were not encouraged, and the Bureau maintained a strong hand in the day to day affairs of reserves.³¹

In 1941, the U.S. Supreme Court handed down its decision in the *Walapai (Hualpai) Indians versus the Santa Fe Railroad*. According to historian Stephen Haycox, the court determined that Indians retained “aboriginal title over formerly used but abandoned lands. The decision ... meant that even if the U.S. had taken and disposed of lands formerly used by Indians, if the Indians could prove their former use of the land and its resources, they could sue the U.S. for damages.”³² This was a significant departure from previous legal interpretations, which assumed that

²⁹ Augie Fleras and Jean Elliott, 1992, p. 144.

³⁰ Augie Fleras and Jean Elliott, 1992, pp. 146-47.

³¹ Augie Fleras and Jean Elliott, 1992, pp. 148-49.

abandoned Indian lands could be disposed of by the government as unencumbered land.³³

World War II changed many Americans' perspective of the world, and, according to historian Kenneth Philp, "Many Indians who returned home after the war wanted the country to honor the Indian Citizenship Act of 1924. This legislation had made all Indians citizens. A substantial number of Indians wanted freedom from the 2,200 federal regulations that, in practice, still made them wards of the government."³⁴ But the Indian perspective on appropriate Indian policy, which "emphasized that federal trusteeship, tax-free land, and Indian self-government were vested legal rights,"³⁵ differed significantly from the prevailing attitudes of Indian Commissioner Dillon S. Myers and others in the Indian Bureau, who advocated the elimination of all special rights for Natives. Furthermore, Myers "rejected the idea of a referendum to determine whether tribal groups favored termination legislation."³⁶

In 1953, Congress adopted the ultimate assimilationist policy: "termination." According to Fleras and Elliott, termination programs, such as "Operation Relocation," were designed by conservatives in the federal government who:

wanted to terminate the special relationship, based on the treaties, that aboriginal peoples had with the federal government. Termination was to take place on

³² Stephen Haycox, "Economic Development and Indian Land Rights in Modern Alaska: the 1947 Tongass Timber Act," *The Western Historical Quarterly*, Vol. XXI, No. 1, 1990, p. 26.

³³ Stephen Haycox, 1990, p. 26.

³⁴ Kenneth R. Philp, "Dillon S. Myer and the Advent of Termination: 1950-1953," *The Western Historical Quarterly*, Vol. XIX, No. 1, 1988, p. 45.

³⁵ Kenneth R. Philp, 1988, pp. 45-46.

a tribe-by-tribe basis since some tribes were better prepared for cutting all ties to the BIA than others. Ultimately, however, all tribes would be terminated; the BIA would be defunct, and the US government would be out of the 'Indian business.'³⁷

Termination policies were adopted without consultation,³⁸ and they created a strong reaction in the American Indian community, with the advent of the Red Power movement in the 1960s, a march on Washington, D.C. in 1972, and the occupation of Wounded Knee in 1973. Fleras and Elliott argue that, in the United States:

the Red Power movement was reacting against the terminationist ideology that strove to put aboriginal peoples on an equal footing with all other Americans.... Red Power was engaged in a struggle to regain a land base for aboriginal peoples and have their collective rights as nations acknowledged alongside their individual rights as citizens.³⁹

The strong rejection of the termination policy by American aboriginal peoples resulted in its abandonment in 1970, and a return to more moderate assimilationist policies in the 1970s and 1980s.⁴⁰

³⁶ Kenneth R. Philp, 1988, p. 44.

³⁷ Augie Fleras and Jean Elliott, 1992, p. 150.

³⁸ Kenneth R. Philp, 1988, p. 53.

³⁹ Augie Fleras and Jean Elliott, 1992, p. 151.

⁴⁰ Donald C. Mitchell, *Take My Land, Take My Life: The Story of Congress's Historic Settlement of Alaska Native Land Claims, 1960-1971*, Fairbanks: University of Alaska Press, 2001, p. 389.

Indian Policy in Alaska: 1867 - 1945

Alaska was purchased by the United States in 1867, and, from the outset, federal policies towards Alaska's indigenous population appeared to treat them somewhat differently from the indigenous peoples in the Lower 48. For example, no efforts were made to treat with the indigenous peoples of Alaska, despite the fact that Alaska was purchased four years before the end of treaty making, in 1871. The *Treaty of Cession* of 1867 and the *Organic Act* of 1884 both promised that aboriginal use and occupation of lands would be protected, but the acts were largely ignored.⁴¹

According to David Case:

It was generally assumed that these acts equated Native possession with non-Native possession and entitled Alaska Natives only to land which was in their individual and actual use and occupancy. The unspoken implication seems to have been that Alaska Natives, unlike other Native Americans, did not have claims of aboriginal title to vast tracts of tribal property.⁴²

In the area of education, Natives were technically equal to non-Natives: under the *Organic Act*, federal educational services were to be provided without "regard to race," and the federal Bureau of Education, rather than Indian Affairs, was responsible for the education of Alaska Natives until 1931.⁴³

⁴¹ Claus-M. Naske and Herman E. Slotnick, 1987, p. 187.

⁴² David S. Case, 1984, p. 6.

⁴³ David S. Case, 1984, p. 6-7, 9.

The biggest concern about the aboriginal populations of Alaska in the early years appeared to be their potential to resist American authority, and this concern continued until 1879, when the Navy was called in by the citizens of Sitka because they feared they would be attacked by Tlingit Indians.⁴⁴

The tensions at Sitka may have been the result of a combination of racism and alcohol. Yukon historian Allan Wright has written that:

The importation of liquor into the territory was supposed to be prohibited, but whiskey was sold openly: among the best customers for it were the soldiers who were supposed to be the upholders of law and order. Only the Tlingit Indians were ever arrested for drunkenness, and it was not surprising that they could evoke little enthusiasm for American justice ‘when they found themselves in the guardhouse, but never saw the officers in when in [sic] like conditions.’

In this atmosphere of permissiveness for the whites and repression for the Indians, some unknown opportunist ... taught the Tlingits the technique for distilling liquor from molasses and sugar.⁴⁵

The Tlingit Indians were also effective in protecting their trading monopoly with Indians in the interior of the Yukon by intimidating whites and preventing their

⁴⁴ Donald C. Mitchell, 1997, p. 25; Claus-M. Naske and Herman E. Slotnick, 1987, pp. 67-68.

⁴⁵ Allen A. Wright, *Prelude to Bonanza: The Discovery and Exploration of the Yukon*, Sidney: Gray's Publishing Ltd., 1976, pp. 119-120. Subquote from, Morgan B. Sherwood, "Ardent Spirits: Hooch and the Osprey Affair at Sitka," *Journal of the West*, Vol. iv, No. 3, July, 1954, p. 312.

access up the Chilkoot Trail. Once again the Navy was called upon and Captain Beardslee negotiated access for a party of miners up the trail in 1879. Thereafter prospectors could freely access the interior, although they greatly resented the high prices the Chilkat Indians demanded for packing their supplies up the trail.⁴⁶ The Klondike Gold Rush eliminated the Indians' monopoly on packing services however, as, "Expanded use of pack trains and tramways and eventually the opening of the White Pass and Yukon Route Railway, connecting tidewater and Whitehorse, undercut the Indians' packing enterprise."⁴⁷

The growth of the white population in Alaska following the purchase of Alaska resulted in increasing competition and conflict over the exploitation of resources, particularly salmon. Canneries began exploiting aboriginal labor and began disrupting traditional aboriginal harvesting practices on salmon streams. Complaints were often resolved in favor of the canneries, which could call upon the Navy to intimidate Natives into complying with their wishes.⁴⁸

On the Pribilof Islands, Russian-American Company exploitation of the Aleuts and the fur seals was replaced by Alaska Commercial Company and Treasury Department exploitation, until 1910, when the Department of Commerce and Labor took over full responsibility. Federal responsibility did not improve the lot of the Aleuts, however, who continued to live in poverty and were compelled to harvest seals for the government at obscenely low wages. Furthermore, they had to endure

⁴⁶ Allen A. Wright, 1976, pp. 134-37; Kenneth Coates, 1991, pp. 34-35, 41.

⁴⁷ Kenneth Coates, 1991, p. 41.

⁴⁸ Donald C. Mitchell, 1997, pp. 107-110, 156-57.

assimilationist and racist policies designed to abolish their language and cultural practices.⁴⁹

Lands in Alaska were appropriated for railways, national forests, parks and other government purposes without any effort to consult the indigenous peoples affected by the removals. And in 1902 the Alaska *Game Act* was passed without consultation with Natives, despite the fact that the Act had a significant impact on the aboriginal subsistence economy. Efforts by the indigenous peoples to get the law changed were ignored.⁵⁰

The assimilationist policies employed in the lower 48 were extended to Alaska in the early 1900s. Claus-M. Naske and Hermann Slotnick stated that:

In 1906 the passage of the Native Allotment Act enabled Alaska Natives to obtain legal title to 160-acre homesteads to be selected from the unappropriated and unreserved public domain. Although it enabled Natives to gain title to land, it was a regressive piece of legislation since it endeavored to turn hunters and food-gatherers into homesteaders.⁵¹

But the policies of assimilation were effective in parts of Alaska. Many Indians joined the Alaska Native Brotherhood (ANB), whose objectives were to lobby for recognition of aboriginal citizenship rights, education, and the elimination

⁴⁹ Dorothy Jones, *A Century of Servitude: Pribilof Aleuts Under U.S. Rule*, 1980, <http://arcticcircle.uconn.edu/ArciticCircle/HistoryCulture/Aleut/Jones/jones.html>

⁵⁰ Donald C. Mitchell, 1997, pp. 160-187; Theodore R. Catton, "Glacier Bay National Monument, the Tlingit, and the Artifice of Wilderness," *The Northern Review*, No. 11, 1994, pp. 56-82.

of ““aboriginal customs.””⁵² The ANB was somewhat successful in its efforts: Alaska adopted legislation in 1915 that enabled Natives to become citizens if they could prove they were “civilized.”⁵³ But becoming citizens did not eliminate discrimination. For example, passage of a literacy law in 1925 prevented many aboriginal citizens from exercising their right to vote. Furthermore, social pressures usually resulted in Natives living in separate communities from whites, and they were frequently barred from entering saloons, theatres, hotels, and restaurants, or forced to sit in segregated areas within those establishments.⁵⁴

The Alaska Native Brotherhood reacted to racism by organizing boycotts of establishments that discriminated against aboriginal citizens, which proved somewhat successful in Southeast Alaska.⁵⁵ However, this had relatively little impact on the situation throughout Alaska.

In 1936 the *Indian Reorganization Act* was extended to Alaska, and the Secretary of the Interior, Harold Ickes, used the opportunity to create seven reservations in the state. Stephen Haycox noted that the Act “enabled natives to establish village self-government, and borrow money from a federal credit fund, but implementation of other provisions of the act failed in the territory, due to poor

⁵¹ Claus-M. Naske and Herman E. Slotnick, 1987, p. 188.

⁵² David S. Case, 1984, p. 406.

⁵³ Claus-M. Naske and Herman E. Slotnick, 1987, p. 188; Terrence M. Cole, “Jim Crow in Alaska: The Passage of the Equal Rights Act of 1945,” *The Western Historical Quarterly*, Vol. XXIII, No. 4, Logan: Utah State University, 1992, p. 432.

⁵⁴ Terrence M. Cole, 1992, pp. 430-437.

⁵⁵ Terrence M. Cole, 1992, pp. 434-435.

administration by the Office of Indian Affairs, inadequate funding by the Congress, and confusion and inconsistency in defining policy.”⁵⁶

The appointment of Ernest Gruening as Governor of Alaska and the advent of World War II brought new forces to bear on the problem of racism in Alaska. The segregationist policies of General Simon B. Buckner, commander of the Alaska Defense Force, and the botched evacuation of Aleuts from the Aleutian Islands, reflected poorly on the federal government and federal policies, which appeared to tolerate racism by federal officials. However, Governor Gruening worked tirelessly to bring forward policies to eliminate racist practices in the territory, and the involvement of aboriginal people in the war effort served to add impetus to the issue. According to Terrence Cole, “The war provided a strong rationale for legislative action.”⁵⁷

Alaska historian Terrence Cole also noted that Governor Gruening realized that the aboriginal vote could be harnessed to counter colonialist forces in Alaska:

Gruening recognized the Native vote as a potentially powerful constituency in his fight against the Seattle fishing and mining interests that controlled the legislature, and blocked his efforts to increase taxes on the huge profits of the canned salmon industry. In addition, the governor hoped that the grip of the ‘interests’ on the territorial legislature would be loosened by the congres-

⁵⁶ Stephen Haycox, 1990, p. 21.

sionally authorized 1944 reapportionment of the legislature, doubling the size of the senate ... and increasing the house by fifty percent He actively campaigned across Alaska to ensure that some of the new lawmakers would be Alaska Natives.⁵⁸

Gruening's anti-discrimination bill was approved by the Alaska legislature in 1945, marking a significant beginning to the process of ending Jim Crow practices in Alaska.⁵⁹

Governor Gruening was also a staunch advocate of economic development in Alaska, and he saw Secretary Icke's moves to establish Indian reservations in Alaska as counterproductive. The issue came to a head during the debate over the *Tongass Timber Act*, which permitted the sale of timber resources in the Tongass National Forest. Despite strong Native protests that their land rights were not adequately protected, the Act was passed in 1947.⁶⁰

Indian Policy in Alaska, 1947-1971: Settling Native Land Claims

Lawyer Donald Mitchell argues that:

From the beginning of the nineteenth century Native Americans and the governments of their states had been

⁵⁷ Terrence M. Cole, 1992, p. 436.

⁵⁸ Terrence M. Cole, 1992, p. 440.

⁵⁹ Dr. Gerald McBeath notes that there was a literacy test in the Alaska constitution until deleted in a 1970 constitutional amendment, and for that reason Alaska fell under the *Voting Rights Act* of 1965, *pers.comm.*, March 26, 2003. See also, Gordon Harrison, *Alaska's Constitution: A Citizen's Guide*, 4th ed., Juneau: Alaska Legislative Research Agency, 2002, p. 107.

⁶⁰ Stephen Haycox, 1990; Claus-M. Naske, "Ernest Gruening and Alaska Native Claims," *Pacific Northwest Quarterly*, Vol. 82, No. 4, 1991, pp. 140-148.

bitterly estranged. Most Indians lived on geographically isolated reservations, which was (and today remains) one cause for the estrangement. However, because Alaska's harsh climate and hopeless economics had discouraged white settlement, Alaska Natives not only had not been forced onto reservations, but because their labor was needed, they had been allowed to participate in the white cash economy.⁶¹

However, the federal government did attempt to foster the establishment of reservations in Alaska in the 1940's. As noted earlier, these efforts were staunchly opposed by Governor Gruening and advocates of economic development, as well as by the ANB and most Alaska Native leaders who feared reservations would result in ghettos. Federal supporters of reservations viewed them as a means of maintaining the aboriginal subsistence economy.⁶² Ultimately, federal efforts resulted in little success, and in 1953 federal policy was reversed to promote the elimination of reservations. However, the federal government efforts did renew the debate over aboriginal land rights in Alaska, and various efforts were made to have Congress eliminate those rights during the termination era.⁶³

One example of termination policies being extended to Alaska was the imposition of Public Law 280 in 1958. This measure allowed the territorial government to exercise limited criminal and civil jurisdiction on Native lands in the

⁶¹ Donald C. Mitchell, 2001, p. 118.

territory.⁶⁴ This law was enacted after only cursory consultation with the ANB, and without the consent of the aboriginal population.⁶⁵ According to criminal justice professors David Blurton and Gary Copus, Public Law 280, “creates obstacles that interfere with tribal prosecution of criminal behavior ... This interference exists even when the state and the tribes may both agree local control is desirable.”⁶⁶ Public Law 280 was extended to Alaska as a result of a court case which determined that some Indian Country existed in Alaska, and that the territory lacked full jurisdiction to enforce certain laws in Indian Country.⁶⁷

By the 1960s, a complex, tripartite system of education had evolved in Alaska, two parts of which were under the administration of the State of Alaska, and, “The third element ... [was] the federal system of rural schools for Alaska Natives operated directly by the U.S. Department of the Interior’s Bureau of Indian Affairs.”⁶⁸ Education policy was inconsistent, with fluctuating goals and policies, and, “at times there was a hiatus between goals stated in Washington and policies carried out in Alaska.”⁶⁹ However, “From the very beginning of educational programs in the North through current times programs and goals have been the programs and goals of the

⁶² Donald C. Mitchell, 1997, p. 298.

⁶³ Donald C. Mitchell, 1997, pp. 333-357.

⁶⁴ David S. Case, 1984, p. 453.

⁶⁵ David M. Blurton and Gary D. Copus, “Administering Criminal Justice in Remote Alaska Native Villages: Problems and Possibilities,” *The Northern Review*, No. 11, 1993, pp. 118-126.

⁶⁶ David M. Blurton and Gary D. Copus, 1993, p. 118.

⁶⁷ David M. Blurton and Gary D. Copus, 1993, pp. 121-122.

⁶⁸ Frank Darnell, “The Pedagogical Situation,” in Frank Darnell, (ed.), *Education in the North: Selected Papers of the First International Conference on Cross-Cultural Education in the Circumpolar Nations and Related Papers*, Fairbanks: University of Alaska and the Arctic Institute of North America, 1972, pp. 293-294.

⁶⁹ Frank Darnell, 1972, p. 302.

dominant ‘western’ culture.”⁷⁰ The results were disappointing for Alaska’s indigenous population, which suffered high drop out rates in high school and low enrollment in post-secondary institutions. In 1960, only 8 percent of Alaska Natives had completed high school, and “a fraction of only one percent had completed four years or more [of post secondary education].”⁷¹

Court decisions also resulted in the recognition of aboriginal title in Alaska. In 1955, the Tee-Hit-Tons of Alaska lost a court battle to have their claims for compensation recognized. However, the Court recognized “ that aboriginal title existed, implied that throughout most of the territory it had not been extinguished, and acknowledged that aboriginal title protected Alaska Natives’ occupancy of the land it colored ‘against intrusion by third parties.’”⁷² (i.e., Natives might own the land in question).

The statehood movement, which was renewed by Ernest Gruening, Anthony Dimond and Bob Bartlett in the 1940s, ran into opposition when Bartlett’s 1947 bill, H.R. 206, excluded any reference to aboriginal land rights. Industry lobbyist W.C. Arnold argued that statehood should be delayed until aboriginal land claims were settled. The debate over the issue continued through subsequent iterations of the bill, and the ANB lobbied vigorously to ensure their interests were recognized in the legislation. In the end, aboriginal title was recognized in the statehood bill, and Native claimed lands were protected from selection by the state.⁷³

⁷⁰ Frank Darnell, 1972, p. 305.

⁷¹ Frank Darnell, 1972, pp. 313-314.

⁷² Donald C. Mitchell, 1997, p. 358.

⁷³ Donald C. Mitchell, 1997, pp. 358 – 375; Public Law 85 - 508, 1958, s. 4.

The passage of the *Statehood Act* prior to the settlement of land claims in Alaska resulted in gridlock when the state attempted to make its land selections.⁷⁴ Efforts to resolve the impasse began in 1963, when a federal Native affairs task force released its report with recommendations to withdraw small parcels around villages for their exclusive use and the creation of a tribunal to adjudicate aboriginal claims. The proposals were quickly rejected by representatives of Alaska's aboriginal organizations, and the search began for another legislative solution.⁷⁵

The process of identifying lands for transfer to the state generated interest and concern amongst the indigenous peoples of Alaska, who began to organize in response. In October, 1966 representatives of aboriginal organizations and numerous villages met in Anchorage to form an organization that became the Alaska Federation of Natives (AFN), in 1967. The purpose of the AFN, as set out in its constitution, was to secure Native rights and benefits, educate Alaskans about Natives, preserve Native culture, seek an equitable solution to their land claims, promote the common welfare of Alaska Natives, and foster loyalty to Alaska and the United States.⁷⁶

On December 11, 1968, Secretary of the Interior, Stuart Udall, ordered a moratorium on patenting state land selections in order to preserve the status of Alaska lands until the Natives' claims were settled, a move that enraged Governor Hickel.⁷⁷ The search for a solution to the impasse was given added impetus with the discovery of oil at Prudhoe Bay, on Alaska's North Slope the same year. The only way of

⁷⁴ Donald C. Mitchell, 1997, pp. 379-380; Claus-M. Naske, 1991, p. 147.

⁷⁵ Donald C. Mitchell, 2001, pp. 103-04.

⁷⁶ Claus -M. Naske and Herman E. Slotnick, 1987, p. 200.

⁷⁷ Donald C. Mitchell, 2001, p. 189.

realizing the value of the oil was by shipping it to southern markets, and this could only be accomplished by building a pipeline which would cross lands that were claimed by aboriginal villages.

The main issues in the debates over settlement of land claims in Alaska were land quantum and appropriate monetary compensation, and these were issues that many legislators had strong feelings about. The positions of the parties trying to resolve the impasse appeared to be relatively consistent from 1963 to 1971. Non-Native Alaskans (as represented by Senators Gruening and Bartlett and Representatives Gravel and Young), supported relatively small land grants to Natives initially, although they later supported larger land grants in order to expedite a settlement. The Alaska Federation of Natives (AFN) started negotiations with a position that they should receive 40 million acres, and attempted to leverage an additional 20 million acres later in the negotiations. Non-Native Alaskans did not support the idea of Alaska's indigenous peoples receiving 40 million acres.⁷⁸

Relations between state politicians and aboriginal leaders during the land claim legislative process were strained. Governor Hickel's Attorney General, Donald Burr, did not believe that the indigenous population had an interest in the federal land they claimed, and Governor Hickel initially advocated a largely monetary settlement of the claim, with minimal land transferred to the Natives. However, Hickel soon became more pragmatic, and backed a larger land settlement of 40 million acres.⁷⁹

⁷⁸ Donald C. Mitchell, 2001, p. 299.

⁷⁹ Donald C. Mitchell, 2001, pp. 139-154.

Hickel also sponsored a land claims task force that included aboriginal leaders, and paid their travel expenses.

However strained state and Native relations were, the federal-Native relationship was worse. Byron Mallott, the mayor of Yakutat, issued a statement that, “ ‘The Bureau of Indian Affairs, indeed almost every governmental agency with some responsibility toward them, is resented, feared, and distrusted by the Alaskan Native.’ ”⁸⁰ Alaska’s indigenous population sought to divorce itself from BIA administration, and their solution was the corporate structures to be established by the *Alaska Native Claims Settlement Act*.⁸¹

The Department of the Interior (DOI) was also reluctant to accept the settlement terms proposed by the aboriginal organizations, and weakly supported by the State of Alaska, in large measure because DOI officials knew that the Bureau of the Budget would not support the terms. The DOI bill tabled in early 1967 proposed a land quantum of only 10 million acres, and a payment of \$180 million – much less than was sought by the aboriginal organizations.⁸²

The courts also played a significant role in expediting the land claim process, first by upholding the federal land freeze preventing the state from making land selections under the *Statehood Act*, then by issuing injunctions against the construction of the pipeline until environmental assessments had been completed.⁸³ These decisions helped to convince the pipeline proponents and oil companies that

⁸⁰ Donald C. Mitchell, 2001, p. 163.

⁸¹ Donald C. Mitchell, 2001.

⁸² Donald C. Mitchell, 2001, pp. 165-166.

⁸³ Donald C. Mitchell, 2001, pp. 267, 326.

“TAPS would not be authorized to begin construction of the trans-Alaska oil pipeline until Congress settled Native land claims.”⁸⁴

The main arena for resolving the claims issue thus was Congress, and all interested parties focused their efforts on influencing congressmen, and the members of the House Committee on Interior and Insular Affairs, in particular. In this way, “Outside” forces, including congressmen from the lower 48 states, were given significant power over the terms of the final legislation settling the Alaska Natives’ land claim.⁸⁵ Environmental groups, in particular, used the opportunity to lobby congressmen to include land use planning and land protection provisions in the bill. The National Park Service also capitalized on the opportunity to request lands for its National Parks system.⁸⁶

The *Alaska Native Claims Settlement Act* was approved by the AFN on December 18, 1971, and signed into law by President Richard Nixon that same day. The settlement package granted Alaska’s aboriginal population title to 44 million acres of land (including surface and subsurface rights), and \$962.5 million dollars from the federal and state governments. Twelve regional corporations were established immediately, followed by a thirteenth, for non-resident beneficiaries. More than 200 village corporations were also created.⁸⁷

The corporations were the primary vehicle for implementing the settlement. Village and regional corporations selected and administered the land, resources and

⁸⁴ Donald C. Mitchell, 2001, p. 329.

⁸⁵ Donald C. Mitchell, 2001.

⁸⁶ Donald C. Mitchell, 2001, pp. 443-446; 466-470; Claus-M. Naske and Herman E. Slotnick, 1987, p. 225.

cash transferred to them under the act, and regional corporations were required to share 70 percent of their revenues from timber and subsurface production with other regional corporations and village corporations. Alaska Natives living at the time ANCSA was enacted were enrolled as beneficiaries and each received 100 shares of stock in a regional corporation, and if a village resident, 100 shares of stock in a village corporation. However, anyone born after the date of enactment was not entitled to shares.⁸⁸

Government and Aboriginal Relations After ANCSA

According to David Case:

ANCSA was but the first in a line of five major pieces of self-determination legislation. Together these statutes cement in place a federal policy which permits Native Americans to exercise real control over federal programs without the threat that the price of their independence will be termination of either the programs or the tribe's federal relationship. The keystone of the policy is the Indian Self-Determination and Education Assistance Act of 1975....

Each of these acts define Alaska Native villages as described in ANCSA as "tribes" eligible for the various contract, grant and loan programs available to implement

⁸⁷ Thomas R. Berger, 1985; Public Law 92 – 03, 1971.

the new laws.⁸⁹

Within ten years of its passage, Alaska's indigenous peoples began questioning the wisdom of their land claims settlement. Implementation problems, lawsuits, and fears that ownership and control of their lands would be lost after 1991, when shares could be alienated from aboriginal ownership, surfaced. The Inuit Circumpolar Conference established the Alaska Native Claims Review Commission in 1983 and hired a former Canadian judge, Thomas Berger, to conduct a detailed review of ANCSA.⁹⁰ Berger made a number of recommendations that, if implemented, would have strengthened protection for aboriginal landholdings, tribal government, and subsistence rights.⁹¹ Berger's recommendations for changes to ANCSA were largely ignored, but amendments were made which provided some comfort to Alaska Natives.⁹² However, the Native sovereignty movement has continued to grow in Alaska, and many aboriginal people, particularly in rural Alaska, have seen few benefits from ANCSA.⁹³ Some Native corporations, such as Arctic Slope, have reaped huge financial rewards from the settlement, while others have struggled on the verge of bankruptcy, and have paid few dividends to shareholders.

⁸⁸ Thomas R. Berger, 1985.

⁸⁹ David S. Case, 1984, p. 449.

⁹⁰ Thomas R. Berger, 1985.

⁹¹ Thomas R. Berger, 1985, pp. 166-172.

⁹² Fae L. Korsmo, "Native Sovereignty: An Insoluble Issue?" in Clive S. Thomas, (ed.), *Alaska Public Policy Issues: Background and Perspectives*, Juneau: Denali Press, 1999, p. 271; Leonard Sillanpaa, *Alaska Native Claims Settlement Act: The First Twenty Years*, Ottawa: Circumpolar and Scientific Affairs, Government of Canada, 1992, pp. 13-15, 17-22; Donald C. Mitchell, 2001, pp. 504-508.

⁹³ Fae L. Korsmo, 1999, p. 263; Donald C. Mitchell, 2001.

A major disappointment of ANCSA was its failure to conclude the subsistence debate in Alaska. Although ANCSA extinguished all subsistence harvest rights of aboriginal Alaskans, the *Alaska National Interest Lands Conservation Act* (ANILCA) restored these rights to all rural Alaskans in 1980. Congress had originally proposed to grant subsistence rights only to Alaska Natives, but vigorous lobbying by the Alaska government resulted in the right being granted to all rural residents in the state. Lawsuits were launched challenging subsistence rights, and Alaska courts found that they violated the state constitution. Repeated efforts to have the state constitution amended have been thwarted by the Alaska legislature, and, as a consequence, the federal government took over management of fish and game resources on federal lands. A lawsuit launched in 1990 (*Katie John, et. al., v. United States*), resulted in federal subsistence laws being applied to navigable waters in the state on October 1, 1999. Alaska Natives have been angered by the constitutional impasse and their inability to convince the legislature of the need to amend the state constitution.⁹⁴

The Evolution of Canadian Indian Policy

British policy toward Indians remained in effect until Canada emerged as an independent country in 1867, and acquired Rupert's Land from the Hudson's Bay Company in 1870. Until that time, Indian policy in the Northwest was largely administered by the Hudson's Bay Company, which, as the owner of all lands

⁹⁴ Alaska Natives Commission, *Final Report*, Vol. III, Anchorage: Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives, 1994, pp. 11 - 42; Thomas F. Thornton, "Subsistence: The Politics of a Cultural Dilemma," in Clive S. Thomas, (ed.), *Alaska Public Policy Issues: Background and Perspectives*, Juneau: Denali Press, 1999, pp. 205 – 219.

draining into Hudson Bay (Rupert's Land), continued to be the largest private land owner in North America.

As noted earlier, the fur trade dictated that indigenous peoples be treated as "partners," and the competition between the Hudson's Bay Company and the Northwest Company meant that Indians had some choice between whom they would trade and bargain with. However, the use of alcohol to lubricate transactions was obviously an unabashed form of exploitation, which had severe consequences for the aboriginal populations engaged in the fur trade.⁹⁵ Peter C. Newman characterizes the relationship harshly:

Canadians have traditionally prided themselves on the fact that after the turn of the century there were relatively few armed confrontations between white and red men But this ... does not justify the smug assumption that white men north of the 49th parallel treated the native population with compassion and respect. On the contrary, the unrestrained use of liquor in the Canadian fur trade ranks as one of history's more malevolent crimes against humanity.⁹⁶

⁹⁵ Janet M. Billson, 1988, pp. 300-302; Sarah Carter, 1999, pp. 92-93; Douglas MacKay, *The Honourable Company: A History of the Hudson's Bay Company*, Toronto: McClelland and Stewart Company, 1966, pp. 221-228; Peter C. Newman, 1998, pp. 358-366.

⁹⁶ Peter C. Newman, 1998, p. 358.

The Indians in British North America were important allies of the British army during the War of 1812-13, but their power in eastern Canada dwindled as the white population grew and overwhelmed them.⁹⁷ Fleras and Elliott state that:

Reciprocity and accommodation were replaced by a system of internal colonialism and conquest-oriented acculturation, reflecting the need for (a) political control of Native populations, (b) protection of British and French interests, and (c) removal of competition for scarce resources. Political events dictated this relational shift. After the 1812 War with United States, British colonizers no longer required aboriginal peoples as allies Their value rapidly diminished, with the result that aboriginal tribes became stigmatized as obstacles to the progressive settlement of Canadian society.⁹⁸

The British government came under pressure to change Indian policy to encourage Indians to change their way of life, and, “A policy of assimilation evolved as part of this project to subdue and subordinate aboriginal peoples.”⁹⁹ Sarah Carter commented that:

From 1828, the British Indian Department sought to foster the creation of self-supporting, as well as self-governing Aboriginal agricultural communities in British North

⁹⁷ Canada, Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples, Vol. 1, Looking Forward, Looking Back*, Ottawa: Minister of Supply and Services Canada, 1996, p. 141; Sarah Carter, 1999, p. 113.

⁹⁸ Augie Fleras and Jean Elliott, 1992, pp. 40-41.

America. In that year the Indian superintendent of Upper Canada proposed a new function for the department: it would take the lead in ‘civilizing’ the Indians by encouraging them to settle on reserves, and take up agriculture as a livelihood.¹⁰⁰

The *Gradual Civilization Act* (1857) and the *Enfranchisement Act* (1869) promoted individual property ownership as the mechanism for achieving voting rights and cutting ties with tribes – and becoming “civilized.” Aboriginal self-government was discouraged, and government officials were given broad powers over band government.¹⁰¹

In western Canada, the aboriginal peoples continued to be a force that the government and Hudson’s Bay Company had to be concerned about, especially after 1860, when American policies and wars with Indians resulted in some American tribes moving into the Canadian West. The North West Mounted Police was mobilized in 1873 to bring order to the region.

The creation of Canada in 1867 marks the commencement of internal colonialism in that country, and in 1870 eastern Canadian colonial policies were extended into the North-West Territories. Sarah Carter noted that:

When Manitoba and the North-West Territories joined Confederation in 1870, the vast majority of the residents were Aboriginal people, and largely unknown to them,

⁹⁹ Augie Fleras and Jean Elliott, 1992, p. 41.

their lives from then on were to be greatly influenced by policies and legislation developed for nearly 100 years in Eastern Canada, and inherited from British imperial practices. The British North America Act ... had given the Canadian federal government jurisdiction over Indians and Indian reserves. In Western Canada, by 1870 there had been over two centuries of European contact, but no formal challenges to Aboriginal land ownership, except within the territory covered by the Selkirk Treaty.¹⁰²

Aboriginal peoples were not consulted on the important changes taking place in British North America. Laws were passed, agreements made, and Confederation achieved without their knowledge or consent.

According to Carter, the first *Indian Act*, passed in 1876, was built upon the foundations of the colonial laws:

Through the British North America Act, and the legislation aimed at Aboriginal people combined in the comprehensive Indian Act of 1876, the federal government took extensive control of the Aboriginal nations, their land, and their finances. Traditional forms of government were replaced by government/Indian agent – controlled models of government. There was no Aboriginal

¹⁰⁰ Sarah Carter, 1999, p. 113.

participation in the formulation and ratification of this legislation; there were protests and objections raised, but these were ignored.¹⁰³

In 1871 the government of Canada began negotiating treaties with tribes in the newly acquired territories. The opportunity to negotiate was generally welcomed by the indigenous peoples in the region, whose way of life was rapidly eroding as the buffalo herds declined. They were able to negotiate provisions beneficial to their interests, but they were not told about the *Indian Act*, and the impact it would have on their lives and their relationship with federal authorities.¹⁰⁴

Sarah Carter argues that 1885 marked a turning point in aboriginal-white relations in western Canada. The Riel Rebellion by Metis and Cree Indians was suppressed with military force, and there was, “a significant shift in Euro-Canadian attitudes towards aboriginal people after 1885. If there was a shred of tolerance before ... it was shattered in 1885, as thereafter Aboriginal people were viewed as a threat to the property and safety of the white settlers.”¹⁰⁵ Government policy towards Indians changed, so that, “The major goals of government policy ... were to wage war upon what was called the ‘tribal’ system and to rigidly supervise and monitor movements and activities of reserve people.”¹⁰⁶ Federal regulations were approved to suppress traditional and religious practices, and a pass system was introduced to regulate when

¹⁰¹ Sarah Carter, 1999, pp. 115-116.

¹⁰² Sarah Carter, 1999, p. 111.

¹⁰³ Sarah Carter, 1999, p. 115.

¹⁰⁴ Sarah Carter, 1999, pp. 118-122.

¹⁰⁵ Sarah Carter, 1999, p. 161.

¹⁰⁶ Sarah Carter, 1999, p. 162.

and where reserve Indians could travel. This illegal system of travel restrictions lasted, in some locations, until the 1940s.¹⁰⁷

The federal government entered into treaties with various tribes across the West until 1921, but did not treat with the Inuit or with Indians in British Columbia, the Yukon Territory, or most of the tribes living north of the sixtieth parallel. In British Columbia, the colonial (and later, the provincial), government opposed recognition of Indian rights to any significant parcels of land. In the North, the federal government saw no advantage to entering into treaty negotiations with Indians or Inuit.

Federal Indian policy came under criticism after World War II, and this criticism forced federal officials to revisit the *Indian Act*. In 1951 the Act was revised to eliminate some of the more offensive and discriminatory provisions, but the “assimilationist thrust” remained unchanged.¹⁰⁸ Indians remained largely disempowered in Canadian society and most were not even entitled to vote until 1960.¹⁰⁹

In 1969 the federal government released its White Paper on Indian Policy, which proposed the repeal of the *Indian Act* and the Indian Affairs Program of the Department of Indian Affairs and Northern Development (DIAND). In effect, special programs for First Nations would be eliminated, and they would be treated the same

¹⁰⁷ Canada, Royal Commission on Aboriginal Peoples, Vol. 1, 1996, pp. 180-186.

¹⁰⁸ Kenneth Coates, 1991, p. 209; Augie Fleras and Jean Elliott, 1992, pp. 42-43.

¹⁰⁹ Canada, Royal Commission on Aboriginal Peoples, Vol. 1, 1996, p. 249.

as all other citizens.¹¹⁰ Reaction to the proposal was similar to aboriginal peoples' reaction to the termination policy in the United States: protests were held and there was a march on the capital city.

At the same time as the federal government was preparing its White Paper, Indians across the country were calling on the government to recognize their land claims, and launching court challenges to have their rights recognized. The Cree of Northern Quebec launched a court action against the Government of Quebec in 1972 after that government had announced its intentions to build massive hydroelectric infrastructure in the James Bay region without the consent of the Cree. The courts granted the Cree a temporary injunction, and although it was overturned, it added impetus to negotiations that resulted in the James Bay and Northern Quebec Agreement in 1975.¹¹¹

On January 31, 1973, the Supreme Court of Canada handed down its decision on the Nishga Tribal Council's land claim (the *Calder* decision). Although the Nishga lost their case, the court recognized that aboriginal title continued to exist, and the federal government announced a new policy recognizing land claims on August 8, 1973.¹¹²

A number of initiatives were launched in the 1970s and 1980s that had important impacts and implications for aboriginal peoples in Canada. The federal

¹¹⁰ Menno Boldt, *Surviving as Indians: The Challenge of Self-Government*, Toronto: University of Toronto Press, 1993, pp. 297-300; Augie Fleras and Jean Elliott, 1992, p. 43.

¹¹¹ Floyd W. McCormick, *Inherent Aboriginal Rights in Theory and Practice: The Council for Yukon Indians Umbrella Final Agreement*, Edmonton: University of Alberta unpublished dissertation, 1997, pp. 110-112.

government issued a new land claims policy, entitled *In All Fairness*, in 1981,¹¹³ and constitutional negotiations and lobbying resulted in aboriginal and treaty rights being recognized in the Constitution of Canada that same year. Efforts by aboriginal people to have their right to self-government recognized met with some success, especially after the issuance of the Penner Report, in 1983, with the federal government agreeing to negotiate self-government arrangements with individual first nations.¹¹⁴

However, aboriginal aspirations to have the right of self-government entrenched in the constitution were not successful. A series of constitutional conferences to resolve the issue ended in 1987 without agreement.¹¹⁵ Proposals to address aboriginal self-government were not included in the Meech Lake Accord of proposed constitutional revisions, and aboriginal Canadians were appalled that their interests were completely ignored by the process leading to the accord.¹¹⁶

Consequently, when the accord required ratification by the Manitoba legislature, an

¹¹² Steven Smyth, *The Yukon's Constitutional Foundations, Vol. 1, The Yukon Chronology: 1897-1999*, Whitehorse: Claredge Press, 1999, p. 29.

¹¹³ Canadian Arctic Resources Committee, *National and Regional Interests in the North: Third National Workshop on People, Resources, and the Environment North of 60*, Ottawa: Canadian Arctic Resources Committee, 1984, pp. 57-70.

¹¹⁴ The Report of the Special Committee on Indian Self-Government, chaired by Member of Parliament Keith Penner, recommended that "... the right of Indian peoples to self-government be explicitly stated and entrenched in the Constitution of Canada." *Report of the Special Committee*, 1983, p. 141. The Committee did not support amending the *Indian Act* as a route to self-government.

¹¹⁵ Canadian Arctic Resources Committee, *Aboriginal Self-Government and Constitutional Reform: Setbacks, Opportunities, and Arctic Experiences*, Ottawa: Canadian Arctic Resources Committee, 1988.

¹¹⁶ The Prime Minister and provincial Premiers met at Meech Lake, Quebec shortly after the last constitutional conference on aboriginal issues ended in failure in 1987. Northern and aboriginal leaders were not invited to the Meech Lake meeting. The meeting ended with an agreement that met Premier Bourassa's demands for resolution of Quebec's constitutional issues. Northern and aboriginal leaders argued against ratification of the Accord unless it was amended to address their concerns. For aboriginal people, this meant addressing their desire to have self-government protected in the constitution.

aboriginal member blocked the process and frustrated the attempts of the federal government to achieve constitutional reform.¹¹⁷

Measures to address aboriginal self-government were included in the proposed Charlottetown Accord of constitutional amendments in August 1992, but the demise of the proposal later that year in a national referendum meant that the *status quo* remained. The Chretien government agreed in its 1995 policy statement that aboriginal self-government agreements would be treated as if they were constitutionally entrenched, although this did not provide the legal certainty First Nations sought.¹¹⁸

In Canada, conflict between First Nations and federal and provincial governments continued to flourish in the 1990s. The standoff between Indians and Quebec police, then the Canadian military, at Oka, Quebec in 1990 garnered international attention. The dispute over a few acres of land escalated dramatically after a Quebec provincial police officer was shot in the incident. The conflict resulted in the launching of the largest and most expensive royal commission in Canadian history in 1991: the Royal Commission on Aboriginal Peoples. The commission completed its report in 1996, and made hundreds of recommendations addressing aboriginal issues in Canada, including recommendations to entrench aboriginal self-government in the Constitution of Canada.¹¹⁹ But Canada's indigenous peoples have

¹¹⁷ Canada, Royal Commission on Aboriginal Peoples, Vol. 1, p. 212.

¹¹⁸ Bernard W. Funston and Eugene Meehan, *Canada's Constitutional Law in a Nutshell*, Toronto: Thomson Canada Ltd., 1998, p. 157.

¹¹⁹ Canada, Royal Commission on Aboriginal Peoples, Vol. 1, 1996, pp. 141-255.

been disappointed with the federal government's follow up on the recommendations, and the commission has commented that:

This ... review highlights how entrenched the economic disparities between Aboriginal people and Canadians generally are and how they increased during the 1980s. It is quite possible that during the 1990s these disparities have continued to widen.... The rapid rise in federal social assistance expenditures from 1991-92 to 1995-96 ... suggests that conditions may have worsened in First Nation communities.... After adjusting for population and price changes, we calculate that the economic gap between Aboriginal people and an equivalent number of Canadians will reach \$5.8 billion in 1996, compared with \$4.4 billion six years earlier.¹²⁰

In January 1998, the federal government responded to the Royal Commission on Aboriginal Peoples report by releasing *Gathering Strength – Canada's Aboriginal Action Plan*, "a long term, broad-based policy approach designed to increase the quality of life of Aboriginal people and to promote self-sufficiency."¹²¹ The four key objectives of the policy are stated as follows:

- Renewing the Partnerships speaks to bringing about meaningful and lasting change in our relationships with

¹²⁰ Canada, Royal Commission on Aboriginal Peoples, Vol. 5, 1996, pp. 31-32.

¹²¹ Canada, Indian and Northern Affairs, *Gathering Strength – An Aboriginal Action Plan*, http://www.ainc-inac.gc.ca/gs/index_e.html, May 23, 2003, p.1.

Aboriginal people;

- Strengthening Aboriginal Governance is about supporting Aboriginal people in their efforts to create effective and accountable governments, affirming treaty relationships, and negotiating fair solutions to Aboriginal land claims;
- Developing a New Fiscal Relationship means arriving at financial arrangements with Aboriginal governments and organizations which are stable, predictable, and accountable and will help foster self-reliance; and
- Supporting Strong Communities, Peoples and Economies focusses on improving health and public safety, investing in people, and strengthening Aboriginal economic development.¹²²

Headlines in national media since 1998 have reflected the fact that many First Nations continue to feel aggrieved by their economic and social status, and continue to confront governments to assert their rights to land, resources and governance. Canadian federal policies have not succeeded in resolving the grievances of Canada's aboriginal peoples, and, despite the resources they have dedicated to aboriginal issues (over \$7 billion annually), a large number of Canadian aboriginal people continue to live in poverty and suffer a disproportionate share of social problems.¹²³ In January, 1998 Indian and Northern Affairs Minister Jane Stewart made a public apology to

¹²² Indian and Northern Affairs, 2003, p. 2.

First Nation people who suffered abuse in residential schools, and announced the establishment of a \$350 million healing fund to assist them.¹²⁴ However, legal actions were launched against the federal government and churches that ran residential schools across Canada, including the North. In 2002, the federal government established a dispute resolution process to divert some of the claims for compensation out of the court process. And in February, 2003, the \$12 billion class action suit representing victims of residential schools dropped its claim against the churches and focused its lawsuit solely on the federal government.¹²⁵

Indian Policy in the Yukon Territory: 1840 - 1941

The expansion of the fur trade into the area now known as the Yukon Territory did not occur until the 1840s, when LaPierre House and Fort Youcon were established. Here competition with the Russian American Company occurred,¹²⁶ and aboriginal trade patterns were altered. In the northern Yukon, the Indians impeded fur-trader exploration into the Yukon River basin in order to protect their trading monopolies.¹²⁷ Further south, Hudson's Bay Company employee Robert Campbell opened a trading post at Fort Selkirk and competed with the coastal Chilkat Indians for furs. He had to abandon the post after it was sacked by the Chilkats in 1852.

The purchase of Alaska in 1867, and the expansion of American fur traders up the Yukon River, improved Indian traders' negotiating power. If they did not like the

¹²³ *National Post*, February 24, 2003.

¹²⁴ Steven Smyth, *The Yukon's Constitutional Foundations: Vol. 1, The Yukon Chronology, (1897-1999)*, Whitehorse: Claireedge Press, 1999, p. 270.

¹²⁵ CHON-FM radio news report, February 26, 2003.

¹²⁶ Allen A. Wright, 1976, pp. 49, 56.

¹²⁷ Kenneth Coates, 1991, p. 22.

prices one company offered, they could take their furs elsewhere.¹²⁸

Prospecting and small scale mining in the Yukon prior to the gold rush provided Natives with economic opportunities as well, but the gold rush of 1897-98 brought tens of thousands of would be miners to the Yukon and cheap labor was readily available. Racist views resulted in white people being hired in preference to Natives, and Natives were relegated to the economic periphery.¹²⁹

Some Yukon Natives, and some non-Natives acting on behalf of the Indians, attempted to engage the federal government in treaty negotiations after the turn of the century. Chief Jim Boss obtained the assistance of a lawyer, T.W. Jackson, to petition the Minister of Interior for treaty negotiations in 1902, but the Minister rejected the overture. Further attempts in subsequent years were also rejected.¹³⁰

According to Kenneth Coates, the forty years following the gold rush witnessed “the institutionalization of rigid exclusion of Natives from the dominant society.... The separateness of the races originated in the dualistic character of the regional economy and was supported by strong racist attitudes.”¹³¹ The federal government displayed little interest in providing programs or assistance to Natives in the North, and Coates asserts that: “In both the Yukon and Northwest Territories, responsibility for native health and education was left in the hands of the Catholic and Anglican missionaries, supported by small federal grants.”¹³² Canadian historian

¹²⁸ Kenneth Coates, 1991, p. 30.

¹²⁹ Kenneth Coates, 1991, p. 52.

¹³⁰ Steven Smyth, 1999, p. 6; Kenneth Coates, 1991, p. 163.

¹³¹ Kenneth Coates, 1991, p. 86.

¹³² Shelagh D. Grant, *Sovereignty or Security? Government Policy in the Canadian North: 1936-1950*, Vancouver: The University of British Columbia Press, 1988, p. 33.

Shelagh Grant concurred with Coates, noting that, “Their [Canadian Native] living standards compared poorly with those of the Natives of Alaska, Siberia and Greenland. In 1939, the Russian Eskimos were piloting planes; the Alaskans operated businesses; and the Greenlanders were electing their own councils. In Canada, the northern Indians and Inuit had no say in the economy, religious practices, education, law, or politics.”¹³³

Indian Policy in the Yukon Territory: 1941 - 1973

As in Alaska, World War II resulted in significant changes to the lives of Yukon’s aboriginal peoples. The construction of the Alaska Highway, Canol pipeline, airports and weather stations drastically increased contact between aboriginal and non-aboriginal people, especially American servicemen and construction workers. Communities once insulated from the “Outside” suddenly became way stations on the Alaska Highway. Communicable diseases spread rapidly through these communities, and health services were not adequate to the task.¹³⁴ Canadian historian Shelagh Grant notes that:

In this respect, the arrival of the United States Army was a blessing. As had occurred in the Yukon, American medical officers stationed in the Northwest Territories volunteered their services to both native and white inhabitants, but much to the consternation of the northern administration, they frequently notified Canadian authorities

¹³³ Shelagh D. Grant, 1988, p. 40.

of the highly unsatisfactory conditions. Yet, despite awareness of inadequate health services, there was little attempt to remedy the situation.¹³⁵

Political scientist Gurston Dacks noted that the process of Indian urbanization began with the construction of the highway, as “Many native people moved to crossroads on the Highway in the hope of gaining employment.... Others moved because they were ejected by [the federal] government from the lands they had traditionally occupied. This ejection remains a major source of Indian bitterness in the Yukon.”¹³⁶ Social programs for Yukon Indians improved after World War II as national social programs were developed. But the national policies of assimilation remained, and the lot of many Indians actually deteriorated. Kenneth Coates observed that the Indian crime rate in the Yukon was low prior to 1950, with little violent crime, but many liquor related offences.¹³⁷ After 1949, aboriginal crime rates escalated, so that by 1987 some 60 percent of inmates of the Whitehorse Correctional Centre were Indians, although they represented only eighteen percent of the total Yukon population.¹³⁸

Indian usage of land in the Yukon was severely disrupted as government and private activity expanded. New laws pertaining to big game guiding and trap line registration were invoked, and oil and gas leases, mining claims, and private land

¹³⁴ Canada, Royal Commission on Aboriginal peoples, Vol. 1, 1996, pp. 439-440.

¹³⁵ Shelagh D. Grant, 1988, p. 89.

¹³⁶ Gurston Dacks, 1981, p. 35.

¹³⁷ Kenneth Coates, 1991, pp. 179-180.

holdings increased significantly, at the expense of traditional usage by Indians. And the Indian bands were poorly equipped to oppose or protest the land use changes.

Federal officials began “rationalizing” Indian administration in the Yukon in the post war period – moving and combining bands for administrative efficiency.¹³⁹ According to Coates, “Some newly created bands had developed little of the internal cohesion required for an organized response.”¹⁴⁰ The consequences of this administrative rationalization manifested itself in the 1990s, when the aboriginal people of the Lake Laberge area demanded that they be considered a separate First Nation from the Kwanlin Dun First Nation in land claim negotiations, and in the internal conflicts which broke out within the Kwanlin Dun First Nation.

Kenneth Coates asserts that Yukon Indian demands to have their land rights recognized were stymied because Ottawa did not want to upset the Government of British Columbia:

Ottawa was reluctant to accept demands for a Yukon treaty.

The explanation for this reluctance, which stood in contrast to the government’s willingness to sign treaties across the prairie west and middle north, ironically rested with the sensitive question of aboriginal land rights in British Columbia.

¹³⁸ Heino Lilles, “Some Problems in the Administration of Justice in Remote and Isolated Communities,” speech notes for presentation at the C.I.A.J. Conference, Kananaskis, Alberta, October 11-12, 1989, p. 4.

¹³⁹ “Several bands were, in fact, amalgamations of different cultural groups: Champagne and Aishihik were joined in the early 1970s, Upper Liard-Lower Post was a merger of five bands created in 1961, Kluane represented a grouping of the Indians from Snag, Burwash, and Kloo Lake that started in 1961, and the Whitehorse Indians were joined with those from Lake LaBerge in the mid-1950s.” Kenneth Coates, 1991, p. 234.

¹⁴⁰ Kenneth Coates, 1991, p. 234.

The B.C. government had since 1870 steadfastly refused to consider Native requests for treaty rights. When Treaty No. 8 was negotiated in 1899, it was made clear to the commissioners that no discussions were to be held with Indians to the west of the Rocky mountains ... for fear that such discussions would prejudice the BC situation. The Yukon Indians' land rights had, according to government advisers in the 1960s, been sacrificed on the alter of federal-provincial politics.¹⁴¹

In 1969 Yukon Indian hopes for recognition of their land rights appeared doomed with the issuance of the White Paper on Indian Policy. But vociferous protests from indigenous peoples and their organizations convinced the federal government to drop its plans to eliminate all special rights for Indians, and a new policy had to be found.

Indian Policy in the Yukon Territory, 1973 – 2003: Settling Native Land Claims

The federal government recognized that it needed a new policy on land claims after the aboriginal people rejected the 1969 White Paper, which proposed the elimination of the *Indian Act* and all special rights for aboriginal people, and the Supreme Court of Canada handed down its decision on *Calder*, on January 31, 1973. The Yukon's Indians were the first to take advantage of the federal government's change in policy to accept land claim proposals. Within weeks of the *Calder* decision, which recognized that aboriginal title still existed in Canada, Yukon Native

¹⁴¹ Kenneth Coates, 1991, p. 236.

Brotherhood (YNB) leader Elijah Smith had arranged a meeting with Prime Minister Pierre Elliot Trudeau and the Minister of Indian and Northern Affairs, Jean Chretien to present their statement of claim: *Together Today for Our Children Tomorrow*. Trudeau accepted the claim even though the government's official policy statement was not released until August of 1973.

The acceptance of the land claim proposal provoked a strong reaction from non-Indians in the Yukon. Many whites feared that their land would be expropriated, and they had little understanding of the legal issues underlying the claim. Their mistrust of the negotiation process was amplified by the secrecy of the negotiations, and their hopes for economic development were frustrated by land disposition freezes that were imposed to facilitate the negotiations.¹⁴²

When negotiations commenced, the Yukon's Commissioner was a part of the federal negotiating team. Negotiations were, in effect, a bilateral negotiation between the Yukon Native Brotherhood and the federal government. As claims progressed, Yukon government participation changed to reflect a larger and more independent role, and eventually negotiations evolved into a tripartite process by 1979. Aboriginal leaders opposed a greater role for the Yukon government, but their wishes did not prevail.¹⁴³ At that time, the issues of territorial constitutional development, land claims, and economic development were all issues vying for the Minister of Indian and Northern Affairs' attention. In a letter to Commissioner Christensen, Minister Hugh Faulkner wrote:

¹⁴² Gurston Dacks, 1981.

I should emphasize that the three matters which I have in mind – constitutional development, Indian land claims, and economic development (including pipelines) – all have a high degree of priority, and none of them can be pursued ... at the expense of one or more of the others....The complexity of the linkages between these priorities is illustrated by the current constitutional situation in the territory. The elected Territorial Council has been pressing for further transfers of authorityYukon Indians, who have a direct relationship with the Federal Government...have at the same time been pressing for greater authority...The requirement to reconcile the spirit and objectives of the Yukon and Indian Acts, as they relate to Government in the Yukon, poses a complex political problem for the Federal Government, and more particularly for me as the Minister responsible.¹⁴⁴

Negotiations from 1978 – 1984 were often acrimonious and interrupted by walk outs by either Yukon government negotiators or Indian negotiators.¹⁴⁵ The Yukon government also opposed the terms of the Committee for Original Peoples Entitlement (COPE) Agreement in Principle, which covered the north slope of the territory, that was reached by federal and Inuit negotiators in 1978 without Yukon

¹⁴³ Steven Smyth, "Constitutional Development in the Yukon Territory: Perspectives on the 'Epp Letter,'" *Arctic*, Vol.52, No. 1, Calgary: The Arctic Institute of North America, 1999, p. 73.

¹⁴⁴ Minister Hugh Faulkner to Commissioner Ione Christensen, January 25, 1979.

government participation.¹⁴⁶ Yukon negotiators succeeded in having some of the terms of that agreement altered, and subsequently signed it in 1984.¹⁴⁷

The urgency of addressing land claims in the Yukon was increased during the Berger Inquiry into the Mackenzie Valley pipeline proposal, when it became apparent that an Alaska Highway pipeline route would be a viable option to the Mackenzie Valley route. The federal government quickly launched the Lysyk Inquiry to study that option, and then announced its support for the highway route even though Yukon Indians opposed the construction of the pipeline before their claims were settled.¹⁴⁸ Indian negotiators alienated non-Indian Yukon residents and Yukon government officials by calling on the federal government to freeze land dispositions, delay pipeline construction, and delay territorial constitutional change until land claims were settled. Prime Minister Trudeau also expressed frustration over the Indians' position on the pipeline when he met with them in August, 1977.¹⁴⁹

¹⁴⁵ Jonathan L. Pierce, *Indian land Claims in the Yukon, 1968-1984: Indian Rights as Human Rights*, Ottawa: Carleton University, unpublished thesis, 1988.

¹⁴⁶ Jonathan L. Pierce, 1988, p. 108. Note: agreements in principle are agreements drafted and approved by negotiators but have not been ratified by governments and First Nations.

¹⁴⁷ Steven Smyth, 1999, pp. 36-116. On March 23, 1984, federal, Yukon and COPE negotiators reached a 16 point agreement that resolved outstanding issues that the Yukon Government had with the COPE Agreement-in-Principle. The main provisions of the 16 clause agreement state that: the provisions of the Inuvialuit Final Agreement were not intended to serve as precedents binding in any other negotiations; the parties would continue negotiations on the Porcupine Caribou Management Agreement; the arbitration provisions of the Agreement would be amended to increase Yukon representation on arbitration panels as Yukon's constitutional jurisdiction increased; Yukon Government representation on Land Use Planning and Environmental Screening and Review processes would increase as the Yukon's constitutional jurisdiction increased; the agreement would have no impact on the process of devolution. Yukon Legislative Assembly, *Sessional Paper No. 6*, March 26, 1984.

¹⁴⁸ Jonathan L. Pierce, 1988, pp. 90-98.

¹⁴⁹ Steven Smyth, 1999; Legendseekers Anthropological Research, *Yukon First Nation Land Claims Chronological Listing of Events from 1973-1993*, unpublished, 1997; Gurston Dacks, 1981.

The positions of the federal and First Nation negotiators were quite far apart until 1981, when a Liberal federal government was elected and the federal negotiating mandate was altered by the Minister of Indian Affairs. A number of agreements in principle were signed by the parties, and gradually the components of a proposed comprehensive agreement came together in 1984. The main elements of the proposed agreement were: 8,000 square miles of land with surface title and subsurface rights; cash compensation of \$380 million; establishment of several corporate structures to manage the funding; guaranteed representation on a wildlife management board; exclusive rights to hunt on settlement lands; fifty percent of the annual harvest of moose and caribou; and a “one-government” system, where Indians were guaranteed representation on territorial boards and committees, but bands would have limited jurisdiction.¹⁵⁰ The majority of First Nations in the Yukon voted to approve the proposed claim settlement that spring and summer, however, the National Indian Brotherhood (NIB) opposed the agreement because it proposed to extinguish aboriginal rights. In August the Council for Yukon Indians (CYI – successor organization to the Yukon Indian Brotherhood) general assembly voted to renegotiate six major elements of the proposed agreement, including provisions to grant self-government, and thus rejected it.¹⁵¹

New negotiation mandates were developed after the federal election in 1984 (which elected a Progressive Conservative Party government), and the territorial election in 1985 which elected a New Democratic Party (NDP) government. The

¹⁵⁰ Jonathan L. Pierce, 1988, pp. 142-147.

Yukon NDP government included two prominent aboriginal leaders as cabinet ministers, and another was appointed speaker of the Yukon Legislative Assembly. The Minister of Renewable Resources, David Porter, was also a former negotiator for CYI. Settling land claims became the top priority of the new government.

New negotiators were appointed who brought new perspectives to the process, and late in 1985 Government Leader Tony Penikett and Council for Yukon Indians Chair, Mike Smith, signed a memorandum of understanding to recommence negotiations. The federal government issued a new land claims policy in December 1986 which no longer required the extinguishment of aboriginal rights as a precondition for settling Native land claims, which addressed a major concern of the First Nation claimants.¹⁵²

On the initiative of the Yukon's chief negotiator, Barry Stuart, the negotiation process became more collaborative and less confrontational. Utilizing the approach of principled negotiation, which focused on each party's interests, rather than their positions, the negotiators began to make progress. The process also became more community oriented: negotiations were conducted in Yukon communities rather than in Toronto, Vancouver and Ottawa. Thirdly, the process became more "open." While still conducted largely in secrecy, the process permitted more parties to participate,

¹⁵¹ Jonathan L. Pierce, 1988; Steven Smyth, 1999, pp. 114-118.

¹⁵² The aboriginal rights in question were, and remain, largely undefined. The purpose of the land claims process was to replace those undefined rights with clear rights to land and resources as set out in the agreement. See Floyd McCormick, 1997, pp. 73-83; Bernard Funston and Eugene Meehan, 1998, pp. 145-56.

directly or indirectly, in the process. Finally, timelines were introduced to impose discipline on the process.¹⁵³

The negotiation process was complex. The Yukon Legislative Assembly's Special Committee report on land claims noted that:

It involves a number of key elements. There is a main table for the negotiations of the major elements of all land claims and self-government agreements, and the main table involves representatives of the three key parties: CYI and First Nations, the territorial government and the federal government. The negotiators at the main table are supported by legal and technical staff From time to time, when there are difficult technical issues for negotiation at the main table and issues that are beyond the technical expertise of the negotiators, working groups are established that report to the main table. Working groups tend to be three-party working groups that are sent off to work through options for the resolution of ... issues. These options will be brought back to the main table and discussed and negotiated by the main table negotiators.¹⁵⁴

¹⁵³ Floyd McCormick, 1997, pp. 53-56; Graham E. Gomme, *Interest Group/Government Intermediation in the Yukon Indian Land Claim*, Victoria: University of Victoria, unpublished thesis, 1990.

¹⁵⁴ Yukon Legislative Assembly, *Report of the Special Committee on Land Claims and Self-Government, No. 1*, Whitehorse: Yukon Legislative Assembly, 1993, p. 2.

The main table was also supported by an implementation planning working group, made up of representatives of each of the parties. It was responsible for translating the finalized agreements into work plans to implement the agreements.¹⁵⁵

The new process paved the way for the signing of an agreement-in-principle on November 8, 1988.¹⁵⁶ However, controversies over federal policies and actions continued to impede progress toward a final agreement. The federal government continued to oppose entrenchment of self-government in the constitution (until 1992, when federal proposals to include it were rejected in the referendum on the Charlottetown Accord); the CYI boycotted negotiations during the “Oka crisis” in Quebec in 1990; and the Yukon government threatened non-cooperation after the federal government signed a land claim agreement with the Tetlit Gwitch’in in the Northwest Territories that granted the First Nation rights to 1500 square kilometers of land in the Yukon.

The achievement of an agreement on self-government in November 1991 was the final hurdle in reaching an agreement, and the Umbrella Final Agreement, along with four Yukon First Nation Final and Self-Government Agreements were signed in a public ceremony in Whitehorse on May 29, 1993. The agreements were ratified by the respective First Nations by voting. Legislation to ratify the agreements was approved by the Yukon legislature and given assent on March 13, 1993, and federal legislation to ratify the agreements was tabled in the House of Commons on May 31, 1994. The legislation was only opposed by the federal Reform Party and the Kaska

¹⁵⁵ Yukon Legislative Assembly, 1993, No. 1, p. 2.

First Nations of the Yukon, who sought amendments. The government, using its majority, ensured that no amendments were allowed, and the legislation was given Royal Assent on July 7, 1994.¹⁵⁷

The Umbrella Final Agreement granted the Yukon's 6,000 First Nations members 16,000 square miles of land (approximately 8.6 percent of the land base of the Yukon): 10,000 (5.4 percent of the Yukon) of which is "Category A," providing surface and subsurface rights, and 6,000 (3.2 percent) is "Category B," granting surface rights only. The location of the land selected by each First Nation is the subject of "band by band" negotiations. The First Nations share \$242 million (in 1989 dollars), and a training trust fund of \$500,000 was established. First Nations with settled agreements also share in resource revenues according to a formula set out in the agreement. Thirdly, First Nations are guaranteed representation on a variety of resource management boards established under the agreement, to which the Yukon and federal governments can also appoint members.

Self-government agreements are also negotiated with each First Nation. These agreements give First Nations a wide array of legislation-making powers that apply on their settlement lands, including land management, hunting, fishing, trapping, habitat protection, signage, licensing, zoning, traffic control, environmental protection, and firearms. They will also be able to pass laws and administer programs to their citizens that live off of settlement lands, and can negotiate with the Yukon

¹⁵⁶ Steven Smyth, 1999, pp. 134, 146, 160.

¹⁵⁷ Steven Smyth, 1999, pp. 235-236.

and federal governments to deliver programs that have historically been delivered by those governments.¹⁵⁸

The Umbrella Final Agreement and each First Nation final agreement address one of the fundamental elements of internal colonialism that has characterized government-aboriginal relations in Canada: the historic absence of consultation. Under the agreements, governments have a legal obligation to consult First Nations on a wide range of issues. The Umbrella Final Agreement and each First Nation final agreement states:

“Consult” or “Consultation” means to provide:

- (a) to the party to be consulted, notice of a matter to be decided in sufficient form and detail to allow that party to prepare its views on the matter;
- (b) a reasonable period of time in which the party to be consulted may prepare its views on the matter, and an opportunity to present such views to the party obliged to consult; and
- (c) full and fair consideration by the party obliged to consult of any views presented.¹⁵⁹

This provision is a major step in rectifying the problems inherent in colonial relationships, but old habits die hard. A recent review of land claim implementation

¹⁵⁸ Steven Smyth, 1999, pp. 121-126.

¹⁵⁹ Canada, *Umbrella Final Agreement between The Government of Canada, The Council for Yukon Indians and the Government of the Yukon*, Ottawa: Minister of Supply and Services Canada, 1993, p. 2.

issues found that lack of consultation continued to be one of the major complaints of First Nations with final agreements.¹⁶⁰

The Umbrella Final Agreement required the enactment, by the federal government, in consultation with the Yukon government and First Nations, of a single development assessment process that would apply on federal, Yukon, and First Nation lands, so that there would not be a patchwork approach to environmental assessment processes in the Yukon.

A third innovative element was the dispute resolution process written into the Umbrella Final Agreement and the individual First Nation final agreements, which enables parties to a claim-related dispute to seek mediated solutions rather than going to court. While these provisions have yet to be utilized, they remain an inexpensive alternative to costly court battles that have plagued other First Nations in North America.

A fourth major innovation of the Yukon land claim settlements was the resolution of taxation issues relative to Yukon First Nations. Historically, non-aboriginal people would point to taxation benefits that Yukon First Nation people received as a discriminatory practice that was race-based and unfair. With the settlement of a land claim, First Nation citizens became subject to the payment of income taxes, and, in addition, First Nation governments were empowered to levy taxes on their citizens. A major issue that generated inter-racial resentment was eliminated.

¹⁶⁰ Canada, *Five-Year Review of the Umbrella Final Agreement Implementation Plan and Yukon First Nation Final Agreement Plans for the First Four Yukon First Nations: February 14, 1995 – February 13, 2000*, Ottawa: Minister of Public Works and Government Services Canada, 2000.

A major point of contention between Yukon aboriginal people and non-aboriginal people that historically proved problematic for race relations was the issue of subsistence harvest rights. Historically, Yukon Indians could harvest virtually any form of wildlife at any time of the year for subsistence purposes under federal law, while non-Indians were restricted to a variety of seasons, bag limits, and other restrictions. As land claims are settled, First Nation citizens are entitled to hunt on their own lands or the lands of another First Nation which grants them hunting rights. However, they will be subject to whatever laws the First Nation governments pass that govern hunting on First Nation lands. Indians can also hunt on Crown lands, but are then subject to the laws of general application. These arrangements appear to satisfy most Indians and non-Indians throughout the Yukon.

While the benefits of the land claims settlements are significant, the Yukon has pioneered other innovations that have fostered better inter-racial relations, such as circle sentencing. Territorial Court Judge Barry Stuart initiated circle sentencing in the Yukon in the early 1980s, but the first recorded judgment involving circle sentencing was *R. versus Moses*, in 1991.¹⁶¹ Circle sentencing involves interested members of a community, as well as representatives of the Crown and defense, in the sentencing process. Everyone in the court sits in a circle, and each has equal opportunity to speak to sentence. Those attending may speak directly to the accused as well. The court attempts to identify a support group for the person sentenced, and to assist that person in meeting any court ordered obligations that form part of the

¹⁶¹ Barry D. Stuart, *pers. comm.*, 2004. See also: *R.v. Moses*, in *Canadian Criminal Cases*, (Third Series), Vol. 71. Aurora: Canada Law Book, Inc., 1992, pp. 347-385.

sentence.

The process was found to be a useful alternative to the normal sentencing procedures, where only Crown and defense counsel address the court, and the process was soon adopted and formalized as a community justice initiative by the Kwanlin Dun First Nation in Whitehorse. This approach also gained favor with members of the Royal Canadian Mounted Police serving in the Yukon, and with successive territorial governments, and is being tried in many other communities across Canada. Judges in other parts of Canada began utilizing the approach as a better way to deal with some sentencing issues before them, especially where Native people were being sentenced.

Since 1993, negotiations have focused on settling the remaining ten First Nation final and self-government agreements. As additional claims agreements are achieved in the Yukon, they are not debated in parliament. Each agreement is ratified by a vote of First Nation members, by the Yukon cabinet, and by the federal cabinet. Once all parties have ratified the agreements, they are given legal effect by Orders-in-Council, thus precluding parliamentary debate of the terms of the agreements.

Conclusion

Colorado University law professor Charles Wilkinson has suggested that:

A central policy issue in Indian affairs [in the United States] has always been whether Indian tribes should remain separate or whether they should be assimilated into the larger society. Policies such as allotment and

termination, for example, were assimilationist. Indians, on the other hand, press for acceptance, as the philosophical centerpiece of federal Indian policy, of the principle that Indian tribes are permanent institutions in national policy.¹⁶²

This review of Indian policy in Canada and the United States confirms that, while policy instruments varied, federal Indian policy in Canada was preoccupied with the same issue of assimilation versus separation. Furthermore, federal policy toward Indians living in the northern regions of both countries differed from its approach to southern Indians in that neither country viewed treaty making as necessary until late in the twentieth century.

In both Canada and the United States, indigenous peoples have a special legal relationship with the federal government that is often referred to as a “fiduciary” or “trust” relationship, although these concepts do not adequately define the full extent of that relationship.¹⁶³ In Canada, aboriginal rights were subject to alteration, even elimination, due to the doctrine of “supremacy of parliament,” until they were recognized and protected in the *Constitution Act* in 1982, while in the United States aboriginal rights are still subject to congressional “plenary” powers.¹⁶⁴ In both Canada and the United States there is no clear definition of aboriginal rights.¹⁶⁵ Each tribe negotiated its own treaty terms with federal agents, but some tribes were not

¹⁶² Charles F. Wilkinson, 1987, p. 75.

¹⁶³ David S. Case, 1984, p. 5; Canada, Royal Commission on Aboriginal Peoples, 1996, Vol. 1, p. 223.

¹⁶⁴ Bernard Funston and Eugene Meehan, 1998, p. 148; David S. Case, 1984, p. 4.

¹⁶⁵ Bernard Funston and Eugene Meehan, 1998, pp. 145-46; Charles F. Wilkinson, 1987, pp. 7-12.

given an opportunity to negotiate treaties; some treaties were abrogated; and federal laws were changed to grant or remove rights. As a consequence, the courts were left with a difficult job of interpreting the laws and, in many cases, deciding what aboriginal rights were on a case by case basis.

In Canada, the executive arm of government has been the primary agency responsible for negotiating and administering treaties, aboriginal policies and the *Indian Act*. The courts have interpreted and applied the law as cases arose, but the *Indian Act* has generally withstood legal challenges. Parliament serves primarily to ratify the laws that are placed before it.

Vine Deloria and David Wilkins contrast the Canadian situation with that of the United States, where:

the role of each of the branches of government with respect to Indians has changed dramatically. The legislative branch has become the dominant actor in the lives of Indians, and the judicial branch is nearly as important in its role in interpreting the laws of Congress that deal with Indians. The role of the president and the executive branch have changed most fundamentally. With the expansion of the federal government, the bureaucracy itself exercises significant veto power over the president's program and affects congressional lawmaking as well. By stalling the implementation of laws, writing the rules and regulations under which programs operate, and manipulating

budget items, the bureaucracy appears to have become a fourth independent branch of government.¹⁶⁶

In both countries, specialized bureaucratic agencies, the Bureau of Indian Affairs, and the Department of Indian Affairs, were established to administer the indigenous populations, and aboriginal people could not participate in political affairs unless they were deemed to be “civilized.” National policies towards aboriginal peoples fluctuated significantly over time, reflecting contradictory perspectives about how they should be treated. In Canada, Indians were the subject of systemic racial discrimination under the *Indian Act*:

The distinctive place accorded Indian people by the *Indian Act* was not a privileged one. It was marked by singular disparities in legal rights, with Indian people subject to penalties and prohibitions that would have been ruled illegal and unconstitutional if they had been applied to anyone else in Canada.¹⁶⁷

Both countries have attempted to terminate their special relationships with indigenous peoples and to eliminate special programs and racially defined rights, provoking strong reactions and policy reversals on this issue.

The indigenous peoples of the Yukon and Alaska were treated as internal colonies of Canada and the United States during most of the nineteenth and twentieth centuries. However, they were not treated in exactly the same way as southern

¹⁶⁶ Vine Deloria and David Wilkins, 1999, p. 33.

Indians during this time. The federal governments of Canada and the U.S. decided not to treat with the aboriginal peoples of the North until court decisions determined that they had unextinguished title to lands not under treaty.

In Alaska, the decision to settle land claims was driven by non-aboriginal interests – to enable the state to acquire its allotment under the *Statehood Act*, and to facilitate the construction of an oil pipeline from Prudhoe Bay to Valdez. Initial offers to settle the claims sought to minimize both the land quantum and compensation limits, and only intense lobbying by the Alaska Federation of Natives was effective in increasing those amounts.

In the interim, Alaska's indigenous peoples were subjected to discriminatory national policies that they were generally not consulted on, and which had profound impacts on their lives. National parks were established, hunting regulations were changed, and other measures affecting aboriginal people were taken without considering the impacts on them. When aboriginal people voiced their concerns, they were frequently ignored.

While aboriginal skills and services as packers and hunters were at times highly valued, they were sidelined when cheap, non-aboriginal labor was available (for example, during the gold rush), or when technology was imported. Aboriginal people received poorer educational opportunities than non-aboriginal people and were relegated to the margins of industrial society in the North. Aboriginal people in both Alaska and the Yukon had standards of living well below the average for non-

¹⁶⁷ Canada, Royal Commission on Aboriginal Peoples, Vol. 1, 1996, p. 257.

aboriginal people, and after increased contact during and after World War II, social problems also increased. Their subsistence lifestyle continued, albeit under increasing pressures. ANCSA eliminated Native subsistence harvest rights, but these rights were renewed under the *Alaska National Interest Lands Conservation Act*, and conflicts between federal and state legislation have resulted in separate fish and wildlife management regimes being applied on federal and state lands in Alaska. This situation has soured aboriginal and non-aboriginal relations in Alaska, and numerous efforts to find a constitutional solution to the problem have been fruitless to the present.

In contrast, land claim settlements in northern Canada have resolved the subsistence harvest debate. Indians in the Yukon have the ability to control hunting on their own lands, and participate actively on Renewable Resource Councils and the Fish and Wildlife Management Board created under the Umbrella Final Agreement.

The theory of internal colonialism predicts that, as social contact increases between races, a cultural division of labor is created in which one ethnic group dominates the other, and “As a consequence ... there is a crystallization of the unequal distribution of resources and power between the two groups. The superordinate group, or core, seeks to stabilize and monopolize its advantages through policies aiming at the institutionalization of the existing stratification system.”¹⁶⁸ The history of relationships between non-aboriginal peoples and aboriginal peoples in North America appears to confirm this theory, at least until

¹⁶⁸ Michael Hechter, 1975, p. 9.

modern land claims were negotiated. The national policies of Canada and the United States, following the decline of aboriginal military power in the South, and the decline of the fur trade in the North, resulted in the economic marginalization of aboriginal peoples. These policies were extended into Alaska and the Yukon in the nineteenth century, with the notable exception that few reserves were created and no treaties were formalized.

The policies of internal colonialism towards aboriginal people in Canada and the United States began to erode after World War II as public opinion shifted, human rights laws were passed, and court decisions struck down discriminatory laws. Nevertheless, federal policies of assimilation continued in both countries, and aboriginal peoples continued to be economically and socially disadvantaged relative to non-aboriginal people. National governments did not feel the need to conclude treaties with Natives in Alaska and the Yukon until convinced by the courts that aboriginal people had rights to the land and economic pressures made settling land claims a priority. These economic pressures added leverage to the Natives' negotiating position, enabling them to finalize agreements that boosted their social and economic status in northern society. For northern aboriginal people, land claim settlements have been their most powerful weapon in breaking down the cultural division of labor created by policies of internal colonialism. However, they have not been a panacea for the social and economic ills of northern indigenous peoples. While the socio-economic status of some aboriginal people in Alaska and the Yukon has improved significantly since the 1970s, many in these jurisdictions still face

significant social and economic problems, and their standard of living is not yet equal to the non-aboriginal people in these societies. Furthermore, racism continues to be a social issue that demands the attention of governments. For example, in 2001 an incident involving non-aboriginal youths targeting aboriginal people for a paint-balling attack resulted in the Governor of Alaska launching a major campaign to combat racism in the state.¹⁶⁹

Finally, it should be recalled that, while statehood was an initiative of the people of Alaska, and the impetus to resolve land claims came from the indigenous people of Alaska, both statehood and land claims could only be resolved by federal processes, and required federal legislation and federal leadership. Lobbying by Alaskans was important to shaping the final policy outputs, but legislators from many other states were also influential in shaping the legislation, as were federal public servants, and lobbies based in the lower 48.

In the Yukon, land claims were launched in 1973, and impetus to settle the claims was added during the Mackenzie Valley and Alaska Highway natural gas pipeline proposals. The processes for achieving land claim settlements differed significantly between Alaska/ U.S. and the Yukon/Canada. In Alaska/U.S., the process focused on specific legislative initiatives that were debated in legislative committees and in Congress. The process was largely open and transparent, with a few *in camera* meetings. In the Yukon/Canada, the process was largely conducted by secretive negotiations amongst three parties until an agreement was achieved. Once

¹⁶⁹ *Whitehorse Star*, April 20, 2001, p. 12.

an agreement was reached by the negotiators, ratification of the agreement by Parliament was quick and accomplished without amendments. The federal government, possessing a majority in the House of Commons, was able to get the bill through Parliament without acceding to Opposition requests for changes. "Outside" forces consisted primarily of southern-based officials in the federal departments of justice, and energy, mines and resources, and other agencies that commented on draft agreements, although some organizations, such as national Indian organizations, also influenced the process.¹⁷⁰ Court decisions, such as *Sparrow*,¹⁷¹ caused portions of the Final Agreement to be renegotiated to reflect new case law as it evolved.

Nevertheless, as in Alaska, the key to resolving the land claim issue rested with the federal government, and a shift in federal policies was necessary to address the outstanding claims of Yukon Indians.

Aboriginal people in the Yukon and Canada are still suffering the effects of "mission school syndrome," as a consequence of federal policies of assimilation. While churches were the vehicle for carrying out the policy, the claimants of compensation have recently recognized that responsibility rests with the federal government. Mission schools were designed to be a cheap and effective mechanism for assimilating aboriginal people into the mainstream culture. But the racist premise of the program, combined with lack of funding and inadequate monitoring and

¹⁷⁰ Floyd McCormick, 1997, pp. 153, 172-174.

¹⁷¹ In *R. v. Sparrow*, (1990) the Supreme Court of Canada reaffirmed that the federal government had a fiduciary obligation to aboriginal people in Canada. However, the aboriginal and treaty rights of aboriginal Canadians, protected by the Section 35 of the *Constitution Act*, could be interfered with if the legislation satisfied the test set out in the *Sparrow* decision. Bernard Funston and Eugene Meehan, 1998, pp. 151-154.

safeguards, resulted in a bitter legacy. Far from integrating aboriginal people into the mainstream of society, many “graduates” of the program became marginalized members of society, and now demand compensation for their pain. On the other hand, there are the success stories of mission schools – young men and women who went on to become outstanding leaders in their communities or nationally. But these are the leaders who rejected the federal White Paper on Indian Policy, rejected the “one government” system in the Yukon, and asserted their rights to land and resources in order to maintain their culture, language and traditions, rather than be assimilated.

Federal policies in Canada and the United States fostered conflict between aboriginal and non-aboriginal peoples in both countries. They purported to protect Indians from exploitation, but failed to do so. Indians were subjected to systemic discrimination that deprived them of their individual rights and eroded their tribal governments and their land base.

Chapter 4

Northern Economies

Introduction

The weakness of northern economies has been an issue raised in arguments against constitutional advancement of northern jurisdictions for decades, and various theoretical arguments have been advanced to justify varying federal approaches to northern development. After reviewing some of those theoretical debates and examining the characteristics of northern economies, this chapter reviews the history of federal economic development policies in the Yukon and Alaska in an effort to determine whether those policies fostered or hindered autonomous economic development and constitutional development. The chapter concludes with a section on overcoming dependency, and argues that federal policies can be successfully used to encourage regional economic development.

Historian Claus-M. Naske has noted that the arguments against Alaska's admission to statehood focused heavily on Alaska's economic viability. Opponents of statehood argued that Alaska's resources were not developed enough to attract private industry, (which could generate revenues to replace federal expenditures). They commented that Alaska's sparse population did not justify representation in Congress, and could not support the expenses of state government. They also argued that the post-war defense construction boom would end, depriving the territory of a major source of revenue. And finally, opponents argued that statehood would result in

significant increases in governmental costs, which would lead to higher taxes and thus discourage private investment.¹

Similar arguments have been made about the constitutional advancement of Canada's territories by economist Jack Stabler, and former Northwest Territories Commissioner Gordon Robertson,² although Gurston Dacks has commented that:

The terms of this whole debate are misplaced because the basic assumption – that fiscal strength is necessary for provincehood – is incorrect. For example, the Atlantic provinces regularly receive large proportions of their total revenue from federal-government grants.... Thus, there is no necessary reason why finances should stand in the way of granting provincial status.”³

As noted earlier, Alaska, Yukon, (and other northern jurisdictions) were “colonies” – districts or territories - for most of their histories, dependent on national government policies, programs, and funding to support their economic development. Since constitutional change in large measure depended on whether decision-makers viewed these jurisdictions as economically ready for constitutional advancement, it is clear that federal economic policies in the North have enhanced or hindered the prospects for constitutional change.

¹ Claus-M. Naske, *An Interpretive History of Alaskan Statehood*, Anchorage: Alaska Northwest publishing Co., 1973, p. 152.

² Jack C. Stabler, “Fiscal Viability and Constitutional Development in Canada's Northern Territories,” *Polar Record*, Vol. 23, No. 146, 1987, pp. 551-567; Gordon Robertson, *Northern Provinces: A Mistaken Goal*, Montreal: The Institute for Research on Public Policy, 1985.

³ Gurston Dacks, *A Choice of Futures: Politics in the Canadian North*, Toronto: Methuen, 1981, p. 116.

The philosophical debate over how the North should be developed re-emerged during the Mackenzie Valley pipeline hearings conducted by Thomas Berger in the 1970s. History professor Robert Page documented University of Alberta Sociologist Charles Hobart's argument before the Berger Inquiry that, "the traditional native culture had been largely destroyed by the collapse of the fur market, the white curriculum in the schools, television, the highways into the North, and so on. The native peoples had been 'socialized' away from the former lifestyle toward the wage-labour economy." Hobart predicted, "a powerful backlash against the system" by young Natives if their expectations for wealth and opportunity were denied because of lack of development in the North.⁴

Robert Page also documented economist Mel Watkins' perspective that challenged Hobart's analysis. Page described Watkins' argument as follows:

Governments and multinational companies had combined to promote the export of raw staples from the region to service the American industrial empire. Unlike Hobart, [Watkins] tried to trace where the profits or economic rents from northern development went – the evidence was clear that it was outside the North.

Native people ... were divorced from meaningful participation in this colonial economy.... The North was a

⁴ Robert Page, *Northern Development: The Canadian Dilemma*, Toronto: McClelland and Stewart limited, 1986, pp. 222-223.

typical resource hinterland exporting raw resources while importing capital and manufactured goods.

Watkins argued that this outward draining of economic surplus locked the North into a 'staples trap.' It had neither the capital nor the political power to control its own destiny.⁵

Dependency theory predicts that peripheral regions will under develop or face restricted development due to their relationship with the center, or core region. The center controls the pace and nature of economic development in the periphery, and discourages development that competes with center-based businesses. The center exploits the resource base of the periphery and discourages autonomous development by creating unequal trade relationships.⁶ While dependency theory predicts under development, it should be noted that other theorists have suggested that national governments possess a level of autonomy from capitalist elites and that national policies can either support center-based exploitation of the periphery, or support autonomous development in the peripheral region.⁷

Michael Hechter has asserted that there are two basic reasons for the evolution of regional economic inequality in a nation: geographic factors and cultural factors.

Geographic factors include such attributes as distribution of natural resources,

⁵ Robert Page, 1986, p. 226.

⁶ Michael Pretes, "Underdevelopment in Two Norths: The Brazilian Amazon and the Canadian Arctic," *Arctic*, Vol. 41, No. 2, 1988, pp. 109-116; Thomas D. Hall, (ed.) *A World-Systems Reader: New Perspectives on Gender, Urbanism, Cultures, Indigenous Peoples, and Ecology*, New York: Rowman and Littlefield Publishers, Inc., 2000, pp. 4-8; Immanuel Wallerstein, *Unthinking Social Science: The Limits of Nineteenth Century Paradigms*, Cambridge: Polity Press, 1991; Andre Gunder Frank, "The Development of Underdevelopment," *Monthly Review*, September, 1966.

⁷ Robert Jessop, "Recent Theories of the Capitalist State," *Cambridge Journal of Economics*, Vol. 1, No. 4, 1977, pp. 353-374; Peter Evans, 1995; Nicos Poulantzas, *Political Power and Social Classes*, London: NLB and Sheed and Ward, 1973.

climate, etc. Cultural factors include kinship systems, inheritance customs, and other factors which affect the way resources are managed and distributed.⁸ As noted earlier in this dissertation, regional inequality can result from the exploitation of the periphery and the creation of a dependency relationship. Once established, Hechter notes that:

These areas are seen to be already suffused with extensive market connections to the dynamic region.... The economic inequality of the stagnant regions will tend to be exacerbated by the play of market forces in the absence of intervention by the central government. Hence, since increased economic efficiency between regions can only serve to impoverish the stagnant regions, some form of political action is required to bring about regional parity.

When the periphery is not only economically disadvantaged but culturally distinct as well, the likelihood of increasing regional equality appears to be even more remote. This often occurs in the internal colonial situation.⁹

Characteristics of Northern Economies

The similarity of northern economies to the economies of the developing world was examined in chapter 2. A more detailed analysis of the characteristics of

⁸ Michael Hechter, *Internal Colonialism: The Celtic Fringe in British National Development, 1536-1966*, Berkeley: University of California Press, 1975, pp. 130-132.

northern economies follows, and will be useful for understanding what might be done to foster economic development, and consequently, constitutional development, in the Yukon.

Gurston Dacks wrote that, “Northern economics are colonial economics, as reflected in the North’s dual economy. The two northern economies overlap and many individuals participate in both”¹⁰

Dacks described northern (Canadian) industrial economies as having the following characteristics: a staple base, a “colonial link,” heavily influenced by multinational corporations, high costs, “boom and bust” phenomena, lacking internal linkages, structurally unbalanced, and dominated by government. Since this description was from his observations conducted in the late 1970s, it is important to ask whether these characteristics continue to exist in the Yukon today, and whether they adequately describe the economy of Alaska. However, an explanation of Dacks, descriptors would be a useful first step.

According to Dacks, the northern economy is based on the export of staples to the metropolis. Staple goods are materials that are relatively unprocessed, such as raw logs and unrefined minerals, and, “They are so important that their impact extends far beyond the realm of economics: social and political patterns tend to be profoundly influenced by the nature of the staple and by the relationships among all those ... who are involved in any way with the staple.”¹¹ Dacks went on to note that, “The most important relationship created by a staple economy is the colonial link between the

⁹ Michael Hechter, 1975, p. 133.

frontier hinterland and the staple-consuming metropolis. The essence of this relationship is that factors outside the colonial economy determine the economic viability of the staple.”¹²

Some of the major players in the colonial relationship are multinational corporations, which are based in the metropolis and can use their skills and resources to influence policies related to staple exploitation. Thus, “Their expertise enables them to act as initiators of the policy process and to force government into the role of reacting rather than leading.”¹³ Multinationals are typically headquartered in the metropolis, rather than the periphery, and are owned and controlled by shareholders living outside the North. Consequently, profits are exported and (in the Yukon until recently), royalties were paid to the national government rather than the territorial government. Furthermore, it was normal practice to import labor, goods and services from outside the North to operate and service projects in the North, unless there were northern sources of supply that were competitive.

The fourth characteristic is the high cost of living and of doing business in the North. Dacks noted that Whitehorse prices were 30 percent higher than Edmonton, and Dawson prices were 50 percent higher.¹⁴ Federally mandated programs, such as the Northern Canada Power Commission, established by federal legislation, contributed to the high cost of energy in the North due to its charter requirement to

¹⁰ Gurston Dacks, 1981, p.12.

¹¹ Gurston Dacks, 1981, pp. 13-14.

¹² Gurston Dacks, 1981, p. 14. See also Government of Yukon, *Yukon Development Strategy: A Public Discussion Paper*, 1986, p. 34.

¹³ Gurston Dacks, 1981, p. 15.

¹⁴ Gurston Dacks, 1981, p. 15.

not operate at a loss.¹⁵ Other contributing factors include long distances from suppliers, small northern populations, limited transportation infrastructure, and the dominance of monopolies.¹⁶

Northern economies also experience the “boom and bust” phenomena associated with a staple based economy. Northern economies “boom” when their resources are in high demand and prices rise to the point where exploitation is profitable, then crash when demand tapers off or other sources of supply come on stream. The discovery of gold in the Klondike and at Nome, the discovery of oil at Prudhoe Bay in 1968, the OPEC oil embargo, and other resource discoveries and global resource scarcity crises, all contributed to elevated levels of economic activity in northern North America at various times. There have also been economic “busts” when resource prices declined, as in Alaska from 1986 to 1988, after the price of oil collapsed in 1985.¹⁷ The “boom” times are typified by a rush of people into the North to exploit job opportunities related to resource extraction. The subsequent “bust” period often results in population declines.

The factors noted above contribute to the problem of weak sectoral linkages in northern economies. The Yukon Government’s 1986 Yukon Development Strategy noted that:

¹⁵ Gurston Dacks, 1981, p. 15; Kenneth J. Rea, *The Political Economy of the Canadian North: An Interpretation of the Course of Development in the Northern Territories of Canada to the Early 1960s*, Toronto: The University of Toronto Press, 1968, p. 280.

¹⁶ Kenneth J. Rea, 1968.

¹⁷ Terrence Cole and Elmer E. Rasmuson, *Banking on Alaska: The Story of the National Bank of Alaska*, Vol.1, Anchorage: National Bank of Alaska, 2000, p. 432; Government of Yukon, 1986, pp. 28-32; Stephen Haycox, *Frigid Embrace: Politics, Economics and Environment in Alaska*, Corvallis: Oregon State University Press, 2002, p. 128; George Rogers, “The Alaska Economy and Economic

There has been a strong dependence by consumers and by each of the sectors of the economy on imported goods and services. This has arisen partly because instability itself has made it difficult to build stable commercial enterprises serving Yukon needs, but also because of such factors as high production costs, including the cost of energy, limited access to capital, and the small scale of internal ... markets. The overall result has been that ... little of what is consumed in the Yukon is produced in the Yukon, meaning that internal Yukon needs have not contributed to the maximum in generating business and job opportunities.¹⁸

The structure of northern economies is also revealing. Dacks states that, "Relatively developed economic systems display some balance, in that they possess substantial primary, secondary, and service sectors. The North does not match this pattern: it has large primary and service sectors, but only a very small manufacturing sector."¹⁹ What manufacturing exists may be the result of poor transportation systems, which makes locally manufactured products cost competitive with imported

Issues: An Historical Overview," in Clive S. Thomas, (ed.), *Alaska Public Policy Issues: Background and Perspectives*, Juneau: The Denali Press, 1999, p. 19; Michael Pretes, 1988.

¹⁸ Government of Yukon, 1986, p. 32.

¹⁹ Gurston Dacks, 1981, p. 18.

products. Paradoxically, as transportation infrastructure to the North improves, the viability of northern manufacturing declines.²⁰

The final characteristic that Dacks elaborates upon is the role of government in northern economies. Government plays an important role through its policy and regulatory processes, including fiscal policy, which can impede or encourage economic development. It can also play an important role through its spending practices, which are driven by factors such as strategic considerations and defense policy, threats to national sovereignty or security, and its national mandates relating to the environment, land and water management, aboriginal peoples, and northern development.²¹

Studies of the Yukon economy since Dacks' analysis was completed have confirmed that the structure of the Yukon economy has remained largely unchanged.²² In 2003, a report on the Yukon economy prepared by the Yukon government, entitled the *Yukon Business Case*, stated that, "Historically the three mainstays of the economy have been mining, tourism and government. However, recent global economic developments have not been kind to the territory."²³ The report also noted that, "From 1997 to 2002, the Yukon economy was negatively impacted by declines in major resource-based economic activities,"²⁴ and, "Mineral

²⁰ Gurston Dacks, 1981, p. 18.

²¹ Gurston Dacks, 1981, pp. 19-20; Kenneth J. Rea, 1968.

²² Government of Canada, *A Northern Political and Economic Framework*, Ottawa: Minister of Supply and Services Canada, 1988; Government of Yukon, 1986; Government of Yukon, *Yukon Business Case, Putting the Pieces Together: A Presentation to Federal Finance*, 2003; Michael S. Whittington, (Coordinator), *The North*, Toronto: University of Toronto Press, 1985.

²³ Government of Yukon, 2003, p. 15.

²⁴ Government of Yukon, 2003, p. 15.

production in Yukon declined by 65 per cent over the 1997 to 2002 period to around \$79 million.”²⁵ Furthermore, “The major decline in production is explained in part by the drop in price for some of Yukon’s historical key mineral commodities between 1997 and 2002. Zinc prices declined by 36.1 per cent, lead by 26.8 per cent and copper by 20.4 per cent.”²⁶ The *Yukon Business Case* also noted the ongoing importance of the tourism sector and the increasing importance of the public sector, which, “has grown in economic importance in Yukon, both in relation to other sectors and in absolute terms.”²⁷

The relationship between federal funding, the staple base of the economy, and education and social structure in the North was illustrated in the Yukon government’s 2003 *Business Case*, which stated:

National program funding per capita is not reflective of true costs and service requirements expected of the Yukon Government. The cyclical nature of Yukon’s resource based economy, changing world metal prices, and declining resource demands, coupled with extreme distances to market, have resulted in steady loss of jobs. Consequently, people have left the Yukon in search of employment. This situation coupled with an increasing and less mobile First Nation population, a group that has special needs in the classroom and has traditionally been underrepresented in the workforce,

²⁵ Government of Yukon, 2003, p. 16.

continues to grow and introduce new requirements for training and education. Given an inadequately funded expenditure base, the rising costs to delivering educational services in increasingly aging infrastructure poses enormous challenges.²⁸

Alaska economist George W. Rogers has studied the economic history of Alaska and has summarized the characteristics of Alaska's economy in a strikingly similar way to Dacks' description of the northern Canadian economy. Figure 4 provides a concise comparison of descriptors. Rogers describes Alaska's economy as possessing the following six characteristics: government has been a major player as a land and resource owner, contractor, employer, developer, investor, subsidizer, and contractor; Alaska is primarily an export economy; it is dependent on one, two, or at most, three main economic activities; it experiences major economic fluctuations and instability; it is a federation of regional and local economies dominated by "Outside" economic ties; and, finally, its economic evolution has experienced booms and busts.²⁹

Federal Economic Policy in Alaska: Colony to Statehood

Many Alaska historians, from Jeannette Paddock-Nichols to former governor Ernest Gruening, have argued that Alaska was largely neglected or ignored by the federal government, and that "Outside" economic interests had undue influence over

²⁶ Government of Yukon, 2003, p. 16.

²⁷ Government of Yukon, 2003, p. 18.

²⁸ Government of Yukon, 2003, p. 24.

²⁹ George Rogers, 1999, p. 19.

Gurston Dacks	George W. Rogers
Staple base	Export economy
Colonial link Dominated by multinational corporations	Strong "Outside" economic ties
High costs	
Boom & bust economy	Boom & bust economy
Lacking internal linkages	A "federation" of regional economies
Structurally unbalanced	
Dominated by government	Government a major player in development
	Major fluctuations & instability in economic activity

Figure 4

Characteristics of Northern Economies: A Comparison of Analyses

the Alaska economy. Ernest Gruening also recognized that Alaska's weak economy was an impediment to statehood, and consequently he became a strong advocate of economic development initiatives for the territory.³⁰ Their assessment was supported by a number of studies and analyses that have been conducted on Alaska. For example, George W. Rogers has noted that many national politicians did not view Alaska as an economic asset when it was purchased.³¹ While those closest to the purchase negotiations recognized Alaska's potential, many other politicians and reporters of the day referred to the purchase as "Seward's Folly," and little interest was demonstrated for investing federal money in Alaska until the Klondike gold rush. According to Claus-M Naske and Herman Slotnick, the gold rush:

focused attention on Alaska as nothing else had....
Congress, for the first time since the purchase of Alaska,
went on to deal more seriously with Alaskan problems. It
appropriated money for the U.S. Geological Survey to
begin work on the survey and exploration of Alaska, and
it extended the coal-mining laws of the United States to the
district. The U.S. Army built posts at Eagle, Nome and
Haines, and at Tanana The Department of Agriculture

³⁰ Terrence Cole, "The History of a History: The Making of Jeannette Paddock Nichols' Alaska," *Pacific Northwest Quarterly*, Vol. 77, No. 4, 1986, pp. 130-138; Ernest Gruening, *The State of Alaska*, New York: Random House, 1954; Ernest Gruening, *Many Battles: The Autobiography of Ernest Gruening*, New York: Liveright, 1973; Claus-M. Naske, "Some Attention, Little Action: Vacillating Federal Efforts to Provide Territorial Alaska with an Economic Base," *Western Historical Quarterly*, 1995, pp. 40-41.

received money to examine the potential of farming in Alaska.³²

The glow of the gold rushes sustained the momentum of federal interest in Alaska into the early 1900's with amendments to the *Organic Act* and the decision to build the Alaska railroad in 1914.³³ The decision to build the railway represented an attempt to change federal policy towards Alaska. Progressives blamed the federal government for impeding Alaska's development by implementing a maze of regulations and land withdrawals, and they believed that Congress needed to implement an effective coal land-leasing law and build a federal railroad in order to effect development.³⁴

While the railway was of great benefit to Alaskans, its real purpose was to access coal reserves for the navy, and to develop Alaska and its resources for the use and benefit of the people of the United States, rather than for the people of the territory.³⁵ And, aside from the access to coal, federal interest in Alaska as a militarily significant region waned during an isolationist era until World War II.³⁶

While the construction of the railroad provided an economic stimulus to Alaska, it was unable to make a profit from its operations, and other federal policies clearly worked to the territory's disadvantage. According to Claus-M. Naske and

³¹ George W. Rogers, 1999, p. 21.

³² Claus-M. Naske and Herman E. Slotnick, 1987, pp. 85-86.

³³ Claus-M. Naske and Herman E. Slotnick, 1987, pp. 64, 86, 96-97; W. H. Wilson, "The Alaska Railroad and Coal: Development of a Federal Policy, 1914-1939," *Pacific Northwest Quarterly*, Vol. 73, No. 2, 1982, pp. 66-77.

³⁴ W.H. Wilson, 1982, p. 66.

³⁵ W.H. Wilson, 1982, p. 67; Claus-M. Naske, 1995, p. 40.

³⁶ Claus-M. Naske, 1995, pp. 40-41.

Herman Slotnick, the passage of the *Merchant Marine Act*, also known as the *Jones Act*, in 1920:

made it mandatory that all ships engaged in commerce between American ports be American-owned and built in the United States. The Act gave shippers the option of using either American- or Canadian-owned vessels to carry goods from a port in the United States to its destination somewhere in the Atlantic or the Pacific—with the exception of Alaska. Merchandise coming into or exported from Alaska had to be carried on American ships. American vessels had to be used even if shippers to Alaska could obtain better prices from Canadians.³⁷

The constitutionality of the act was challenged in court but it was ruled valid because Alaska was a territory and not a state.³⁸

The federal government also took an active interest in exploiting the fur seal stocks on the Pribilof Islands by indenturing Aleut laborers. Alaska did not benefit from the seal harvest, and the discriminatory treatment of the Aleuts did not come to light until World War II, when they were confined in dilapidated canneries near Juneau.³⁹

³⁷ Claus-M. Naske and Herman E. Slotnick, 1987, p. 97.

³⁸ Claus-M. Naske and Herman E. Slotnick, 1987, p. 97.

³⁹ Dorothy Jones, 1980; Orlando W. Miller, *The Frontier in Alaska and the Matanuska Colony*, New Haven: Yale University Press, 1975, p. 16.

The population of Alaska fell from approximately 64,000 in 1910, to 55,000 in 1920, rising to only 59,000 by 1930.⁴⁰ Historian Orlando Miller commented that Alaska's economy in the 1930s was colonial and extractive, based on the export of fish, gold and furs. The annual value of exports averaged from one and a half to two times the value of imports, and:

By the mid-1930s, Alaska had changed outwardly only a little since the early days of the salmon fisheries and gold rushes....the old belief that the territory would inevitably follow the pattern of growth of past frontiers had been weakened ... Increasingly the hope for development was centered on federal policies.⁴¹

However, Richard Cooley's study of federal management of Alaska's salmon stocks confirmed that federal officials pandered to canning industry interests that were based in Seattle and California. As a consequence of federal mismanagement, Alaska's valuable salmon resource declined year after year until the state took over control of the resource in 1961.⁴² More recently, Alaska fishermen have gone to court alleging that "Seattle based processors and Japanese importers conspired to fix

⁴⁰ Orlando W. Miller, 1975, p. 17.

⁴¹ Orlando W. Miller, 1975, p. 33.

⁴² Richard A. Cooley, *Decline of the Alaska Salmon: A Case Study in Resource Conservation Policy*, Ann Arbor: University of Michigan unpublished thesis, 1961. However, recent scientific discovery of the Pacific Decadal Oscillation, a "long-lived El Nino-like pattern of Pacific climate variability," may also explain the decline of salmon harvests during the era Cooley studied. See <http://tao.atmos.washington.edu/pdo>.

prices” in the early 1990s, fueling Alaskans’ views that “Outside” interests continue to influence the management of this resource.⁴³

Some historians have suggested that Nichols and Gruening over emphasized the neglect theory, and have suggested that Alaska was no more neglected than other western states.⁴⁴ The history of Alaska since 1939 suggests that Alaska’s strategic importance and wealth of resources provided impetus for a renewed federal interest in the state. Alaska was the only part of the country that was occupied by foreign troops during World War II, and it became a front line of the war for a brief period.⁴⁵ During the Cold War, Alaska’s strategic location adjacent to Russia also gave federal and defense officials cause to pay attention to the state. Federal funding for defense infrastructure in Alaska transformed the state, attracted a large number of new residents, and renewed the drive for statehood.⁴⁶ However, while military funding was creating an artificial economic boom in Alaska during the war years, other federal government policies were undermining the state’s gold mining industry. The declaration of gold mining as a nonessential industry when the price of gold fell, contributed to the virtual elimination of the territorial government’s main source of revenue: gold mining taxes.⁴⁷

⁴³ *Juneau Empire* online, March 10, 2003. The defendants were cleared of the charges on May 23, 2003. (*Fairbanks Daily News-Miner*, Aug.1, 2003).

⁴⁴ Terrence Cole, 1986, p. 138; Claus-M. Naske, “Alaska and the Federal-Aid Highway Acts,” *Pacific Northwest Quarterly*, Vol. 80, No. 4, 1989, p. 138.

⁴⁵ Brian Garfield, *The Thousand-Mile War: World War II in Alaska and the Aleutians*, Toronto: Bantam Books, 1982.

⁴⁶ Terrence Cole and Elmer E. Rasmuson, 2000; Claus-M. Naske, 1973, p. 75.

⁴⁷ Terrence Cole, “Golden Years: The Decline of Gold Mining in Alaska,” *Pacific Northwest Quarterly*, Vol. 80, No. 2, 1989, pp. 62-71; Terrence Cole and Elmer E. Rasmuson, 2000, pp. 209-212; Clark C. Spence, *The Northern Gold Fleet: Twentieth-Century Gold Dredging in Alaska*, Chicago: University of Illinois Press, 1996.

Canada-U.S. cooperation during World War II provided the two nations with a unique opportunity to cooperate on northern economic development planning for the post-war years. The North Pacific Planning Project, initiated in 1943, compiled an extensive amount of valuable information about the region and published two reports and several sub-studies. However, according to Claus-M. Naske, Congress eliminated the project that same year, and, "As far as can be determined, Congress did not follow the recommendations of the planners."⁴⁸

Alaskans' lobbying efforts for federal attention to the state's economic needs made a breakthrough when President Truman sent a special message to Congress on May 21, 1948. The President called on Congress to grant the territory statehood, to provide funding to develop the territory's transportation system, and improvements to hospitals and housing. He also asked Congress to settle Alaska Native land claims, amend the discriminatory provisions of the *Merchant Marine Act*, and amend legislation to allow the sale of public lands in Alaska.⁴⁹

Congress responded by gradually authorizing more funding for infrastructure projects in the state and amending the land laws to allow the sale of public lands. Military spending in the state also increased until 1963. But the *Merchant Marine Act* remained unchanged, Native claims were not settled, and, "Congress ... did not enact any of the Department of the Interior's grandiose development schemes."⁵⁰

The economic activity, improved infrastructure, and population increase generated by World War II added impetus to the aspirations of Alaskans who sought

⁴⁸ Claus-M. Naske, 1995, p. 49.

statehood, and in 1943 a statehood bill was introduced into Congress on Delegate Anthony Dimond's behalf. The bill was opposed by Secretary of the Interior, Harold Ickes, "because of the Territory's seasonal economy and unstable population."⁵¹

The most ardent opponents of statehood were the non-resident commercial interests, such as the fishing and canning companies and shipping interests,⁵² as well as a few resident businessmen who opposed increased taxation. Claus-M. Naske argues that, "The general aim of this combined interest lobby was a negative one, designed to defeat all measures which would increase governmental costs and to kill any moves which would allow Alaska more control over its natural resources."⁵³

President Truman's statements in support of statehood in 1946 and 1948 demonstrated that the administration was supportive of the movement. However, this was insufficient to convince Congress, and the statehood bills advanced in the 1940s were stymied.

Efforts to achieve statehood were renewed in 1950, and more economic arguments against statehood were raised. For example, Senator Hugh Butler (R-Neb.), argued that, "The Territory could not afford statehood because its two major industries, gold mining and salmon fishing, were declining. This left only the gigantic

⁴⁹ Claus-M. Naske, 1995, pp. 61-62.

⁵⁰ Claus-M. Naske, 1995, p. 64.

⁵¹ Claus-M. Naske, 1973, p. 61.

⁵² Peter A. Coates, *The Trans-Alaska Pipeline Controversy: Technology, Conservation, and the Frontier*, Fairbanks: University of Alaska Press, 1993, p. 85.

⁵³ Claus-M. Naske, 1973, p. 87.

defense expenditures which one day would have to come to an end and upon which a stable society could not be built.”⁵⁴

Two events in 1957 bolstered the statehood movement: the discovery of commercial amounts of oil at the Swanson River field by Richfield Oil Corporation,⁵⁵ and a declaration by the House Interior and Insular Affairs Committee that Alaska met the requirements for admission to statehood, including sufficient population and enough resources to support a state government and its share of the cost of the federal government.⁵⁶

Nevertheless, as Alaska approached statehood in 1959, it faced significant economic challenges. A large land allotment and transitional grants addressed some of these challenges over a period of five years, and were, “designed to put Alaska on an equal footing with the other states.”⁵⁷ But it did not have a diversified, self-sustaining economy, except perhaps the subsistence economy of rural Alaska.

As noted in Chapter 3, the aboriginal peoples of Alaska faced increasing competition for access to the fish and wildlife of the territory as the non-aboriginal population increased. Non-aboriginal people were initially interested in the fur seals of the Pribilof Islands, but soon began exploiting the rich fisheries resources as well. Indigenous people were eventually forced off many traditional salmon spawning streams by commercial canneries headquartered in Seattle and San Francisco. The people of Alaska, both aboriginal and non-aboriginal, opposed the use of fish traps by

⁵⁴ Claus-M. Naske, 1973, p. 103.

⁵⁵ Claus-M. Naske and Herman E. Slotnick, 1987, p. 247.

⁵⁶ Claus-M. Naske, 1973, p. 159.

⁵⁷ Claus-M. Naske and Herman E. Slotnick, 1987, p. 163.

the canning and fishing companies, and one of the first acts of the State of Alaska was to prohibit their use. But aboriginal and non-aboriginal people differed over preferential harvest rights for Alaska's aboriginal people, and the Alaska Constitution prohibited preferential hunting rights for any group. Alaska aboriginal land claims remained unresolved when statehood was granted, despite the warnings of Winton C. Arnold that unresolved land claims would create problems for the fledgling state.⁵⁸

Federal Economic Policy in Alaska: Statehood to 2004

The new state government in Alaska was faced with enormous challenges in 1959: it was expected to provide modern services and infrastructure to a small and diverse population spread over an enormous geographic area. Yet it had limited sources of taxation, a debilitated salmon resource in need of rehabilitation, a small oil and gas sector, two pulp mills, some mining activity, and a small but growing tourist industry.⁵⁹ It was still heavily dependent on federal expenditures, particularly military spending, as an important generator of economic activity. It was not until 1968, and the discovery of substantial oil resources at Prudhoe Bay, that the economic fortunes of Alaska improved substantially.

This section of the chapter discusses the ongoing significant role of the federal government in the economic development of Alaska, as well as the significant role that other "Outside" organizations and corporate interests play in the Alaska economy. It demonstrates that Alaska, unlike more developed states in the lower 48, continues to be dependent on federal expenditures and high oil prices for its economic

⁵⁸ Claus-M. Naske, 1973, pp. 78, 99.

prosperity. Furthermore, “Outside” interests such as environmental lobbies have helped shaped the Alaska economy by successfully lobbying the federal government to designate large areas of the state as protected areas where development cannot take place. Federal policies and laws continue to have major impacts on Alaska’s development, and Alaskans continue to struggle to change federal policies to make them “friendlier” to Alaskan interests.

The subsistence economy of Alaska, including the management of fish and game, was completely under federal jurisdiction until 1960, when responsibility for fish and game management was turned over to the state government.⁶⁰ Federal resource management policies and laws historically provided some measure of recognition and protection of aboriginal harvest rights in Alaska. Over time, many of these rights were expanded to include non-aboriginal subsistence harvest rights in rural areas, while aboriginal harvest rights were variously curtailed or expanded by shifting federal policies.⁶¹

A major policy change appeared to be implemented when Congress approved the *Alaska Native Claims Settlement Act* (ANCSA) in 1971, as section 4(b) of the Act extinguished all aboriginal hunting and fishing rights in the state. However, the conference committee that approved the final draft of the legislation also stated that it expected both the state and federal governments to protect the subsistence needs of

⁵⁹ Terrence Cole and Elmer E. Rasmuson, 2000, p. 320; Claus-M. Naske, 1973, p. 169.

⁶⁰ Henry P. Huntington, *Wildlife Management and Subsistence Hunting in Alaska*, Seattle: University of Washington Press, 1992, p. 25; Claus-M. Naske and Herman E. Slotnick, 1987, p. 284.

⁶¹ Theodore R. Catton, *Inhabited Wilderness: Indians, Eskimos and National Parks in Alaska*, Albuquerque: University of New Mexico Press, 1997; Henry P. Huntington, 1992.

Alaska's Natives.⁶² Furthermore, section 17 (d) (2) "directed the secretary [of the Interior] to withdraw up to 80 million acres [of Alaska public lands] for possible inclusion in the National Parks, Forests, Wildlife Refuges or Wild and Scenic Rivers systems."⁶³ According to David Case, the federal actions to protect lands as required by 17(2) (d), and the Alaska government's responses, "set the stage for the next two years of political debate over the fate of much of the public land in Alaska. During the course of this debate, Alaska Natives and other Alaska subsistence advocates were able to trade their support for ANILCA's environmentally oriented land classifications for environmentalist support of ANILCA's Title VIII subsistence provisions."⁶⁴ Thomas Thornton noted that when the *Alaska National Interest Lands Conservation Act* (ANILCA), was passed in 1980:

Congress initially sought to implement a Native preference.

The final Senate version of the bill included such a provision, but the state of Alaska vigorously objected, and a compromise *rural preference* was eventually adopted along with the priority for subsistence use. Many Natives balked at the compromise, noting the unique qualities of Native subsistence and Congress' prior commitment to specifically protect it. Politically over-powered, however, they had no choice but to go along with it...⁶⁵

⁶² David S. Case, 1984, p. 295.

⁶³ David S. Case, 1984, p. 298.

⁶⁴ David S. Case, 1984, p. 299.

⁶⁵ Thomas F. Thornton, "Subsistence: The Politics of a Cultural Dilemma," in Clive S. Thomas, (ed.), *Alaska Public Policy Issues: Background and Perspectives*, Juneau: The Denali Press, 1999, p. 207.

ANILCA also provided for state management of subsistence harvest rights to avoid the need for a dual management system of federal laws on federal lands and state laws on state lands. The state government attempted to comply with ANILCA, and had enacted subsistence legislation in 1978, which gave priority to subsistence uses of fish and wildlife, but did not provide a preference to any particular group. This met the requirements of the state constitution, but not the requirements of ANILCA, which required a rural preference. Various efforts by the state government to bring its laws into compliance with ANILCA were stymied by interest groups until 1986, when the law was amended.⁶⁶

The subsistence issue resurfaced when the constitutionality of the state law was challenged, and in 1989 the Supreme Court of Alaska ruled in *McDowell v Collinsworth* that the state's rural preference provisions violated the state constitution. Another 1989 decision, *Bobby v Alaska*, handed down by the federal court, ruled that the Board of Game had to adjust its regulations to allow for customary and traditional practices.⁶⁷

The inability of the Alaska government to implement legislation that was in compliance with ANILCA and its constitution resulted in the federal government reassuming regulatory authority over wildlife on all federal lands in Alaska on July 1, 1990.⁶⁸ In 1999, the federal government reassumed control over subsistence fishing

⁶⁶ Thomas F. Thornton, 1999, p. 208.

⁶⁷ David S. Case, 1984, pp. 1020-1021; Thomas F. Thornton, 1999, p. 208. Daniel Nelson, *Northern Landscapes: The Struggle for Wilderness Alaska*, Washington, D.C.: Resources for the Future, 2004.

⁶⁸ Henry P. Huntington, 1992, p. 61.

on federal lands as a result of the *Katie John* decision,⁶⁹ and Governor Knowles' decision not to appeal the *Katie John* decision. The state benefited economically from these federal government takeovers because the federal government also assumed the administrative costs, and some have argued that the dual management system has in fact worked well because, "the federal government has moved more forcefully than the state ever did to implement Title VIII of ANILCA. This has meant not only a strong subsistence priority and also a rural preference, but also efforts to make management more local, communal, and congruent with the realities of rural subsistence economies and lifestyles."⁷⁰ However, many Alaskans are dissatisfied with the dual management system, and Thomas Thornton has noted that the dual management system undermines some of the goals of statehood: "While wresting fish and game management from the federal government was one of the driving forces behind Alaska's statehood movement, the state now appears ready to forfeit that responsibility to a Department of the Interior that does not want it."⁷¹

Alaskans and federal officials have also differed over the question of reserving lands in the national interest. Historian Peter Coates has noted that, "During the first decade of the century, federal conservation policies had fuelled demands in Alaska for more home rule. There was also a close relationship between the gathering strength of the statehood movement in the postwar era and deepening frustration with

⁶⁹ R. T. Peel, "Katie John v United States: Balancing Alaska State Sovereignty with a Native Grandmother's Right to Fish," *B.Y.U. Journal of Public Law*, Vol.15, p. 264.

⁷⁰ Thomas F. Thornton, 1999, p. 217; See also: Thomas A. Morehouse and M. Holleman, "When Values Conflict: Accommodating Alaska Native Subsistence," *Occasional Paper No. 22*, Anchorage: Institute of Social and Economic Research, University of Alaska Anchorage, 1994.

⁷¹ Thomas F. Thornton, 1999, p. 210.

federal unwillingness to promote economic progress at a pace agreeable to development-minded Alaskans....”⁷² Alaska “boosters”⁷³ generally sought to maintain lands in the public domain for use and exploitation, while federal officials and “Outside” conservation interests sought to identify and protect parts of Alaska for conservation purposes. ANILCA rejuvenated the debate because it identified and protected more lands from development, including the Alaska National Wildlife Refuge, some parts of which are known as the “1002 lands.” Alaskan boosters have worked tirelessly to have these lands reopened to oil and gas exploration, while national and international conservation organizations have worked just as vigorously to keep the area off limits to development.

Alaskans became increasingly dependent on oil revenues after the discovery of oil at Prudhoe Bay in 1968. The discovery led directly to proposals to build a pipeline to export the oil, and the oil companies quickly established the Trans-Alaska Pipeline System to organize its pipeline application.⁷⁴

The federal government was supportive of the pipeline initiative, but its regulatory process, including the passage of the *National Environmental Policy Act* (NEPA) in 1969, and court cases launched by “Outside” environmental groups, slowed the pipeline land use approval process.⁷⁵ In addition, Native villages launched

⁷² Peter A. Coates, 1993, pp. 81-82.

⁷³ Coates uses the term, “in a catholic sense to describe someone (not necessarily resident in Alaska) imbued with the entrepreneurial spirit which believes that Alaska’s natural resources have great material value and advocates their rapid and thorough development without government interference (preferably with government assistance).” Peter A. Coates, 1993, p. 21.

⁷⁴ Peter A. Coates, 1993, p. 176.

⁷⁵ H. R. Myers, “Federal Decisionmaking and the Trans-Alaska Pipeline,” *Ecology Law Quarterly*, Vol. 4, 1975, pp. 915-961.

lawsuits to block land dispositions on the proposed pipeline route in order to expedite settlement of their land claims.

The settlement of Alaska Native claims in 1971 provided a significant boost to the Alaska economy. The settlement placed close to \$1 billion into the hands of 12 (later 13) Native settlement corporations (Native regional corporations) that invested heavily in Alaska, and allowed the pipeline project to proceed. In 2001, 12 Native regional corporations and 30 village corporations had revenues of \$2.9 billion, paid out \$52.1 million in dividends to share holders, and \$434 million in payroll to their employees in Alaska.⁷⁶

Once the land claim issue was settled with the passage of ANCSA, the state experienced the classic economic “boom” resulting from the construction of the Trans-Alaska Pipeline. In 1974, the value of construction contracts awarded in Alaska increased 883 percent over 1973. Construction related employment increased by 27 percent that year, then 100 percent in 1975, and 40 percent in 1976.⁷⁷ However, according to Cole and Rasmuson, after the pipeline was completed in 1977, the Alaska economy declined sharply, so that in 1978-1979 bankruptcies in Alaska increased by 71 percent, and employment in the construction sector fell by 19 percent.⁷⁸

State government spending soon reversed the economic down turn that resulted from the completion of the pipeline. Bolstered by huge oil revenues, the state

⁷⁶ *Fairbanks Daily News-Miner*, Oct. 16, 2003.

⁷⁷ Terrence Cole and Elmer E. Rasmuson, 2000, p. 408.

⁷⁸ Terrence Cole and Elmer E. Rasmuson, 2000, p. 415.

government embarked on an expenditure spree unprecedented in American history.⁷⁹ In addition, it eliminated the state income tax and established the Alaska Permanent Fund, which issued annual dividend checks to every Alaskan.⁸⁰ Alaska became, (and remains), one of the wealthiest states in the United States.

Despite the state's new found wealth, Alaskans harbored a number of grievances about federal policies in the state, and Alaska's economic issues were one of the driving forces behind the creation of the Alaska Statehood Commission in 1980, which was mandated to study and report on Alaska's relationship with the United States. This was a remarkable commission, because it was the first time in the twentieth century that any state had seriously examined its relationship with the federal government. Many of the commission's recommendations were designed to reduce federal influence in Alaska, and to enhance the state's ability to develop economically. For example, the commission recommended that the federal *Export Administration Act* be amended to enable the export of Alaska's oil to Japan, and that the *Jones Act*, discussed earlier, be amended and repealed.⁸¹

Whatever policies the government might have changed as a result of the Statehood Commission's report would not have saved the state from the impacts of low oil prices and federal banking deregulation that occurred in 1986, which resulted in the closure or collapse of almost half the financial institutions in the state.

⁷⁹ Terrence Cole and Elmer E. Rasmuson, 2000, pp. 413-416.

⁸⁰ Gerald McBeath and Thomas Morehouse, *Alaska Politics and Government*, Lincoln: University of Nebraska Press, 1994, p. 53.

⁸¹ Alaska Statehood Commission, *More Perfect Union: A Plan for Action*, 1983, pp. 11-14.

According to historian Terrence Cole and former banking executive Elmer Rasmuson:

The roots of the 1980s real estate boom and bust can be traced not only to the state's growing dependence on the price of a barrel of oil, and the massive subsidies passed on to Alaskan citizens, but also to the inherent structural and regulatory problems of U.S. financial institutions at the time. In fact if any one single factor besides the state spending of oil dollars is to blame for both the height of the speculative fever and the depths of the depression that followed, it would be the actions of many banks and savings and loans, which funneled – too often recklessly – billions of dollars into the Alaskan economy.⁸²

The attitudes of Alaska's bankers were shaped by the federal government's Federal Deposit Insurance Corporation which had reduced public awareness of the potential for bank failures,⁸³ and banks and savings and loans companies made excessive real estate loans in Alaska. Then, "The shock of the oil price collapse in 1985 burst the bubble of the Alaska real estate boom in 1985-1986, starting a three-year-long cycle of bankruptcies, defaults, business closures, wage cuts and bank failures."⁸⁴

⁸² Terrence Cole and Elmer E. Rasmuson, 2000, p. 425.

⁸³ Terrence Cole and Elmer E. Rasmuson, 2000, p. 426.

⁸⁴ Terrence Cole and Elmer E. Rasmuson, 2000, p. 432.

Alaska's economic recovery in the 1990s was fueled by the return of higher oil prices and the expansion of the courier industry in Anchorage that takes advantage of Alaska's strategic location on the great circle routes. But Alaska's economy post-2000 faces some of the same challenges that it faced in the 1970s: dependence on federal expenditures, oil and mineral prices, and tourism.⁸⁵ Fortunately for the state, Alaska has a powerful Congressional delegation which has been very successful at leveraging federal dollars for state programs and projects, and the federal government decided to continue heavy military expenditures in Alaska rather than closing more bases and withdrawing troops.⁸⁶ Furthermore, in recent years the Permanent Fund has been generating as much (or more) revenues as oil taxes and royalties.⁸⁷ However, Alaskans are increasingly becoming concerned about the possibility that North Slope oil production will eventually dry up, leaving the state with a huge fiscal gap between what it has been spending in the past four decades and what it can earn from oil revenues. According to the *Fairbanks Daily News-Miner*, these concerns were reinforced in November 2004, when Moody's Investors Services upgraded the outlook for Alaska's credit rating from "negative" to "stable" due to recent high oil prices and state efforts to restrict spending, "But they also warned that the rating could again be imperiled if the state doesn't come up with a fiscal plan that weans Alaska off oil money and balances income and spending in the long term."⁸⁸ Added to

⁸⁵ *Fairbanks Daily News-Miner*, November 26, 2003.

⁸⁶ *Fairbanks Daily News-Miner*, November 25, 2003.

⁸⁷ Dr. Gerald McBeath, *pers. comm.*, 2005.

⁸⁸ *Fairbanks Daily News-Miner*, Nov. 24, 2004.

this picture are concerns over declining salmon returns and the possibility that continuing terrorist threats could seriously damage the tourism industry in the state.

Federal Economic Policy in the Yukon

Canadian historian Morris Zaslow has argued that in Alaska and the Yukon: “two diametrically opposed principles for the government of a pioneer environment confronted one another. The American philosophy, exemplified by the mining camps, was libertarian and laissez-faire, based on the principle of squatter sovereignty; the Canadian approach was authoritarian and colonial.”⁸⁹ However, Zaslow overstated his case. Both Canadian and American federal governments were slow to recognize the potential of their peripheries, and neither country invested heavily in their exploration and development until the gold rush. During the gold rush, Canada reacted to the large number of Americans entering the country with some alarm and responded as most countries would – by increasing its capacity to maintain control. The American government knew that a Canadian threat to occupy Alaska was non-existent, so it was not compelled to respond in like fashion when the focus of the gold rush shifted from Dawson to Nome or Fairbanks. After the Gold Rush, the Canadian federal government withdrew from active support of the northern economy and left economic development almost totally to the private sector, while the U.S. federal government actually invested in Alaska through projects such as the construction of the Alaska railroad and building the Matanuska Colony.

⁸⁹ Morris Zaslow, “The Yukon: Northern Development in a Canadian-American Context,” in Kenneth Coates and William Morrison (eds.), *Interpreting Canada's North: Selected Readings*, Toronto: Copp Clark Pitman Ltd., 1989, p. 138.

Kenneth Coates has argued that Canada's approach to its periphery was different from the American approach:

Although popular myth and historical convention suggest that the Canadian government exercised far more control over its frontier than the American authorities exercised over Alaska, the truth is otherwise. The U.S. government was active, building railways, regulating resources, and rushing to the defense of its periphery. Canada saw expense, not opportunity, on its north-western frontier, and it did its best to limit its financial and political obligations there.⁹⁰

Canadian economist Kenneth J. Rea studied the economic history of the Canadian North and the impact of federal policies on its development. He characterized the federal government's approach to northern Canada to the 1950s as *laissez-faire*:

Certainly it was not felt that the federal government should initiate measures aimed at developing the resources in the Territory *directly*. This was, of course, quite consistent with the *laissez-faire* principles of the government of the day. However much the government might have violated these principles in order to promote and accelerate economic development in the other parts of Canada during the first half of this century,

it adhered quite scrupulously to them when the question of developing the resources under its direct control in the Yukon ... arose.⁹¹

The consequences of this policy had profound impacts on the way the North failed to develop. According to Rea, the North was left to private enterprise to exploit:

Entrepreneurs attempting to develop the land resources of the Territories had, in the absence of effective government participation in the development process, no alternative but to undertake, on their own initiative, the provision of a great deal of capital infra-structure which would elsewhere have been treated as social capital – in the sense that it would have been provided publicly.⁹²

Following World War I, the federal government withdrew a large amount of financial support from the Yukon government, cutting its budget and reducing its authority. Large corporations, many of them foreign-owned, came to dominate all facets of the Yukon economy. Corporations like Treadwell Yukon, the White Pass and Yukon Route Railway, and A.N.C. Treadgold's Yukon Consolidated Gold

⁹⁰ Kenneth Coates, "Controlling the Periphery: The territorial Administration of the Yukon and Alaska, 1867-1959," *Pacific Northwest Quarterly*, Vol. 78, No. 4, 1987, pp. 150-51.

⁹¹ Kenneth J. Rea, 1968, p. 58.

⁹² Kenneth J. Rea, 1968, pp. 199-200.

Corporation, became the major decision-makers in the Yukon economy, supplanting even federal authorities.⁹³ As a result, the Yukon economy stagnated from 1918 until World War II.

The federal government's policies toward northern Canada can be contrasted with its policies of expansion and development in the South. Prime Minister John A. Macdonald promoted his National Policy in the election of 1878, and after his election, the National Policy, "became the basis for Canada's economic development for the next 50 years."⁹⁴ The National Policy was focused on western expansion and development, and had three interrelated objectives: constructing a Canadian railway system, promoting immigration, settlement and agricultural development on the prairies, and building and protecting the Canadian economy through the imposition of protective tariffs.⁹⁵

In addition to promoting economic development, Canada secured and expanded the federation by enticing other British North American colonies to join Canada by offering incentives. According to political scientists Richard Van Loon and Michael Whittington, "As other provinces came into the federation, they also were given generous debt allowances. Even the provinces of Alberta and Saskatchewan, which had been federal territories before their coming of age and so

⁹³ Kenneth Coates and William Morrison, *Land of the Midnight Sun: A History of the Yukon*, Edmonton: Hurtig Publishers, 1988, p. 213.

⁹⁴ Robert J. Jackson and Doreen Jackson, *Politics in Canada: Culture, Institutions, Behaviour, and Public Policy*, Scarborough: Prentice Hall Canada, Inc., 2001, p. 55.

⁹⁵ Robert J. Jackson and Doreen Jackson, 2001, pp. 55-56.

obviously had no debt, received an annual payment based on the difference between their debt allowance and their non-existent debt....”⁹⁶

In addition to these subsidies, a number of special federal grants have been given to various provinces from time to time in order to meet their special needs. For example, both New Brunswick and Newfoundland received big subsidies after joining the federation. And when Alberta and Saskatchewan became provinces in 1905, the federal government retained the rights to their natural resources but gave them large grants as compensation.⁹⁷

In contrast to the above historical precedents, the Canadian federal government has never proposed any type of financial incentive to a northern territory to seek provincial status. Rather, it has sponsored constitutional changes that have made it more difficult for territories to attain provincial status. These changes will be examined in detail in the next chapter.

As noted earlier in this dissertation, federal military expenditures transformed Alaska during World War II, and were an important factor in sustaining the Alaskan economy in the post-war era. The Yukon’s experience was quite different. With the shift to an emphasis on an international role of peace-keeping, the Canadian government gradually demobilized the Canadian armed forces after World War II, and its military presence in the Yukon lasted only until 1964. (Only a small detachment remained after the military’s withdrawal). According to K. J. Rea, “like the Alaska Highway and the Canol Project, the DEW line and various other smaller

⁹⁶ Richard J. Van Loon and Michael S. Whittington, *The Canadian Political System: Environment*,

military ventures in the north had a relatively small effect on the long-term economic development of the area.”⁹⁸ However, the federal government did provide some assistance to Canadian gold miners when it approved the *Emergency Gold Mining Assistance Act* in 1947, which provided funding to gold mining operations to assist with the increased costs of production.⁹⁹

The Indian subsistence economy was important to the federal government because it obviated the need for welfare spending. Federal policy to leave the aboriginal population to fend for itself, with only the assistance of Roman Catholic priests and Anglican ministers, relieved federal officials of the costs of providing social assistance, medical services, and anything but rudimentary educational opportunities for northern indigenous peoples. Federal officials ensured that aboriginal people could hunt, fish and trap on unoccupied Crown lands and on special game preserves without restrictions until the 1950s, when trap line registration was introduced by the Yukon government. However, Indians were precluded from participating in the more lucrative big game outfitting business opportunities.¹⁰⁰ And, by the 1960s, the Indian dominated trapping industry was in serious decline.¹⁰¹

Structure and Process, Toronto; McGraw, Hill, Ryerson Limited, 1987, p. 279.

⁹⁷ Richard Van Loon and Michael Whittington, 1987, p. 279.

⁹⁸ Kenneth J. Rea, 1968, p. 308.

⁹⁹ Kenneth J. Rea, 1968, p. 131.

¹⁰⁰ Kenneth Coates, 1991, p. 56.

¹⁰¹ Kenneth Coates, 1991, p. 191.

The dire social circumstances of northern Natives was an important incentive prompting federal officials to begin intervening in the northern economy in the post World War II era.¹⁰²

The relationship between political capacity and economic development was also significant. Private enterprise was reluctant to invest in capital facilities that did not provide immediate benefits in terms of profits. So they did not invest in schools, hospitals, and other services to the communities where they were located. According to Kenneth J. Rea, these are the activities normally associated with governments, and, “one aspect of the development process in the territorial north ... was the absence of such publicly sponsored undertakings during most of the area's economic history. The reasons for this... were not only to be found in the lack of demand ...but also in the policies and, indeed, in the very *structure* of government in the north.”¹⁰³ For Rea, the colonial nature of northern governments also contributed to the lack of economic development:

The system of territorial government devised for the northern part of Canada not only minimized the influence of local interests upon policy at that level, but the financial arrangements made it virtually impossible for the territorial government to implement measures arising out of such influence whenever it did make itself felt. This weakness of the territorial government arose largely... from the constit-

¹⁰² Kenneth J. Rea, 1968, p. 315.

utional provisions which removed control over natural resources from the jurisdiction of the territorial administration. This not only served to transfer the responsibility and the initiative for the development of such resources ... to the federal government, but it also eliminated the only major source of revenue which might have been available to the territorial government for financing the investments it might have undertaken in resource-developing capital.¹⁰⁴

The federal Government refused to support the idea of a rail link between British Columbia, the Yukon and Alaska, despite the North Pacific Planning Commission's support for such a link, and American authorization to negotiate an agreement with Canada to construct one in 1949.¹⁰⁵ However, federal support for frontier road construction gathered momentum in the 1950s, and in 1957, Prime Minister Diefenbaker's government adopted a policy that supported the building of roads into northern areas which had economic *potential*.¹⁰⁶ Under the new policy, the federal government agreed to pay the full costs of constructing "development" roads in the Yukon, while maintenance costs were to be split: the federal government paying 85 percent of the costs, and the Yukon Government paying 15 percent.¹⁰⁷ The

¹⁰³ Kenneth J. Rea, 1968, pp. 314-315.

¹⁰⁴ Kenneth J. Rea, 1968, p. 315.

¹⁰⁵ Kenneth J. Rea, 1968, p. 234.

¹⁰⁶ Kenneth J. Rea, 1968, p. 242.

¹⁰⁷ Kenneth J. Rea, 1968, p. 243.

policy was further enhanced in 1962, when the federal government increased its subsidy to mining companies for building roads to mine sites.¹⁰⁸

The increased economic activity and military presence in the Yukon caused the population to grow substantially from 1941 to 1961, rising from about 5,000 people to almost 15,000.¹⁰⁹ The Yukon's elected assembly, the Territorial Council, began agitating for increased responsibility and greater attention to the territory's economy. This increasing interest in the economic and constitutional future of the Yukon prompted the federal and Yukon governments to sponsor a major study of the Yukon economy in 1967. The 14 volume study was completed by D. Wm. Carr and Associates in November, 1968, and included 29 specific recommendations for additional work. These recommendations included a renewed call to build a rail link from the Yukon to southern Canadian railways, completing a forest inventory, and conducting a feasibility study for a lead-zinc smelter in the Yukon.¹¹⁰ However, most of the recommendations were never acted upon.

¹⁰⁸ Kenneth J. Rea, 1968, p. 246.

¹⁰⁹ Kenneth J. Rea, 1968, pp. 324, 431.

¹¹⁰ Recommendations included:

- building a standard gauge railway from the centres of originating traffic in the Yukon to connect with Canada's mainline railways by 1978;
- provision of a Canadian tidewater port as near as possible to the Yukon by the time the standard gauge railway is ready to use;
- provision of adequate electric power capacity and developing comprehensive generating facilities and effective transmission grid by 1975;
- extension of programs for the development roads and airfields to develop a grid for each of them covering the territory by 1975;
- completion of a geological survey and mapping of the Territory within 12 years;
- complete a feasibility study for a lead-zinc-silver smelter for the territory within 5 years;
- feasibility studies for iron ore mining and coal-fired thermal electric plants;
- expansion of the forest industries by 20 times by 1985;
- complete an inventory of Yukon forests;

Federal acceptance of aboriginal land claim negotiations marked a significant turning point in federal policy that had significant implications for the Yukon. The question of who owned the land and resources of the Yukon, combined with a freeze on federal land dispositions and new environmental legislation, dampened the investment climate in the territory. The federal government also rejected the Yukon Indians' demand for a Yukon University as outlined in their statement of claim. While the small size of the Yukon's population (less than 30,000 in 1973) likely contributed to the decision, two independent studies launched by the Science Council of Canada and the Association of Universities and Colleges of Canada, later supported the initiative.¹¹¹ As a consequence of the federal decision, northern Canada is the only region in the circumpolar North that lacks a university that can build the human capacity to meet local needs and address the educational requirements of many of its residents. Many Yukon residents are forced to migrate out of the territory to obtain their academic credentials as the Yukon has only one small college, and many students never return.

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- establishment of a specialized development authority to carry forward the work of the study and to carry out overall planning and co-ordination for economic development of the Yukon and the northwest region. (Carr and Associates, 1968, pp, 12-16).

The vast majority of the recommendations were never implemented, although work on forest inventories, geological surveys, and other studies are ongoing. The federal government continued to be reluctant to discuss a railway through the Yukon, and U.S. initiatives to obtain Canadian participation in studies have largely been ignored. However, by 2005, the federal government appeared to be considering the proposal following a visit from Alaska Governor Murkowski and Premier Fentie.

¹¹¹ Council for Yukon Indians, *Together Today for Our Children Tomorrow: A Statement of Grievances and an Approach to Settlement by the Yukon Indian People*, Brampton: Charters Publishing Company Limited, 1973. p. 21; Science Council of Canada, *Northward Looking: A Strategy and a Science Policy for Northern Development*, Ottawa: Minister of Supply and Services Canada, 1977, pp. 57-58; Thomas H.B. Symons, *The Symons Report*, Toronto: The Book and Periodical Development Council, 1978, p. 101.

Federal interest in the North was also rekindled in the 1970s when the federal government was faced with a proposal to build a natural gas pipeline down the Mackenzie Valley. The government appointed Mr. Justice Thomas Berger to chair the inquiry in 1974, and a broad array of environmental and Native organizations soon spoke out against the pipeline project. After many months of hearings it became clear that Justice Thomas Berger would not support early construction of the line. Before Berger's report was issued in 1977, an alternate route down the Alaska Highway was proposed and quickly supported by all the parties except the Council for Yukon Indians.¹¹² The Canadian and U.S. governments quickly approved the project but its economic viability waned as the energy crisis in North America receded, and the project was never completed.¹¹³ The Yukon was not to benefit from pipeline development as Alaska had. Indeed, the Yukon lost "tax benefits of at least \$1 billion over the twenty-five year life of the pipeline"¹¹⁴

But energy issues remained high on the federal government's agenda into the 1980s with the adoption of the National Energy Policy (NEP) in October 1980. The NEP was designed to support oil and gas exploration in the North and offshore frontiers, increase Canadian ownership and control of the oil and gas industry, and divert economic rents from the corporations and producing provinces to the federal government.¹¹⁵

¹¹² Kenneth M. Lysyk, Edith E. Bohmer, and Willard L. Phelps, *Alaska Highway Pipeline Inquiry*, Ottawa: Minister of Supply and Services Canada, 1977.

¹¹³ Robert Page, 1986.

¹¹⁴ Robert Page, 1986, p. 283.

¹¹⁵ Robert Page, 1986, p. 301.

The elements of the policy were incorporated into the *Canada Oil and Gas Act*, in 1981, which was opposed by both aboriginal and non-aboriginal northerners because it identified northern land and resources as national resources, ignored the concept of aboriginal title, and benefited southern Canadians at the expense of northern Canadians.¹¹⁶

A Progressive Conservative government was elected in the national election of September, 1984. The Yukon's Member of Parliament, Erik Nielsen, soon became deputy Prime Minister, and the national government adopted a new policy on northern development in 1987 when it approved, *A Northern Political and Economic Framework*, the first major policy statement on the North since 1972. The essential components of the framework were to: transfer all remaining provincial-type programs to the territorial governments; settle land claims as soon as possible; ensure a full debate on the division of the Northwest Territories; develop stable, sound and diversified territorial economies (with a special emphasis on renewable resource development and tourism); improving the business climate for investors through a Northern Mineral Policy and a Northern Oil and Gas Accord; and, review the role of the federal government in the North as it relates to foreign policy and Canadian Arctic sovereignty.¹¹⁷

¹¹⁶ Gurston Dacks, 1981, pp. 28-29; Steven Smyth, 1991, p. 70.

¹¹⁷ Government of Canada, *A Northern Political and Economic Framework*, Ottawa: Minister of Supply and Services Canada, 1988, p. 5.

The *Framework* noted that, “Three concerns underscored the need to reassess northern economic policy: demographic pressures; declining major resource activity and the northern economy’s dependence on government expenditures.”¹¹⁸

The policy proposed to address the North’s economic problems by devolving resource management responsibilities to the territorial governments (subject to continued support by First Nations), finalizing land claim negotiations, and diversifying northern economies. However, it also noted that territorial government growth and federal spending would not continue at the same pace as in the past decades.¹¹⁹

The federal policy complemented the Yukon government’s *Yukon Economic Strategy*, completed by the Yukon Department of Economic Development in 1988. The *Yukon Economic Strategy* was the culmination of several years of public consultations, workshops and studies, known as the *Yukon 2000* process, conducted to gain consensus on how the Yukon’s economy should evolve.¹²⁰ The strategy outlined numerous initiatives the Yukon government would undertake to strengthen and diversify the economy in order to achieve the identified goals of: maintaining the option of residents to stay in the Yukon; gaining greater control over the economy; enhancing the quality of life; and, ensuring equality of opportunity.¹²¹

¹¹⁸ Government of Canada, 1988, p. 11.

¹¹⁹ Government of Canada, 1988, p. 14. “From 1971 to 1985, federal expenditures in the territories increased from \$131 million to \$1,933 million, including transfers to the territorial governments and, since 1982, payments under the Petroleum Incentives Program (PIP). Even without PIP payments, 1985 federal expenditures approximated \$1,262 million.” Government of Canada, 1988, p. 13.

¹²⁰ Government of Yukon, 1986; Government of Yukon, *Yukon Economic Strategy*, 1988.

¹²¹ Government of Yukon, 1988, p. 3.

In the Yukon, the federal policy framework was implemented through the completion of a number of program transfers (such as freshwater fisheries, Northern Canada Power Commission, health and hospital transfers, and airports), to the Yukon Government; the signing and implementation of the 1991 *Canada-Yukon Economic Development Agreement*, and the negotiation of the Yukon Indian land claims Agreement in Principle (1988), and the Umbrella Final Agreement (1990).

The 1991 *Canada-Yukon Economic Development Agreement* (EDA) followed an earlier 1984-89 *Economic Development Agreement*, which together made available some \$64.2 million for economic research, planning, training, and demonstration projects in the major sectors of the economy: tourism, renewable resources, forestry, mining, and small business. Three million dollars of this funding was also earmarked for efforts to reopen the Curraugh Resources mine at Faro.¹²²

In October, 1993 a Liberal federal government was elected. The new government did not adopt an explicit northern policy, and the *Economic Development Agreement* lapsed in 1996, and was not renewed, despite a federal-Yukon evaluation report that recommended the agreement be renewed in a modified form.¹²³ Since 1996, the North has been the only region in Canada that has not had regional economic development funding available to it. However, the Liberal government continued the process of negotiating program transfers to the Yukon government, including responsibility for onshore oil and gas (1998), and culminated in the transfer

¹²² J.C. McDavid and Associates, *1991-96 Canada-Yukon Economic Development Agreement: Final Evaluation Report*, Whitehorse: Canada-Yukon Economic Development Agreement, 1996, p. 199. Note, the mine at Faro was reopened for several years, but then closed down once again.

¹²³ J.C. McDavid and Associates, 1996, pp. 256-261.

of all Northern Affairs programs to the Yukon government on April 1, 2003.¹²⁴ The Liberal government also continued negotiating land claims and, along with the Yukon government, signed final agreements with most Yukon First Nations between 1994 and 2004.

The settlement of a number of land claims in the Yukon has had positive results for the Yukon's aboriginal population. Federal land claim money has bolstered the social and economic development of most Yukon First nation communities, so that in October, 2004, the Department of Indian and Northern Affairs was able to report that eight of Yukon's fourteen First Nation communities ranked amongst the top 89 aboriginal communities in Canada on the First Nations Community Well-Being Index.¹²⁵

The pipeline debates of the 1970s were rekindled in 2000 when proposals to construct Mackenzie Valley and Alaska Highway pipelines were resurrected. But the old arguments against the pipeline proposals were no longer evident. First Nations in the N.W.T. and the Yukon with land claim settlements were much more amenable to the pipeline proposals, and opportunities to partner with the pipeline companies were actively sought. In 2003, the Yukon government provided financial support to Yukon First Nations to form an Aboriginal Pipeline Group to study the impacts of an Alaska Highway pipeline and formulate their position on the pipeline.¹²⁶ The Yukon

¹²⁴ Government of Canada, *Yukon Northern Affairs Program Devolution Transfer Agreement*, Ottawa: Minister of Public Works and Government Services Canada, 2001.

¹²⁵ Erin O'Sullivan and Mindy McHardy, *The Community Well-Being (CWB) Index: Disparity in Well-Being Between First Nations and Other Canadian Communities Over Time*, Ottawa: Indian and Northern Affairs Canada, 2004.

¹²⁶ *Yukon News*, Oct. 1, 2003, p. 5.

government also concluded an agreement with Kaska Minerals Corporation in 2003 to enable the corporation to lease Crown lands and arrange for mineral exploration work to be conducted on those lands.¹²⁷

The Yukon government has, since the 1980s, fostered links with its northern neighbors in an attempt to strengthen political and economic initiatives, including joining the Northern Forum in 1991,¹²⁸ and renewing intergovernmental relations accords with its neighbors. For example, a new accord was signed by Alaska Governor Murkowski and Yukon Premier Fentie on December 1, 2003, to foster cooperation on initiatives such as an inter-jurisdictional railway, an Alaska Highway gas pipeline, and extension of fibre optic cable from Alaska through the Yukon.¹²⁹

Increased cooperation amongst northern Canadian jurisdictions has had proven benefits, such as when the three northern premiers walked out of a first ministers' conference in February 2003 to protest the small amount of health funding they were allocated by the federal government. Federal officials soon after increased the level of health funding to the territorial governments to \$60 million.¹³⁰ The Yukon's ties with Alaska have been advantageous. For example, Yukon students attending the University of Alaska benefit by being treated as residents for tuition purposes. Other areas of cooperation include joint tourism marketing, agreements on highway maintenance, reciprocal fishing licensing, and the U.S. government's

¹²⁷ *Yukon News*, Nov. 17, 2003, p. 5.

¹²⁸ Government of Canada, *Canada and the Circumpolar World: Meeting the Challenges of Cooperation into the Twenty-First Century*, Ottawa: Public Works and Government Services Canada, 1997, pp. 42, 170.

¹²⁹ Government of Yukon, *News Release*, December 1, 2003.

ongoing investments in highway maintenance in the Yukon as part of the Shakwak Project. Canada and the U.S. entered into an agreement in 1977 to upgrade portions of the Haines Highway and the Alaska Highway (the Shakwak Project). The agreement has been extended for many years, and the Yukon government took over the reconstruction work in 1992 when highway maintenance was devolved to it from the government of Canada.¹³¹

Ironically, Canada pays the most attention to the North when its sovereignty in the North is challenged. This was evident during World War II, when Canada had to react to the influx of American troops; in 1969, when it had to respond to the *Manhattan's* transit of the Northwest Passage; and in 1985, when The USS *Polar Sea* made its way through the Passage. Following the latter incident, the Canadian federal government actually announced in its 1987 policy paper on defense that it would invest in a small fleet of nuclear submarines to provide more effective monitoring of the Northwest Passage. As each threat passed, Canada lost interest in the northern sovereignty issue, and never purchased a nuclear submarine.¹³²

However, late in 2004, Prime Minister Paul Martin announced his concern over the possibility that global warming could reduce the ice pack in the Arctic Ocean, potentially opening new opportunities for foreign vessels to utilize the Northwest Passage, and perhaps challenge Canadian sovereignty once again. His government has proposed a federal-territorial planning exercise to develop a northern

¹³⁰ Governments of Yukon, Northwest Territories and Nunavut, *News Release*, February 16, 2003, February 20, 2003 and April 16, 2003.

¹³¹ www.hpw.gov.yk.ca/trans/highways/shakwak.html, Nov. 10, 2004.

strategy, and he even mused about the possibility of creating northern provinces.¹³²

This planning process may provide new opportunities for the territories to seek the resources they require to place their economies on a more solid footing.

Overcoming Economic Dependency

Underlying the demands for constitutional change in northern jurisdictions has been the desire to gain greater control of local economies and to reduce dependency on national governments. National governments continue to be significant forces in northern economic development in Alaska, Greenland and the Yukon. Large transfer payments underpin their economies, and federal largesse in Alaska is also a function of the large military presence in the state, unmet needs of capital and social infrastructure as compared with the lower 48 states, protection of federal lands, and the significant influence wielded by Alaska's congressional delegation.

Alaska remains the wealthiest and most independent subnational jurisdiction in the circumpolar North, with statehood guaranteed in the constitution and benefiting from its bountiful stock of natural resources, and especially its wealth of oil. Yet the narrow base of Alaska's economy, combined with ongoing projections of declining oil reserves, disturbs many Alaska economists.

As noted throughout this chapter, the policies of national governments have played a significant role in northern development and underdevelopment. National governments must also be engaged to provide the leadership and support to break

¹³² D. Huddleston, "Canadian Defence Polices and Activities in the Arctic," *The Arctic: Choices for Peace and Security*, Edmonton: The True North Strong and Free Inquiry Society, 1989, pp. 179, 183.

¹³³ John Ibbitson, *Globe and Mail*, November 23, 2004.

northern jurisdictions' dependency on government transfers and on mineral, oil and other staple prices. Can this be done?

Sociologist Peter Evans, in *Embedded Autonomy: States and Industrial Transformation*, demonstrates how Korea, Brazil and India were able to foster powerful information technology industries within their countries. He utilized the concept of the "developmental state," which possesses "embedded autonomy," to demonstrate how the state can effectively intervene in a developing economy to foster economic development. According to Evans:

The internal organization of developmental states comes ... closer to approximating a Weberian bureaucracy. Highly selective meritocratic recruitment and long-term career rewards create commitment and a sense of corporate coherence. Corporate coherence gives these apparatuses a certain kind of 'autonomy.' They are not, however, insulated from society as Weber suggested they should be. To the contrary, they are embedded in a concrete set of social ties that binds the state to society and provides institutionalized channels for the continual negotiation and re-negotiation of goals and policies. Either side of the combination by itself would not work.... Only when embeddedness and autonomy are joined together can a state be called developmental.¹³⁴

¹³⁴ Peter Evans, 1995, p. 12.

Using a “comparative institutional approach,” Evans analyzed how the actions and policies of the governments of Korea, Brazil and India were able to successfully foster the development of information technology industries within their countries at a time when conventional economic wisdom suggested that multi-national corporations, based in core countries, would dominate this industry and dictate where and how it would evolve.¹³⁵ This was the case, in spite of the fact that, in Evans’ own assessment, India and Brazil were not fully developmental states, but were, “intermediate cases, exhibiting partial and imperfect approximations of embedded autonomy. Their structures did not categorically preclude effective involvement, but they did not predict it either.”¹³⁶

Brazil, India and Korea utilized a combination of roles he refers to as “custodian,” “demiurge” “midwife” and “husbandry,” to build “greenhouses, sets of rules that would protect seedling computer firms from the cold winds of international competition.”¹³⁷ Custodial policies are essentially protectionist regulations, while the “demiurge” state “becomes involved in directly productive activities, not only in ways that complement private investment but also in ways that replace or compete with private producers.”¹³⁸ “Midwifery” and “husbandry” policies involve programs to assist the emergence of new entrepreneurial groups, inducing existing entrepreneurs to take on new challenges, and other forms of assistance to assist local corporations to expand and develop.

¹³⁵ Peter Evans, 1995, pp. 15, 18-20.

¹³⁶ Peter Evans, 1995, p. 13.

¹³⁷ Peter Evans, 1995, p. 111.

¹³⁸ Peter Evans, 1995, p. 79.

The “greenhouse” conditions created by Brazil, India and Korea differed significantly because of the different political, economic and social circumstances of each nation, but each country successfully fostered the growth of its information technology sectors in the 1980s.

According to Evans, the advent of a “‘new internationalization’ based on the fusion of local and transnational capital,” in the 1990s provided new challenges to the emerging information technology industries in Brazil, India and Korea. However, Evans notes that the greenhouse policies of the 1980s proved useful for meeting these new challenges:

The new internationalization was not simply the negation of nationalist development strategies. In many ways it built on the foundation laid by those strategies. Local firms had to exist before they could make alliances. They had to develop their own organizations, marketing skills, and installed base in order to have something to offer potential transnational allies. Without midwifery there would not have been local groups with which to ally.

Greenhouse policies also gave TNCs an incentive to look for allies. Greenhouse rules in all three countries, explicitly in Brazil and India, implicitly in Korea, made certain kinds of foreign entry

contingent on finding local partners. These policies were local capital's the [sic] biggest single bargaining asset.¹³⁹

Given the central role that national governments must play in fostering northern economic development, northern governments must successfully cajole national governments to action. Getting national governments to, first, articulate a policy of northern development, and second, to actively pursue policies of midwifery and husbandry, will be easier where those northern governments have the support of First Nation governments and aboriginal peoples. To the extent that national governments can effectively implement such policies, northern based businesses, entrepreneurs, aboriginal corporations, and governments will need to have the capacity to negotiate and implement mutually beneficial arrangements with multinational corporations.

Territorial lobbying in Canada appears to have had some impact on federal policy makers recently. On October 5, 2004, the Government of Canada presented its *Speech from the Throne*, and made specific reference to the need for a comprehensive plan for northern development:

A region of particular challenge and opportunity is Canada's North – a vast area of cultural and ecological significance. The Government will develop, in cooperation with its territorial partners, Aboriginal people and other northern residents, the first-ever comprehensive strategy

¹³⁹ Peter Evans, 1995, p. 184.

for the North. This northern strategy will foster sustainable economic and human development; protect the northern environment and Canada's sovereignty and security; and promote cooperation with the international circumpolar community.¹⁴⁰

Conclusion

Dependency theory predicts that peripheral regions will fail to develop because their economies are structured by "Outside" forces whose interests are opposed to, or at least, not focused on, those of the regions they dominate. However, according to some theorists, national governments possess a degree of autonomy that enables them to either assist "Outside" forces in exploiting peripheral economies, or support the evolution of autonomous local governments and regional economic development. Consequently, national policies can play a crucial role in either the exploitation or the development of their peripheries.

The economic history of the American and Canadian North provides significant evidence that federal policies for many years provided support for "Outside" corporations to exploit the resources of Alaska and the Yukon. In Canada, federal authorities largely abandoned the North to private corporations, preferring to let private interests develop infrastructure. In Alaska, federal interest was greater, fostering some growth through research and infrastructure development such as the

¹⁴⁰ Government of Canada, *Speech from the Throne*, October 5, 2004, pp. 5-6.

Alaska Railway. But federal policies (or, possibly, the Pacific Decadal Oscillation), also contributed to the near collapse of the salmon fishery through exploitation by “Outside” interests over the protests of Alaskans.

K.J. Rea’s comments about the effects of federal policies and the structure of territorial government in the Canadian North are equally applicable to territorial Alaska: “the system of government not only minimized the influence of local interests and upon policy at that level, but the financial arrangements made it virtually impossible for the territorial government to implement measures arising out of such influence whenever it did make itself felt. This weakness ... arose largely ... from the constitutional provisions which removed control over natural resources from the jurisdiction of the territorial administration.”¹⁴¹ This situation, “eliminated the only major source of revenue which might have been available to the territorial government for financing the investments it might have undertaken in resource-developing capital.”¹⁴² In other words, the lack of constitutional capacity to implement resource policies precluded economic development in the absence of effective federal policies.

Today, both the Alaska and Yukon economies remain somewhat dependent on Outside forces: federal expenditures and transfer payments and oil and other commodity prices. Non-resident corporations still have a hand in determining the pace of change in these northern jurisdictions.

¹⁴¹ Kenneth J. Rea, 1968, p. 315.

¹⁴² Kenneth J. Rea, 1968, p. 315.

From the 1860s until World War II, it can be argued that neither country invested heavily in its northern territories. The U.S. government invested more in Alaska than the Canadian government did in the Yukon: the U.S. government built the Alaska Railway, launched the Matanuska Valley agricultural project, and invested more in people, roads and research. But these efforts did not transform Alaska. World War II transformed Alaska. Federal expenditures provided road, airline, and modern communication linkages to the lower 48, eliminating Alaska's sense of remoteness. Federal expenditures improved infrastructure and brought a population boom to the state that supported renewed efforts in support of statehood.

During World War II, the North became a strategic resource to national governments because of its location, and the American government spent large amounts of money developing military infrastructure there. American war spending also benefited the Yukon to a large extent, much to the Canadian government's chagrin. The American presence in the Canadian North pointed out how neglected the region was. It was American money that built the Alaska and Haines Highways, the Canol Road and pipeline, upgraded airports, improved phone service to the South, and improved the White Pass and Yukon Route Railway. In contrast, Canada's military involvement in the Yukon was largely relegated to maintaining a highway it did not want. However, concerns over perceived threats to Canadian sovereignty over the Northwest Passage by American interests (the voyages of the *Manhattan* and the *Polar Sea*), also fostered responses. But the federal government's interest waned as each threat passed, and it never invested in the fleet of nuclear submarines capable of

monitoring traffic through the Northwest Passage, as announced in the 1987 defense policy paper.¹⁴³ Consequently, military bases and activities played a major role in Alaska's economic development, but only a small, transitory role in the Yukon's development.

Economic booms also proved advantageous for constitutional change. Citizens were more willing to advocate for constitutional change when the economy was booming, and federal authorities appeared more willing to accede to demands for such change during boom times. However, where federal interests conflicted with territorial interests, the territorial interests were ignored. This was evident when the gold mining economy in Alaska collapsed during and after World War II due to federal policies and a collapse in the price of gold.

The periods of greatest economic development in the North were the result of either sustained federal expenditure, or resource exploitation booms, such as the gold rush in the late 1890s and the oil rush in the 1970s. The two phenomena are connected. The value of remote regions becomes apparent to national governments when large amounts of valuable resources are found there and world market prices are high. The strategic value of the resource is important as well. The importance of oil increased significantly as a "national" resource in 1973 during the OPEC oil embargo and the more recent Middle East wars, resulting in renewed efforts to develop pipelines.

¹⁴³ D. Huddleston, 1989, pp. 179, 183.

These facts indicate that prosperous northern economies can be built where federal interest in northern development is sustained. In Alaska, this federal interest was sustained by the strategic location of the state, which grew in importance as Alaska's strategic resources grew. In Canada, federal interest in the North was sporadic rather than sustained.

Canada had a plan for developing its western territory: the National Policy. The policy promoted western development through the development of infrastructure, such as the Canadian Pacific Railway, and incentives for settlement, such as promoting immigration and giving away free land. Order was maintained through the creation of the Northwest Mounted Police. In contrast, neither the United States nor Canada had a comprehensive plan to encourage northern development, even after World War II.

The federal perspective on northern economic development is driven by the need to exploit northern resources for the national interest, whereas local and regional governments want economic development to benefit local businesses and communities. As an example, Prime Minister Trudeau's National Energy Policy fostered exploration and development of energy resources in the North, but the benefits of the program were designed to benefit southern Canadians at the expense of northerners – so northern Canadians opposed the National Energy Policy.

The debates over the admission of Alaska to statehood focused heavily on economic issues and on whether Alaska would be able to pay the expenses of state government. However, at the end of the debate there were no requirements for the

advocates of statehood to demonstrate that statehood was “feasible.” No economic formula was prescribed, and no economic criteria had to be met. In the end, the granting of statehood was a political act.

However, Alaska, supported by large infusions of federal funding during and after World War II, was able to attract and support a population that demanded constitutional change. The Yukon did not receive a level of federal support that enabled it to do the same. In contrast to Alaska, the Yukon’s 30,000 people have no university, no functioning railway, no access to regional economic development funding, and no significant military presence. Furthermore, there is no federal policy or plan to address northern economic development, although one was recently promised.

In the absence of a federal policy on northern development, territorial governments are forming alliances to support their claims for increased federal spending, and for the re-establishment of northern regional economic development funding. They are also increasingly allying with First Nation governments to improve economic development opportunities and attract businesses to the North. But the Yukon is still too reliant on resource extractive industries and multinational corporations for wealth generation. In Canada’s northern territories, resource development alone has not proven sufficient to build a northern economy to the level where it can sustain a large population needed to provide the tax base to support modern government. It seems evident that federal spending to support a university, research and development projects, military bases, and similar programs, could

provide some stability to northern economies to balance the boom and bust phenomena associated with resource extractive industries.

In conclusion, it would appear that some combination of federal investment and resource extraction will be required to ensure economic development in the Yukon, to the point where provincial status could be contemplated. As the economy grows, it will become less dependent on federal transfer payments and less of a burden on taxpayers in other regions. Larger numbers of workers and their families will be attracted to the region, enhancing its political importance and its chances of constitutional development.

Chapter 5

The Constitutional Evolution of Alaska and the Yukon

Introduction

Hechter's model of internal colonialism focuses on the cultural division of labor: the subordination of one ethnic group by another, and the relegation of the subordinate group to low status occupations. As Europeans moved into the northern regions of North America their efforts were devoted to exploiting the fur resources and exploring for gold deposits. Indigenous peoples were valued for their wealth of knowledge of local geography, hunting skills, and endurance, and were employed as packers, hunters and guides. Their value to the explorers and prospectors declined as the region was settled and a resource extraction economy was established. Horses, trains, tramlines and riverboats displaced Indian packers, and the mapping of the region eventually eliminated the need for guides.

Over time, the independent entrepreneurs, such as the prospectors, and agents of the centre – the explorers, missionaries, soldiers, and fur traders – settled in the periphery. Becoming settlers, their needs changed and they began to advocate for policies that fostered local development and local government. Their interests then clashed with those of the centre, whose primary interest remained exploitation of the periphery. A dynamic set of relationships thus emerged as the interests of the aboriginal population, the settlers, and the representatives of centre-based elites sought to influence the policies of national governments that impacted on the periphery. The national government, in turn, had a range of interests of its own -

fostering national development, protecting sovereignty, winning elections, and so on. Its responses to issues relating to the periphery depended on many factors.

Canadian historian Morris Zaslow described the demographics of the territorial North in the 1960s as follows:

Observers point out that there is not one territorial public but several, and that the political awareness and interest of each varies. There are the native inhabitants ... constituting over 20 per cent of the population of the Yukon ... a group that can be generally described as having extremely limited formal education (although this is being rapidly overcome), very parochial perspectives and interests, minimal experience of political institutions, and frequently a profound suspicion of the white man and all his works. The result is to inhibit the natives from playing the role in territorial government that their numbers warrant.¹

The second group Zaslow described was the civil servants and government employees, many of whom were transient, "who are discouraged from participating in territorial affairs by virtue of their positions." Consequently, "a large part of the adult population of the north is inert or immobilized as regards any campaign for constitutional reform."²

¹ Morris Zaslow, "Recent Constitutional Development in Canada's Northern Territories," *Canadian Public Administration*, 10, 1967, p. 177.

² Morris Zaslow, 1967, p. 177.

The third group included the white professionals and entrepreneurs, mine workers, clerks, laborers, and agents of large corporations. Zaslow noted that, “Among this group also are found entrepreneurs who have come north to live, rear families, and make a place where a permanent, modern white community can take root.”³ It is this group that was the most politically active because they objected to the governmental restrictions and the loss of benefits to “Outside” interests.

Alaska’s demographics, although shaped by the resource based nature of the economy, were different from the general pattern described by Zaslow. The population was larger and more complex. There was a large military presence in Alaska during and after World War II, a powerful fishing industry lobby, an influential aboriginal organization based in Southeast Alaska, and Alaska’s aboriginal population was more populous and diverse than the Yukon’s.

In both the Yukon and Alaska, the harsh environment and landscape also shaped the northern communities, both aboriginal and non-aboriginal. In the words of US park official Melody Webb:

The environment of the Yukon [River basin] demanded greatly modified behavior patterns, radically new perceptions, and skills and abilities without precedent in America’s frontier experience. As individuals adjusted and adapted, some innovative social and economic

³ Morris Zaslow, 1967, p. 178.

institutions evolved as well.”⁴

These innovative institutions included such things as miners’ meetings and miners’ law, annual migrations to the “Outside,” and inter-cultural common law marriage. Northerners also developed unique terms to describe themselves and others (newcomers), as “sourdoughs” and “cheechakos,” respectively.

Chapters 3 and 4 reviewed the impact of federal policies on the evolution of aboriginal rights and the economies of Alaska and the Yukon. This chapter will examine the evolution of public government⁵ in the two jurisdictions, focusing on the efforts of residents to acquire a measure of greater control over their constitutions and institutions of governance, the policies and responses of national governments, and the interactions among Natives, settlers and non-resident interests.

The Drive for Statehood in Alaska

Alaska managed without local government in its early years under American military administration, as federal officials provided minimal services and there was no elected assembly to represent the needs of the population. Indigenous peoples governed themselves with little interference as long as they did not threaten the economic interests of the non-indigenous people that sought to exploit the resource base of the colony.

Claus-M. Naske has commented that most of the early settlers who came to Alaska had some understanding of how frontiers in the lower 48 had evolved, and many of them believed that Alaska would follow a similar course to statehood.

⁴ Melody Webb, *Yukon: The Last Frontier*, Vancouver: UBC Press, 1993, p. 8.

However, Naske states that, “Alaska ... did not follow the usual Territory-to-State pattern. It was not until 1884 that ... the First Organic Act granted Alaskans even the basic elements of self-government.”⁶

Thus, like the early years in the neighboring Yukon Territory, “the Federal Government exercised its full powers to assure a tight, imperial control, and thereby created a truly noncontiguous administrative empire, much like those empires created by various European nations in that era Despite such imperial control, however, the Federal Government showed little real interest in Alaska.... The nation’s priorities simply did not include Alaska.”⁷

The *Organic Act* of 1884 provided a minimal form of civil government at minimum cost to the federal government, and no commitments of further development. Claus-M. Naske and Herman Slotnick commented that:

Aside from agreeing that Alaska’s government should be simple and inexpensive, they [Congress] had no clear concept of the form it should take. The result was a compromise, a hodgepodge of conflicting ideas and principles.... Alaska was designated a “district.” The term “territory” was deliberately omitted ... because it implied certain constitutional forms and

⁵ Public government refers to publicly elected governments, as opposed to First Nations or Native government, which are elected only by band or First Nation citizens.

⁶ Claus-M. Naske, *An Interpretive History of Alaskan Statehood*, Anchorage: Alaska Northwest Publishing Co., 1973, pp. 2-3.

⁷ Claus-M. Naske, 1973, p. 3.

guarantees. The Organic Act ... expressly forbade a legislature.⁸

Governance in Alaska improved slightly with the appointment of a governor, a judge, and a few other federal officials, but without a legislature settlers had no avenue for enacting the laws and policies they felt they needed. Miners in remote areas formulated and enforced their own laws in the absence of any local authorities, and thus pressure for change continued.

This situation changed with the Klondike and subsequent gold rushes, which drew attention to Alaska and its resources. President McKinley supported legislative changes to address Alaska's needs, and numerous changes to the *Organic Act* were implemented between 1898 and 1906, including a provision to select a non-voting member to the House of Representatives.⁹ Other changes included the imposition of business taxes and licenses, legalization of alcohol, increasing the number of judicial districts to three, enabling the incorporation of towns, relocating the capital from Sitka to Juneau, and changing Alaska's designation from "district" to "territory."¹⁰

However, the federal government effectively ran the territory. As recently as 1941, Claus-M. Naske comments that one report stated:

In many respects, Alaska is a Federal province: The
Governor is a Federal appointee, the law enforcement
and judicial system is administered by the United States
Department of Justice, part of the local taxes are imposed

⁸ Claus-M. Naske and Herman E. Slotnick, *Alaska: A History of the 49th State*, Norman: The University of Oklahoma Press, 1987, pp. 72-73.

⁹ Claus-M. Naske, 1973, pp. 5-6.

¹⁰ Claus-M. Naske and Herman E. Slotnick, 1987, pp. 86, 92.

by Act of Congress and collected by Federal officers, the fisheries and wildlife are under the jurisdiction of Federal and quasi-Federal agencies, about 98% of the land is in Federal ownership, the national defense program now changing the economic life of the Territory ... is entirely in Federal control.¹¹

While settlers lobbied for change, non-resident corporate interests such as the mining, shipping and canning industries, sought to maintain the *status quo*.¹² Aboriginal Alaskans sided with other Alaska residents in opposing commercial fish traps and other non-resident interests that historically discriminated against aboriginal people and displaced them from their traditional salmon fishing streams.

The stage was thus set early in Alaska's history: settlers lobbied the federal government for greater self-government, while non-resident interests opposed such moves and favored federal administration of lands and resources. The indigenous population generally supported measures to reduce non-resident control, but had a limited role because of discriminatory practices that limited their voting rights and their socio-economic status.¹³ The federal government was the dominant force in Alaska and had the power to grant or withhold constitutional change, and, because of its special relationship with the aboriginal population (as outlined in Chapter 3), was the target of lobbying from all three factions in the territory.

¹¹ Claus-M. Naske, 1973, p. 6.

¹² Claus-M. Naske, 1973, p. 23.

¹³ Donald C. Mitchell, *Sold American: The Story of Alaska Natives and Their Land, 1867-1959: The Army to Statehood*, Hanover: University Press of New England, 1997.

By the early 1900s Alaska's political parties adopted positions advocating for constitutional change. The Democrats wanted full territorial status, while the Republicans argued for self-government but not necessarily territorial status.¹⁴ In 1908, James Wickersham ran in the election for the position of Alaska's delegate to Congress on an "anti-Syndicate"¹⁵ and pro self-government platform, and won.¹⁶ Wickersham's campaign for legislative reform toward self-government captured public support, and in 1912 the *Second Organic Act* was passed. The *Second Organic Act* provided for a bicameral legislature whose work was subject to veto by a federally appointed governor and by Congress. In addition, there were a variety of limitations placed on the legislature's authority, while broad responsibilities were granted to the governor. Consequently, the legislators distrusted the governor and spent much of their time trying to undermine his control.¹⁷

Furthermore, the federal government continued to own and control all of Alaska's lands, and reserved for itself ongoing authority to legislate in the areas of game, fish and fur resources. According to Naske and Slotnick, "The Alaskan Lobby, as the representatives of the mining and fishing interests were called, had succeeded in putting a clause in the Second Organic Act that expressly forbade the Alaska legislature 'to alter, amend, modify and repeal measures relating to fish and game, or

¹⁴ Claus-M. Naske, 1973, pp. 23, 26.

¹⁵ "The Syndicate was a combination of the J.P. Morgan and Guggenheim fortunes. In Alaska the principal mining venture of this organization was the Kennecott-Bonanza copper mine.... Since the Syndicate apparently had inexhaustible capital and reportedly controlled steamship transportation and a major part of the salmon canning industry, many Alaskans feared that the wealthy combine would shortly dominate Alaska's politics." Naske, 1973, p. 26.

¹⁶ Claus-M. Naske, 1973, p. 27.

¹⁷ Claus-M. Naske, 1973, p. 6.

to interfere with the primary disposal of the soil.”¹⁸ While many Alaskans were disappointed with the limitations of the *Second Organic Act*, the act did clarify Alaska’s constitutional status, and declared that the United States’ constitution applied in the territory. According to Claus-M. Naske:

Historically, statehood was tied to the territorial classification, and, after the Insular Cases, specifically to the incorporated status. On a number of occasions the Court recognized Alaska’s incorporated status, and also decided that once an area had been incorporated it could not revert again to an unincorporated status. Furthermore, once Congress had incorporated a Territory, it subjected itself to certain limitations to legislate for that region, although these restrictions did not apply when it exercised authority to make laws for an unincorporated area. Most importantly, the act of incorporation was consistently looked upon as a commitment on the part of Congress ultimately to admit the incorporated Territory as a State.¹⁹

The campaign for statehood began in earnest in 1915, with the creation of the first statehood club and an advocacy newspaper, *The Forty-Ninth Star*, in Valdez. Shortly thereafter, in 1916, Wickersham had the first statehood bill for Alaska

¹⁸ Claus-M. Naske and Herman E. Slotnick, 1987, pp. 94-95.

¹⁹ Claus-M. Naske, 1973, pp. 8-9.

introduced in Congress, although it did not go anywhere.²⁰ The statehood idea received a brief boost from President Harding in 1923, who supported the concept in a speech, but he died shortly thereafter and his successor did not display similar enthusiasm for Alaska statehood.

As noted in the previous chapters, World War II fundamentally transformed Alaska, and its larger population and improved infrastructure boosted public confidence in their ability to be self-governing. The statehood movement was renewed when Delegate Anthony Dimond's statehood bill was submitted to Congress in 1943. Dimond's statehood bills were unsuccessful, but the statehood movement gained momentum in the post-war years with the election of Bob Bartlett, who replaced Anthony Dimond as Alaska's delegate to Congress, and who campaigned on a statehood platform. In addition, Alaska's governor, Ernest Gruening was a staunch advocate of the statehood cause. Bartlett's and Gruening's enthusiasm for the cause prompted numerous Alaskans to support statehood and a grass roots organization, the Alaska Statehood Association, was formed.

Support for statehood was also being generated in the federal bureaucracy in the post-war area. Naske and Slotnick note that, in 1945, "the executive departments most concerned with the Administration of Alaska had to take an official stand. Finally, on August 10, 1945, Secretary [of the Interior] Ickes issued a statement on behalf of his department stating that statehood was now a part of the department's

²⁰ Claus-M. Naske, 1973, p. 37.

policy for Alaska.”²¹ By 1946 President Truman had been won over to the statehood cause, and a state referendum that year indicated wide support for statehood amongst Alaskans.²²

The statehood bill introduced in 1947 (H.R. 206) received more serious consideration than earlier post-war bills, with numerous Alaskans flying to Washington to testify for and against the bill before the Subcommittee on Territorial and Insular Possessions of the Committee on Public Lands. The subcommittee and committee both reported the bill with unanimous support. Several members of the House Subcommittee on Territories and Insular Possessions subsequently traveled to Alaska later that year to hear more Alaskans’ views on the bill.²³ However, the bill did not include a provision disclaiming all rights to lands held by aboriginal people. This prompted the Natives’ lawyer, James Curry, to advise that Natives would oppose the bill unless the omission was corrected.²⁴ A revised bill, H.R. 5666, incorporating a disclaimer, passed committee examination and was reported by the House of Representatives in April 1948, but was subsequently tied up in the rules committee and not debated.²⁵

President Truman gave a boost to the statehood cause on May 21, 1948 when he devoted an entire message to Congress on the statehood issue.²⁶ In 1949, Delegate Bartlett and his friends in Congress again launched a statehood bill, H.R. 331, and the

²¹ Claus-M. Naske and Herman E. Slotnick, 1987, p. 146.

²² Claus-M. Naske, 1973, pp. 70-73; Ernest Gruening, *The Battle for Alaska Statehood*, College: University of Alaska Press, 1967, p. 2.

²³ Ernest Gruening, 1967, pp. 14-17.

²⁴ Donald C. Mitchell, 1997, pp. 359.

²⁵ Claus-M. Naske, 1973, pp. 76-79.

Alaska legislature took steps to promote statehood by passing a bill to establish an eleven-member Alaska Statehood Committee and appropriating \$80,000 to support it.²⁷ The committee was effective in mobilizing support for Alaska statehood at Senate hearings conducted on the statehood bills in 1950. In addition, Governor Gruening, on his own initiative, recruited the “committee of one-hundred” prominent Americans to support the statehood movement.²⁸

H.R. 331 was passed by the House of Representatives early in 1950 and referred to the Senate, which also conducted hearings on the measure. During the hearings, the chief fishery industry lobbyist, W.C. Arnold:

Urged the Senate to reject H.R. 311 because the Native land rights disclaimer section prohibited the state of Alaska from selecting land whose title was colored by Native claims and ‘require[d] the people of Alaska, as a condition of statehood, to acknowledge existence of unextinguished Indian title to the very homes in which they live and to accept the state lands subject to unextinguished Native rights.’²⁹

Subsequent to these hearings, Senators redrafted the bill to remove the disclaimer, and included language, “ that suspended the secretary’s [of the Interior]

²⁶ Ernest Gruening, 1967, p. 43

²⁷ Ernest Gruening, 1967, pp. 10-11.

²⁸ Claus-M. Naske, 1973, pp. 90-95; Ernest Gruening, 1967, pp. 13-14.

²⁹ Donald C. Mitchell, 1997, p. 362.

authority to establish reservations until Congress approved the Alaska constitution.”³⁰

Both actions provoked aboriginal organizations and their allies to oppose the provisions, and some vowed to attempt to defeat the bill if the offending provisions were not removed.³¹

The objections to Alaska statehood became more complex as the possibility of statehood became more apparent. In addition to the Natives’ objections, congressmen began to focus on issues such as Alaska’s ability to generate sufficient revenues to support a state government, the small population base, the political consequences of statehood, noncontiguity, and racial issues.³² Claus Naske noted that House Speaker Joseph Martin of Massachusetts raised the concern that Alaska, as a state, would likely elect a Democratic delegation.³³ This concern, and the concerns of southern Democrats that Alaskan delegates might support civil rights reforms, resulted in a lengthy filibuster that stalled the bill, and it had to be reintroduced in 1951.³⁴

While Bartlett’s 1951 bill, S. 50, was drafted so as to appease aboriginal concerns, Senator Butler attempted to reintroduce language to place limitations on the creation of new reservations in Alaska. However, the Committee on Interior and Insular Affairs rejected the proposed amendment.³⁵ The 1951 bill was also killed by the coalition of conservative Republicans and southern Democrats in 1952.³⁶

³⁰ Donald C. Mitchell, 1997, p. 364.

³¹ Donald C. Mitchell, 1997, pp. 362-366.

³² Ernest Gruening, 1967, pp. 101-102.

³³ Claus-M. Naske, 1973, pp. 96, 102 – 103.

³⁴ Claus-M. Naske, 1973, p. 104; Donald C. Mitchell, 1997, p. 366.

³⁵ Donald C. Mitchell, 1997, p. 367.

³⁶ Claus-M. Naske, 1973, p. 107; Walter R. Borneman, *Alaska: Saga of a Bold land*, New York: Harper Collins Publishers Inc., 2003, p. 399.

In 1953 Senator Butler (R.-Neb.), became the Chair of the Interior and Insular Affairs Committee, and took the committee to Alaska to hear from the “little people”³⁷ of the territory. The response from average citizens appearing before the committee was overwhelmingly in favor of statehood, and Senator Butler subsequently admitted that the prospects for statehood were improved.³⁸

As chair of the committee, Butler was in a strong position to craft the next statehood bill to his liking. A subcommittee was struck to draft the new bill, which authorized the state to select 100 million acres of “vacant, unappropriated and unreserved” public land, other than small plots that were in the use of, or occupied by, Natives.³⁹ The bill was unopposed by Natives, largely because the aboriginal land rights lobby had disintegrated following the death of Felix Cohen and the resignation of key aboriginal lobbyists.⁴⁰ In any event, the bill died in 1954 after it was attached to the Hawaii statehood bill and the House Rules Committee refused to send the measure to the floor of the House.⁴¹

While the aboriginal land issue was temporarily “resolved,” the statehood movement became side tracked by proposals to partition the state and to promote commonwealth status rather than statehood, and President Eisenhower and his administration were not supportive of Alaska statehood.⁴²

³⁷ The term “little people” was used by Senator Hugh Butler, chairman of the Senate Interior and Insular Affairs Committee, who, prior to the committee’s tour of Alaska, stated that he wanted to hear from Alaska’s “little people” on the statehood issue. Claus-M. Naske, 1973, p. 115.

³⁸ Claus-M. Naske, 1973, p. 117.

³⁹ Donald C. Mitchell, 1997, p. 368.

⁴⁰ Donald C. Mitchell, 1997, p. 369.

⁴¹ Donald C. Mitchell, 1997, p. 373.

⁴² Claus-M. Naske, 1973, p. 126.

Frustration with the slow movement of statehood initiatives through Congress in the early 1950s prompted statehood advocates to begin considering alternative means to promote their cause. The idea of holding a constitutional convention was developed by several organizations in the territory, and a bill to authorize a convention, House Bill No. 1, was approved in the territorial legislature in 1955, along with an appropriation of \$300,000 to cover convention expenses.⁴³ Convention delegate Victor Fischer explained that Alaska was influenced by Hawaii's constitutional convention, held in 1950:

Because the issues of Alaska and Hawaii statehood were intertwined in Congress, it seemed logical for Alaska to also write a constitution and be on par with Hawaii. Also, proponents of Alaska statehood hoped the existence of the constitution for the proposed state would show Congress that Alaska was ... ready to become a state.”⁴⁴

The convention legislation authorized the election of fifty-five convention delegates to meet for a seventy-five day period at the University of Alaska in College, Alaska. The elected delegates represented a broad spectrum of Alaskans, but, despite their large numbers, there was only one aboriginal Alaskan delegate.⁴⁵ There was no significant pressure for Native involvement in the convention and most aboriginal

⁴³ Claus-M. Naske, 1973, pp. 136-37; Ernest Gruening, 1967, p. 71.

⁴⁴ Victor Fischer, "Alaska's Constitution," in Gerald McBeath and Thomas Morehouse (eds.), *Alaska State Government and Politics*, 1987, p. 29.

⁴⁵ The Native population of Alaska at the time was approximately 33,000, about one quarter of the population of the territory. Claus-M. Naske, 1973, p. 152.

leaders were unaware of its significance. Furthermore, most Natives were not yet mobilized politically in the territory.⁴⁶

The convention approved the draft of a state constitution, and resolutions to: eliminate fish traps, ratify the constitution at a primary election in 1956, and adopt the Tennessee Plan.⁴⁷ All of these measures were approved in the April, 1956 referendum, and the Tennessee Plan delegates were elected in the general election in October.⁴⁸

The convention delegates were unable to come to terms with the issue of aboriginal land rights, despite the pleas of delegate Marvin R. “Muktuk” Marston to include land grants for aboriginal people in the state constitution. Furthermore, the issue of subsistence harvest rights for aboriginal Alaskans was not addressed. As a consequence, an opportunity to build common ground between aboriginal and non-aboriginal people for resolving aboriginal land rights and subsistence issues was lost.⁴⁹ However, when the statehood bill was being drafted in 1957 by Bartlett under Henry “Scoop” Jackson’s supervision, the provisions that were objectionable to the aboriginal population were removed, and a disclaimer disavowing any state selections of Native claimed lands was added. Aboriginal opposition to the bill was thus precluded.⁵⁰

⁴⁶ Gerald McBeath, *pers. comm.*, April 12, 2004.

⁴⁷ Promoted by businessman George H. Lehleitner, the Tennessee Plan was to elect delegates to Congress without waiting for congressional action or approval. This approach was used by Tennessee in 1796 to pressure Congress to admit Tennessee as a state. Claus-M. Naske, 1973, pp. 140-141.

⁴⁸ Claus-M. Naske, 1973, p. 144.

⁴⁹ Gerald E. Bowkett, *Reaching for a Star: The Final Campaign for Alaska Statehood*, Fairbanks: Epicenter Press, 1989, pp. 57-59; Victor Fischer, *Alaska’s Constitutional Convention*, Fairbanks: University of Alaska Press, 1975, pp. 134-139.

⁵⁰ Donald C. Mitchell, 1997, p. 374.

Lacking significant aboriginal involvement, the Alaska constitution strongly reflected non-aboriginal reform values. According to Gerald McBeath and Thomas Morehouse, “Like its older sister states of the American West ... Alaska was strongly influenced by the western reaction against eastern centers of federal government and private corporate power. An important part of this western reaction was the insistence on local control, independence, and autonomy, especially where land, resources, and individual liberties were involved.”⁵¹

The constitutional convention, referendum, and election of the Tennessee Plan delegation were covered by the national media and added impetus to the statehood movement. Furthermore, Secretary of the Interior McKay, who was an opponent of statehood, resigned to run for a Senate seat in 1956, and he was replaced by a statehood advocate, Fred Seaton. Seaton agreed to hire Alaskan Theodore (Ted) Stevens as a legislative counsel for the department, and to provide advice on Alaska issues. Stevens worked with the publisher of the *Fairbanks Daily News-Miner*, William Snedden, who was actively engaged in lobbying efforts for statehood. Snedden used his media contacts to promote statehood for Alaska. Consequently, when the Tennessee Plan delegates drove from Alaska to Washington in 1957 to publicize the statehood movement, they could count on a considerable amount of sympathetic press coverage. The delegates received a warm welcome in Tennessee

⁵¹ Gerald McBeath and Thomas Morehouse, “Reforming Alaska’s Political and Governmental System,” in Clive S. Thomas (ed.), *Alaska Public Policy Issues: Background and Perspectives*, Juneau: The Denali Press, 1999, p. 238.

and in Congress, although they were not officially recognized or offered seats in the either the House or Senate.⁵²

The efforts of Stevens, Snedden, and Seaton to garner support for statehood began paying dividends as opposition to statehood in the bureaucracy and Congress began to wane. Both Senate and House committees established to review statehood bills in 1957 reported the bills favorably, and House Speaker Sam Rayburn reversed his earlier opposition to debating statehood bills on the floor of the House.⁵³ Then, in 1958, President Eisenhower spoke out in favor of statehood for Alaska in his budget address.

While these changes augured well for statehood proponents, the statehood bills still faced serious opposition from individual congressmen when brought forward for debate. House Rules Committee Chair, Howard Smith, opposed statehood for Alaska, but his ability to block progress on the bill was circumvented when the chair of the Interior and Insular Affairs Committee had the legislation deemed as “privileged,” thus forcing a debate on the bill. After several amendments were adopted, the bill was approved in the House of Representatives by a vote of 210 to 166.⁵⁴ The bill then proceeded to the Senate, where, after three days of debate, it passed by a vote of 64 to 20. President Eisenhower subsequently signed the statehood bill into law on January 3, 1959.⁵⁵

⁵²Claus-M. Naske, 1973, pp. 156-157.

⁵³ Claus-M. Naske, 1973, p. 159.

⁵⁴Claus-M. Naske, 1973, pp. 162-164.

⁵⁵ Ernest Gruening, 1967, pp. 104-106.

Summary

The struggle for statehood was a prolonged affair, taking about 43 years to accomplish. There was no consistent federal policy on the issue, with different presidents and interior secretaries taking stands that variously supported and opposed statehood. Indeed, Dwight D. Eisenhower, the president who signed the statehood bill into law, was not an ardent supporter of statehood.

Non-resident corporate interests were the most vocal opponents of statehood, as they feared a state government would pass laws and impose taxes which would be averse to their interests. Politicians in the southern United States also opposed statehood, fearing that the state would elect Democratic Party candidates to Congress and upset the political balance in that institution. Many of these “Outside” interests used the arguments that the territory was too under-populated and under developed to be able to support the programs necessary to run a state government.

Many residents of Alaska also did not support statehood for many years. Aboriginal Alaskans had limited political power but opposed several bills that did not recognize their interests in the land, and some resident corporations also opposed statehood for fear of increased taxation. However, the aboriginal interests were eventually addressed in the proposed legislation, and, after World War II, many more Alaskans became confident that statehood was an achievable and desirable goal.

Alaskans had time on their side. The rules for getting a statehood bill passed were the same as the rules for getting any other piece of legislation passed. In the absence of any federal policy opposing statehood, and without any complex

constitutional rules to overcome, Alaskan persistence paid off. Statehood was achieved because the rules for attaining statehood were not, ultimately, based on wealth or population – but on effective political lobbying and the overcoming of internal opposition to the measure.

The Yukon's Struggle for Constitutional Certainty

Amending the Yukon Act

The Yukon Territory was created as a result of the Klondike gold rush and the influx of American gold seekers that threatened Canada's sovereignty in the region. Like Alaska, its earliest form of government was purely colonial – the federal government appointed the commissioner and council and there was no provision for elected representatives. However, during the “boom” times of the Klondike gold rush, advocates for provincial status for the Yukon included Commissioner William McInnes. McInnes proposed provincial status in a speech to Dawson residents in 1905.⁵⁶ During the period 1899 – 1917, the *Yukon Act* was amended to establish an elected territorial council that had law-making powers, and the Yukon was allowed to elect a member to the parliament of Canada. However, by 1918 the Yukon's economic fortunes and its population had declined substantially, and the federal government unilaterally amended the *Yukon Act* to reduce the size of the territorial council to just three members, and then it drastically cut the Yukon government budget. Only vigorous protests from the Yukon citizenry prevented further action to replace the elected council with an appointed one. The twenty-four years from 1918

⁵⁶ David R. Morrison, *The Politics of the Yukon Territory: 1898-1909*, Toronto: University of Toronto Press, 1968, p. 72

to 1942 were years of economic doldrums, and the role of commissioner was continually downgraded as the territory's population declined.⁵⁷ Then, in 1937, the very existence of the Yukon Territory was threatened when the federal and British Columbia governments reached a deal to annex the territory to that province. Yukon residents protested against the deal, which was made without any consultation, but it was the issue of government funding for Catholic schools that caused the federal government to drop the initiative. According to historian Kenneth Coates:

The proposed annexation, announced with such fanfare and seemingly inevitable, failed over the question of continuing a territorial grant to St. Mary's Catholic School, which at the time had only fifteen students. Prime Minister Mackenzie King, remembering what a political hot potato the funding of separate schools had been on the prairies, skipped deftly away from the issue, and the project fell through. The Yukon had been saved, not because Ottawa cared about it, but through sectarian prejudice and political cowardice.⁵⁸

World War II brought federal attention to the Yukon in a fashion not seen since 1898. American troops appeared in the Yukon, in numbers that rivaled the gold rush era, to construct a highway that the Canadian government did not want.

⁵⁷ Kenneth Coates and William Morrison, 1988, pp. 184-217.

⁵⁸ Kenneth Coates and William Morrison, 1988, p. 216. See also, Richard Stuart, "Duff Pattullo and the Yukon Schools Question of 1937," *Canadian Historical Review*, Vol. LXIV, No. 1, 1983, pp. 25-44.

According to historian Shelagh Grant, Canadian officials viewed the proposal to build the highway with a great deal of suspicion, and recommended that it proceed, “only on the proviso that the Americans would undertake the full responsibility for the cost, construction, and maintenance for the duration of the war and that the Canadian portion of the highway would be turned over to Canada at its end.”⁵⁹ The Americans also constructed the Canol pipeline and an oil refinery in Whitehorse, built a road to Haines, Alaska, upgraded the White Pass and Yukon Railway, and improved other infrastructure around the territory.⁶⁰ These measures opened the territory to improved transportation and tourism business opportunities in the post war years, reduced transportation and communication costs for Yukon residents, and increased the territorial population when the Canadian army established a garrison in Whitehorse to maintain the new highway. The growth in the population of Whitehorse came at the expense of Dawson City, and the capital of the territory was arbitrarily moved by the federal government from Dawson City to Whitehorse in 1953.⁶¹

The Yukon’s Territorial Council (its legislature) began demanding constitutional change in the 1950s, and by 1960 it had convinced the federal government to amend the *Yukon Act* to create an Advisory Committee on Finance. The Advisory Committee, consisting of three elected members of Territorial Council, was to be consulted when the territorial budget was being prepared. Unfortunately, the commissioner of the day, Frederick Collins, had little faith in the committee, and

⁵⁹ Shelagh D. Grant, *Sovereignty or Security? Government Policy in the Canadian North, 1936-1950*, Vancouver: The University of British Columbia Press, 1988, p. 75.

⁶⁰ Kenneth Coates, 1992; Kenneth Coates and William Morrison, 1988, pp. 219-257; Terrence Cole and Elmer E. Rasmusson, 2000, pp. 200-203.

in-fighting amongst councilors and confidentiality requirements reduced the efficacy of the committee.⁶²

In 1966 and 1968, the Territorial Council approved resolutions in support of provincial status but the federal government was unresponsive. It did, however, agree with the advice of Commissioner James Smith to establish an Executive Committee consisting of three appointed members (the commissioner and two assistant commissioners) and two elected members of council, in 1970. The elected members were given portfolio responsibilities for two departments of the Yukon government, thus granting a limited degree of responsible government for the first time. The composition of the committee changed over the next nine years, as the appointed members were removed and the number of elected members was increased, so that by 1978 the only appointed member was the commissioner, who continued serving as chair of the committee.⁶³ During this period, the Territorial Council began calling itself the Yukon Legislative Assembly, and, in 1978, it formally adopted the name with the passage of the *Legislative Assembly Act*.⁶⁴

All of the changes to the executive committee were made by ministerial directive under the terms of the *Yukon Act*, so that the act itself was not amended. However, the Yukon Legislative Assembly established the Standing Committee on Constitutional Development in 1977 to study and promote change to the territorial

⁶¹ Kenneth Coates and William Morrison, 1988, pp. 259-262.

⁶² John D. Hillson, *Constitutional Development of the Yukon Territory, 1960-1970*, University of Saskatchewan, unpublished thesis, 1973, pp. 84-85, 90-95.

⁶³ Steven Smyth, "Ministerial Directives and Constitutional Development in the Yukon Territory," *Polar Record*, Vol. 26, No. 16, 1990, pp. 7-12.

constitution. The second report of the committee, tabled in December, 1977 included a proposed new *Yukon Act*, which would have created a province of Yukon had it been adopted by the federal government.⁶⁵

The 1978 territorial election was the first election in which political parties were able to run slates of candidates and have their affiliations identified on the ballots. The Yukon Territorial Progressive Conservative Party, a strong advocate of constitutional change, formed a majority government, and was soon lobbying the Minister of Indian and Northern Affairs to amend the *Yukon Act*. The national Progressive Conservative government, elected the following year, was sympathetic to the Yukon government's aspirations, and the new Minister of Indian and Northern Affairs, Jake Epp, issued a letter of instruction to Commissioner Ione Christensen to remove herself from the Executive Committee. This removed the federally appointed commissioner from any role in the Yukon government's decision-making process, and represented a significant change in the Yukon's constitutional evolution. The federal government also announced its intention to amend the *Yukon Act* to confirm responsible government in law, and to hold a referendum on provincial status. However, the national government was defeated in 1980 before it had an opportunity to carry out these promises, and a federal Liberal government was re-elected under Prime Minister Trudeau.⁶⁶ Prime Minister Trudeau and the Department of Indian and Northern Affairs were never sympathetic to Yukon's demands for provincial status.

⁶⁴ Steven Smyth, *The Yukon's Constitutional Foundations, Vol. 1, The Yukon Chronology (1897-1999)*, Whitehorse: Clairedge Press, 1999, p. 38.

⁶⁵ Yukon Legislative Assembly, *Second Report of the Standing Committee on Constitutional Development for Yukon*, Sessional Paper No. 77-2-33, 1977.

Prime Minister Trudeau was once quoted as stating the Yukon would not achieve provincial status in his lifetime.⁶⁷ Liberal Ministers of Indian and Northern Affairs were willing to discuss modest changes that did not require amendments to the *Yukon Act*, such as changes to the way the Yukon government was financed,⁶⁸ although the act was amended several times to accommodate federal priorities.⁶⁹

A major factor complicating the Yukon government's demands for constitutional development was the slow pace of land claims, and federal versus territorial perspectives on the relationship between land claims and constitutional development. Speaking to the Yukon Legislative Assembly on November 27, 1982, The Honorable John C. Munro, Minister of Indian and Northern Affairs, stated that:

We are now prepared ... to recognize in law, responsible government for Yukon once final agreement has been reached in the comprehensive land claims with the Council for Yukon Indians....

Provincial status, however, is not a realistic objective for Yukon at this time....

⁶⁶ Steven Smyth, 1999, pp. 71-79.

⁶⁷ *The Whitehorse Star*, August 5, 1977, p. 1. Prime Minister Trudeau's reasons for opposing provincial status are unknown, however, it is likely that he may have taken this position in order to provoke the Yukon's Member of Parliament, Erik Nielsen, who was a strident critic of Trudeau's policies and a staunch advocate of provincial status. He may also have opposed provincial status because of his sensitivities about Quebec's possible opposition to provincial status. There is no mention of the issue in his autobiography, *Memoirs*, Toronto: McClelland and Stewart, Inc., 1993.

⁶⁸ Indian and Northern Affairs Canada, *Speaking Notes for the Honourable John C. Munro, Minister of Indian Affairs and Northern Development*, [to] Standing Committee on Indian Affairs and Northern Development, March 24, 1981, p. 10.

⁶⁹ Steven Smyth, 1999, pp. 140-141, 158.

The land claims negotiations ... will only be concluded when Yukon Indians feel their rights and capabilities are adequately protected in Yukon's political structures and processes.

The challenge, as I see it, is to work toward achieving consensus on what these guarantees should be.⁷⁰

The Yukon's Government Leader, Chris Pearson, responded to Minister Munro by saying:

We must make it clear ... that we do not see that the enshrinement of responsible government in law is in any way connected to the settlement of Yukon Indian land claims. This has never been a condition, nor is it proper for it to be.....

There appears to be another major misunderstanding revealed in the Minister's address today. This misunderstanding concerns what is being negotiated in the Yukon Indian land claims forum. The Minister speaks of protecting the rights of Yukon Indian people in Yukon's political structure and process Such a process is unnecessary and ... redundant.⁷¹

The Department of Indian Affairs and Northern Development (DIAND), which was responsible for administering government in the northern territories, was also reluctant to promote change. Political scientist Michael Whittington studied the

⁷⁰ Yukon Legislative Assembly, *Sessional Paper No. 82-2-11*, November 27, 1982, p. 2.

North for the Royal Commission on the Economic Union and Development Prospects for Canada, and in 1985 wrote that, “The dominant, if declining, bureaucratic force in the ... 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.”⁷² Furthermore, “it is still necessary to emphasize that the formal or legal relationship of the territorial governments to the federal government remains essentially colonial.”⁷³

Officials in DIAND were not advocates of northern provinces, pointing out that territorial governments would not qualify for equalization payments if they became provinces. According to DIAND analyst D.G. Saigaonkar:

The FEP [federal equalization program] is intended to address provincial disparities in revenue raising capacity. The amount of compensation provided under the FEP is not determined by the expenditure which a ‘have-not’ province must incur for providing comparable services, but rather depends upon the revenue raising capacity of each province in comparison with the national benchmark developed for each tax base or source of revenue. According to these benchmarks, both the territories have considerable tax capacity and

⁷¹ Yukon Legislative Assembly, November 27, 1982, p. 3.

would, therefore, not qualify as 'have-not' areas for payments under the program. Even if they collected revenues from all tax bases at the National Average Tax Rates (NATR), their revenues would still fall below the level of their expenditures. Consequently, a federal grant would still be required in order to fund their current level of expenditures.⁷⁴

The confrontational nature of federal-territorial-First Nation relations changed somewhat after the election of a Yukon New Democratic Party government in 1985, which placed a high priority on settling land claims and supported entrenchment of aboriginal self-government in the national constitution. However, the relationship remained strained over the issue of whether Yukon Indians should have a veto over the territory becoming a province.⁷⁵ At the same time, interest in provincial status for the Yukon waned after the economic recession of the early 1980s. A committee of the Yukon Legislative Assembly established in 1990 to hear Yukoners' thoughts on constitutional development heard only a few submissions advocating provincial status. The committee subsequently reported that:

Most Yukon citizens who appeared before the Committee:

- (a) are reluctant to express definitive opinions until the settlement of native claims is finalized;

⁷² Michael Whittington, *The North*, Toronto: University of Toronto Press, 1985, p. 73.

⁷³ Michael Whittington, 1985, p. 73.

⁷⁴ D.G. Saigaonkar, *Fiscal Capacities of the Yukon and Northwest Territories, 1987-88*, Department of Indian Affairs and Northern Development, 1988, pp. 2-3.

- (b) have a general sense of unease about making choices... while so much uncertainty exists about constitutional issues on a national scale;
- (c) desire more information ...
- (d) do not believe that provincial status should be pursued at this time;
- (e) do want provincial status to be available as an option ...
- (f) feel that the Yukon should have a larger population and a more broadly-based economy before consideration is given to becoming a province.⁷⁶

The committee then qualified those findings “by noting that a minority of those who appeared ... believe that provincial status should be actively pursued and do not think that the size of the Yukon’s population and the state of the economy should hinder the Yukon’s pursuit of that goal.”⁷⁷

The Yukon government continued to pursue devolution initiatives, and succeeded in negotiating a number of transfers of federal responsibilities to Yukon government administration, as outlined in Chapter 4. The Council of Yukon First Nations (CYFN – the successor organization to the Council for Yukon Indians) and individual First Nations at times protested that they were not consulted enough in the

⁷⁵ Steven Smyth, 1999, pp. 207-208.

⁷⁶ Yukon Legislative Assembly, Select Committee on Constitutional Development, *Report on the Green Paper on Constitutional Development*, 1991, pp. 5-6.

⁷⁷ Yukon Legislative Assembly, 1991, p. 6.

devolution negotiations,⁷⁸ but a consultation accord between the Yukon government, CYFN, and non-member First Nation negotiators was eventually signed in May 1997 as a means for addressing this concern.⁷⁹

The Yukon government achieved considerable success in negotiating the devolution of federal programs to Yukon government control after 1996, when the federal Minister of Indian and Northern Affairs issued a consultation paper entitled, *Devolution of the Northern Affairs Program to the Yukon Government*.⁸⁰ Following up on its 1996 consultation, the federal government tabled a *Formal Proposal* on the devolution of federal programs to the Yukon government on January 31, 1997.⁸¹

After a year and a half of negotiations, the governments of Canada and Yukon, and representatives of Yukon First Nations signed the *Yukon Devolution Protocol Accord*, on September 23, 1998, “which provided a framework to both guide devolution negotiations and permit simultaneous negotiation of unresolved land claims.”⁸² This accord was a major breakthrough in gaining First Nation support for devolution negotiations since First Nations had always advocated the settlement of land claims as a priority over federal transfers of authority to the Yukon government. To this end, the *Protocol Accord* stated that any transfer agreement shall outline, “the intent of the Parties to conclude, as matters being of the highest priority, the

⁷⁸ Steven Smyth, 1999, pp. 207, 208, 218, 225.

⁷⁹ Letter to DIAND Minister Irwin, Government Leader McDonald, Acting Grand Chief of CYFN, Kwanlin Dun First Nation Chief Joe Jack, Kaska Tribal Council Chief Hammond Dick, and Liard First Nation Chief Ann Bayne, May 29, 1997.

⁸⁰ Mary C. Hurley, *Legislative History of Bill C-39*, Ottawa: Library of Parliament, 2002, p. 5.

⁸¹ Indian and Northern Affairs Canada, *Transferring Full Authority over Natural Resources to Yukoners: A Formal Proposal from the Government of Canada to Devolve Northern Affairs Program in the Yukon to the Yukon Government*, Ottawa: Minister of Public Works and Government Services Canada, 1997.

negotiation of any outstanding Yukon First Nation Final Agreement or self-government agreement and any Transboundary Agreement into the Yukon....”⁸³

After the successful negotiation of the transfer of onshore oil and gas administration to the Yukon government in early 1998, the Yukon government embarked upon an ambitious course to have the *Yukon Act* revamped and to gain control of all federal Crown land and resources in the territory.

In 1999, the Yukon government drafted its own version of a new *Yukon Act*, designed to give effect to devolution, modernize the language of the act, and formally recognize the Yukon’s system of responsible government. The Yukon government wanted to generate public support and consensus around the proposed act in order to present a unified front to federal negotiators, but consensus was elusive. The draft act was distributed for public comment, and a five person Special Commission on the Yukon Act formed to gather public comments. The Yukon government also sponsored two major public consultation initiatives to gain public comments: a public forum held at Yukon College on September 24 and 25, 1999, and a televised town hall meeting on October 21, 1999. The special commission released its report in November, and recommended that: more public consultation be conducted; the government should consider referencing municipal government in the preamble; the government should explain the rationale for extending the term of the Legislative Assembly by one year; and should give careful consideration to concerns raised about using terms such as “Lieutenant Governor.” The commissioners also recommended

⁸² Mary C. Hurley, 2002, p. 5.

that a clause be added to enable the legislature to propose amendments to the act; and, that it attempt to gain political consensus on how the issues of a Crown in Right of Yukon and the northern boundary were to be addressed.⁸⁴

Premier McDonald (New Democratic Party) and Liberal Opposition Leader Patricia Duncan flew to Ottawa in February 2000 to meet with federal politicians and lobby for speedy consideration of *Yukon Act* amendments, expected to be introduced in a few months. The process was interrupted during the 2000 territorial election, which brought a Yukon Liberal government to power on April 17, 2000.

Negotiations with federal officials commenced in May 2000, after the federal government sent Yukon officials and the CYFN their version of a proposed *Yukon Act*. Devolution and *Yukon Act* negotiations proceeded in tandem, with drafts of a transfer agreement and the *Yukon Act* being exchanged by officials after each negotiating session. CYFN officials were present at the negotiations, with opportunities to comment on the drafts as they evolved, and on October 5, 2001, the CYFN approved a resolution giving qualified support for the Devolution Transfer Agreement (DTA). However, the Kaska and Kwanlin Dun First Nations, which were not members of the CYFN, and the Carcross/Tagish First Nation, which changed its position on the issue, decided to publicly oppose the Devolution Transfer Agreement and the proposed new *Yukon Act*.

The Devolution Transfer Agreement was signed by Premier Duncan and DIAND Minister Nault in October 2001, and the draft *Yukon Act* was introduced in

⁸³ *Yukon Devolution Protocol Accord*, Sept. 23, 1998, pp. 2-3.

the House of Commons on October 31st as Bill C-39.⁸⁵ Bill C-39 was referred to the House of Commons' Standing Committee on Aboriginal Affairs, Northern Development and Natural Resources on November 22, 2001, when it heard from Premier Duncan, who appeared as the only witness.⁸⁶

The Kaska Nation and the Carcross/Tagish First Nation attempted to have the committee hear their concerns that the bill did not adequately protect their interests, but the committee quickly approved the bill and recommended its approval to the House of Commons that day. The House of Commons, in turn, gave the bill third reading and approval on December 3, 2001.⁸⁷

The Senate referred the bill to its Standing Committee on Energy, the Environment and Natural Resources, where it heard witnesses from the Kaska Nation and Carcross/Tagish First Nation on February 21, 2002. The First Nation witnesses argued that C-39 and the Devolution Transfer Agreement: failed to specify that the transfer of land and resources to Yukon government control was subject to aboriginal rights, title, and interests on their traditional territorial; had the potential to destroy attempts to obtain a fair settlement of the Kaska's transboundary claim in the Yukon; and, was being used to achieve constitutional development for the Yukon government. More specifically, the Kaska's position was that their land claims had to be settled before control of land and resources were transferred to Yukon control, and

⁸⁴ Special Commission on the Yukon Act, *Final Report*, 1999, pp. 6-8.

⁸⁵ Government of Canada, Bill C-39, *An Act Respecting the Yukon Territory*, R.S. c. Y-2. 2001.

⁸⁶ House of Commons, Proceedings of the Standing Committee on Aboriginal Affairs, Northern Development and Natural Resources, November 22, 2001.

⁸⁷ Mary C. Hurley, 2002.

that the clauses within the bill and the Devolution Transfer Agreement (DTA) were inadequate to protect their interests.⁸⁸

The First Nations received a sympathetic response from Senator Sibbeston of the Northwest Territories, and Senator Watt from northern Quebec, but the majority of senators felt that the bill adequately addressed First Nation concerns and recommended that it be adopted without amendment. Consequently, the bill was approved by the Senate and given Royal Assent on March 27, 2002.⁸⁹

The new *Yukon Act* was proclaimed into force and the Devolution Transfer Agreement was implemented on April 1, 2003, when Northern Affairs programs and their staff were transferred to the Yukon government. The Kaska Nation, which had launched a court challenge to the DTA, placed the action on hold after entering into an economic development agreement with the new Yukon Party government on May 9, 2003.⁹⁰

The devolution of land and resource management to the Yukon government was an event of national, as well as local significance. The Auditor General of Canada noted that, “this devolution exercise was an historic event that marked a significant step in nation building.”⁹¹

The new *Yukon Act*, when proclaimed on April 1, 2003, repealed federal legislation that controlled land, water and mineral rights allocation in the Yukon. This legislation was replaced by Yukon laws, which “mirrored” the federal statutes, and

⁸⁸ Senate of Canada, Proceedings of the Standing Committee on Energy, the Environment and Natural Resources, Issue 24, February 21, 2002.

⁸⁹ Mary C. Hurley, 2002.

⁹⁰ Government of Yukon, *Press Release*, May 9, 2003.

were approved by the Yukon Legislative Assembly. Consequently, Yukon politicians now control how most of the Yukon's lands and resources will be utilized and allocated. Yukon priorities, rather than federal government priorities, would prevail. However, it should be noted that federal jurisdiction has not been completely eradicated. The act still provides for the "take back" of Yukon lands to federal control for purposes such as settling land claims, or in the "national interest."⁹²

Summary

The Yukon's quest for provincial status has been hampered by the Yukon's limited economic base, as outlined in Chapter 4, and the lack of social consensus within the Yukon. Yukon Indians have demanded that land claim and self-government agreements be settled before provincial status is sought. Progress on devolution of federal programs to Yukon control has taken decades to achieve, and not all Yukon Indians have agreed with the devolution initiatives.

The Yukon is also faced with national constitutional issues when seeking provincial status. Even if all Yukon residents were in solid support of provincial status, the initiative would require, under the constitutional amending formula, the consent of Canada's Parliament and at least seven provinces that altogether possess fifty percent or more of the population of Canada. The national constitutional context is thus discussed in the next section of this dissertation.

⁹¹ Auditor General of Canada, *2003 Report of the Auditor General of Canada*, 2003, p. 12.

⁹² Government of Canada, *Yukon Act*, 2002, c. 7, Sections 49-53.

National Constitutional Change

The federal government was preoccupied with national constitutional issues during the period that the Yukon was seeking entry into the federation. Prime Minister Trudeau wanted to “patriate” the Canadian constitution so that Canadians could amend it instead of having to ask Great Britain for amendments. This initiative provided numerous forums for public input into the constitutional reform process, such as input to parliamentary committees, as well as constitutional conferences involving the provincial premiers (first ministers’ conferences).

Unlike the American system, where proposals for legislative change can be launched in the legislature, Canada’s parliamentary system generally requires legislative initiatives to be launched by a minister of the Crown (the executive). Legislative initiatives sponsored by “backbenchers” (non-cabinet ministers) are seldom debated and rarely approved. Consequently, constitutional changes enabling provincial status must be sponsored by a cabinet minister and approved by the prime minister and cabinet before they are laid before Parliament. In this context, obtaining the support of the national government is an essential prerequisite for seeking constitutional change.⁹³

The federal government launched its public consultation process on constitutional issues in January, 1970, with the creation of the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada. The committee’s mandate was to, “examine and report upon proposals ... made public by

the Government of Canada, on a number of subjects related to the Constitution of Canada”⁹⁴ The committee traveled across the country conducting public hearings, and reported to the House of Commons on March 16, 1972. The committee made several recommendations in support of northern aspirations, such as: providing the two territories with two Senate seats each (they had none in 1972); the federal government should foster provincial status by making it a stated objective; and, the formula for creating new provinces should remain unchanged (passage of a federal bill).⁹⁵

The federal government acted on only one of the recommendations: it conceded to recommending that the *British North America Act* be amended in 1975 to allow for the appointment of one senator for each territory.

While the special joint committee was preparing its report, Prime Minister Trudeau convened a constitutional conference of first ministers on June 14-17, 1971 in Victoria, British Columbia. The conference did not include any representatives of the territorial governments, and the agreement reached at the conference made no provision for future attendance by territorial leaders, no ability for territorial governments to nominate candidates for Supreme Court appointments, no involvement in amending the constitution of Canada, and made no mention of territorial representation in the Senate. The agreement also gave provinces a veto over the creation of new provinces. The agreement was never implemented however.

⁹³ See also *An Act Respecting Constitutional Amendments*, RSC, 1996, c. 1, which elaborates on this principle.

⁹⁴ Government of Canada, *The Special joint Committee of the Senate and the House of Commons on the Constitution of Canada: Final Report*, 1972, p. 4.

Premier Bourassa of Quebec vetoed the deal after he came under intense pressure from Quebec nationalists to back out of it.⁹⁶

According to political science professor David Milne, the federal government lost interest in constitutional issues following the defeat of the Victoria Accord. Discussions and public meetings continued, but the issue was on the back burner until 1974, when Prime Minister Trudeau began renewed efforts to get the premiers interested in patriation, revamping the constitutional amending formula, and a charter of rights. He also hinted that the federal government might move unilaterally on these issues if a consensus could not be reached amongst the premiers. The premiers responded by demanding increased provincial powers. Discussions in 1975 did not result in any consensus on these issues.⁹⁷

Prime Minister Trudeau renewed his efforts in 1976 when he wrote to the premiers proposing three alternatives for constitutional patriation and amendment, and suggesting the federal government might proceed alone if consensus was not achieved.⁹⁸

Parliament established the Task Force on Canadian Unity in July, 1977 to inquire into, support and assist the development of Canadian unity in the wake of the election of a separatist government in Quebec the previous year. The task force held public hearings across Canada, but it had no members from northern Canada and its

⁹⁵ Government of Canada, 1972, p. 61.

⁹⁶ David Milne, *The Canadian Constitution: The players and the issues in the process that has led from patriation to Meech Lake to an uncertain future*, Toronto: James Lorimer and Company, 1991, pp. 58-60. Milne makes it clear that the negotiations focused heavily on the role and power of provincial governments in the amending formula. The interests of the territories were never an issue.

⁹⁷ David Milne, 1991, p. 60.

recommendations did nothing to address northern constitutional development. While it recommended that aboriginal rights be recognized, it ignored the issue of aboriginal land claims, and its recommendations for parliamentary reform excluded any participation by the territories in their proposed Council of the Federation, which was designed to replace the Senate.⁹⁹

Prime Minister Trudeau launched his next constitutional initiatives in 1978 by tabling, “A Time for Action” in the House of Commons and introducing Bill C-60, the *Constitutional Amendment Act, 1978*. “A Time for Action: Toward the Renewal of the Canadian Federation,” provided the background and context for legislative action and the principles that would be found in Bill C-60. The bill, in turn, prescribed a two-phased approach of amending and patriating the *British North America Act*. The first phase, to have been completed by July 1, 1979, was to amend the constitution in areas where Parliament could act without provincial approval. The second phase, to have been completed by July 1, 1981 would have implemented changes in areas requiring provincial approval.¹⁰⁰

The bill proposed major changes to Canada’s constitutional arrangements and institutions, including the entrenchment of a Charter of Rights and Freedoms, replacement of the Privy Council with a Council of State, replacement of the Senate with a House of the Federation, formalizing the requirement for federal-provincial

⁹⁸ Paul W. Fox, *Politics: Canada*, 4th ed., Toronto: McGraw-Hill Ryerson Ltd., 1978, pp. 33-40.

⁹⁹ Government of Canada, The Task Force on Canadian Unity, *A Future Together: Observations and Recommendations*, 1979, p. 98.

¹⁰⁰ House of Commons, *Journals*, 1978, pp. 966-67.

first ministers' conferences, and entrenching the Supreme Court of Canada.¹⁰¹ The bill would also have solidified the subordinate status of northern territories. A review of the bill prepared by Carleton University professor David W. Elliott noted fifteen specific concerns for the Yukon government, including: no reference to fostering provincial status for the territories, no provision for consulting territories before making them provinces, no requirement to consult territories before changing their boundaries, no involvement of the territories in selecting House of the Federation nominees, no representation for territories in first ministers' conferences, and no provisions for territories to nominate people for Supreme Court of Canada appointments.¹⁰²

Bill C-60 was subsequently referred to a Special Joint Committee of the Senate and the House of Commons, established on June 29, 1978, with a mandate to, "examine and report upon proposals that have been and in the future are from time to time made public by the Government of Canada, on subjects related to the Constitution of Canada."¹⁰³ The Committee issued an interim report on October 10, 1978, noting that it had heard from territorial representatives, but the report did not address any northern issues.

Prime Minister Trudeau's constitutional agenda was interrupted when his government was defeated in the national election held on May 22, 1979. However, Prime Minister Joe Clark, who campaigned on a promise that the Yukon's residents

¹⁰¹ Government of Canada, *Bill C-60, Constitution Amendment Act*, 1978.

¹⁰² David W. Elliot, "Aspects of Bill C-60, the Constitutional Amendment Bill, 1978, of Possible Concern to the Government of the Yukon Territory," July 26, 1978, unpublished.

¹⁰³ House of Commons, *Journals*, 1978, p. 906.

would be given the opportunity to vote on provincial status, was unable to live up to that commitment as his government was defeated just nine months later.¹⁰⁴ Mr. Clark had an open mind on provincial status for the Yukon, in sharp contrast to Mr. Trudeau, whose mind was closed on the issue.

Prime Minister Trudeau's new Liberal government, elected in February, 1980, pressed on with constitutional reform proposals after the defeat of the Quebec government's referendum on sovereignty association on May 29, 1980. However, the first ministers' conferences held in June and September of that year did not result in progress, and Trudeau, in frustration, placed a resolution before Parliament on October 6, 1980 to proceed unilaterally with the patriation of the constitution.

The resolution sparked a quick response from the provinces. The provincial premiers met in Toronto on October 14, 1980, and soon announced that they would be challenging the decision in court. The resolution was then referred to a Special Joint Committee of the House of Commons and the Senate on October 23-24, 1980 for public review. The Yukon's senator, Paul Lucier, was appointed to the committee on November 5, 1980, and the committee subsequently held hearings across Canada. The Yukon's Government Leader, Christopher Pearson, presented the Yukon government's position to the committee on November 27, 1980, including recommendations that: the Yukon government be included in all future first ministers' conferences; a mechanism should be established for the creation of new

¹⁰⁴ *The Whitehorse Star*, May 7, 1979, pp. 1-2.

provinces; and new provinces should be guaranteed the same rights as existing provinces, including guaranteed control over their resources.¹⁰⁵

The special joint committee tabled its report in Parliament on February 13, 1981, and debate on the constitutional resolution continued. The Yukon's concerns were largely ignored, and the Yukon's Member of Parliament, Erik Nielsen, wrote to his constituents on March 20, 1981 to complain that:

Yukon has a lot to lose if Trudeau's Constitution goes through. We can forget about ever becoming a fully fledged Province in the Canadian Confederation. The provisions now in our Constitution ... which would enable Yukon to become a Province, as did all of the Western Provinces, are wiped out by the Trudeau changes. In addition, Quebec would have a veto over a request by Yukoners to become a Province in Confederation sometime in the future --- as would Ontario also have such a veto. So --- under the Trudeau Constitution Yukon will remain a colony with no hope of ridding ourselves of the status of colonials.¹⁰⁶

The Yukon government also had strong concerns about the federal government's constitutional resolution. The Yukon Legislative Assembly approved Motion #5, on March 30, 1981, calling on the British Government to not approve any such resolution, "until the British Parliament receives evidence that any such proposal has the popular support of the Canadian Federal, Provincial and Territorial

¹⁰⁵ Government of Yukon, *Canadian Constitution: Where Does Yukon Fit?*, 1980, p. 12.

governments and therefore, the support of the people of Canada.”¹⁰⁷ The resolution was in vain however, as Prime Minister Trudeau had already received British Prime Minister Margaret Thatcher’s assurances that she would abide by any resolution put forward by the Parliament of Canada.¹⁰⁸

Yukon Government Leader Pearson’s objections to the resolution were that: it made it too difficult to create new provinces; it was too vague about territorial representation at first ministers’ conferences; and it would adversely affect terms and conditions negotiated with the Northern Pipeline Agency for the construction of the Alaska Highway gas pipeline.¹⁰⁹

Prime Minister Trudeau’s plans for unilateral action on the constitution were thrown a curve by the Supreme Court of Canada when it handed down its decision on September 28, 1981, and, “resolved two critical matters vital to everything that came afterward: the resolution was legal and the resolution was constitutionally improper.”¹¹⁰ The court ruled that, under Canada’s constitutional conventions, the federal government needed to have the support of a “substantial number” of provinces in order to proceed with a resolution to amend the constitution. While the prime minister might have continued to push his resolution unilaterally, given that the court ruled it was legal to do so, he determined that a better course of action was to call

¹⁰⁶ Erik Nielsen, letter to constituents, March 20, 1981.

¹⁰⁷ Government of Yukon, *Hansard*, March 30, 1981, p. 41.

¹⁰⁸ Pierre E. Trudeau, *Memoirs*, Toronto: McClelland and Stewart Ltd., 1993, pp. 307-308.

¹⁰⁹ Government of Yukon, *Hansard*, March 30, 1981, p. 41.

¹¹⁰ David Milne, 1991, pp. 153-54. For a full discussion of this decision, see pp. 124-154.

another constitutional conference to try to win over a “substantial number” of premiers.¹¹¹

Prime Minister Trudeau called the first ministers conference for November 2-5, 1981. On November 4, the majority of premiers reached an agreement with the prime minister which had far-reaching consequences. Quebec’s Premier, Rene Levesque, did not concur with the other premiers, and, feeling betrayed, refused to accept the agreement.

The agreement set the stage for the final debate on the resolution in parliament, and intensive lobbying campaigns were launched by northern and aboriginal Canadians to have their concerns addressed in the new constitution.

On November 16, 1981, the entire Legislative Assembly of the Northwest Territories flew to Ottawa to protest the absence of an aboriginal rights clause and to lobby ministers to drop paragraphs 41 (e) and (f) from the package. Paragraph 41(e) applied the general amending formula¹¹² to the extension of existing provinces into the territories, and 41(f) applied the same formula to the creation of new provinces. Thus, the possibility of amending territorial boundaries without the consent of territorial residents was reinforced, while the transition to provincial status became exceedingly more difficult. Previously provinces could be created by an act of parliament alone; under the new formula, parliament plus seven provinces would have to approve the creation of new provinces.

¹¹¹ Pierre E. Trudeau, 1993, pp. 315-316.

¹¹² The general amending formula provided that any seven provinces with fifty percent or more of the population of Canada, together with Parliament, could amend certain sections of the constitution. Paragraphs 41(e) and (f) were later renumbered as 42(1) (e) and (f).

The Yukon Legislative Assembly approved Motion #24 to support:

The efforts of the Legislative Assembly of the Northwest Territories to have clauses 41(e) and 41(f) of the Constitution Act, 1981, now before the House of Commons, removed. And that this legislature further seeks the inclusion in the Constitution Act, 1981, of a clause that will provide for the capability of new provinces to be created under similar circumstances to the British North America Act of 1871.¹¹³

Bolstered by the actions of the governments of Yukon and Northwest Territories, the Yukon's member of parliament, Erik Nielsen, placed a motion before the House of Commons on November 26, 1981, seeking to have paragraphs (e) and (f) removed from the proposed *Constitution Act*. Nielsen spoke to the fact that the territories had not been adequately consulted:

Never at any time did the governments of Yukon or of the Northwest Territories participate in putting together either the April Accord or the latest arrangement from which the North was totally ... excluded. We were given the opportunity ... to appear as witnesses before the standing committee on a resolution which did not contain these two provisions. After the committee had finished its work and after it reported back to Parliament, there was a meeting of

¹¹³ Government of Yukon, *Hansard*, November 23, 1981, p. 349.

provincial Premiers at which the elected legislatures of the two northern territories were not heard. They were not heard in April, and they were not heard in November. Yet we are now confronted with two provisions in a resolution affecting the future forever and a day of Canadians in which we in the north have not had any input; we have not been heard.¹¹⁴

Mr. Nielsen was supported in his efforts by Mr. Ittinuar, the Member for Nunatsiaq, but the amendment was defeated on November 27 by a vote of 117 to 85.¹¹⁵ Given the Liberal majority in the House of Commons, the defeat was predictable.

Events moved quickly following the House of Commons approval of the resolution on December 8, 1981, and it was delivered to the British Parliament the following day. Queen Elizabeth gave Royal Assent to the new *Constitution Act* on March 29, 1982, and signed the Royal Proclamation bringing the act into effect on April 17, 1982.

Gordon Robertson, a former commissioner of the NWT and a former cabinet secretary, has argued that the constitutional amending formula enshrined a “rule” designed to protect provincial rights and regional interests in Canada:

The general amending procedure for the Constitution, reflects one of the most important of Canadian realities – our deep regional differences and regional interests. Under

¹¹⁴ Government of Canada, *Commons Debates*, November 26, 1981, p. 13355.

the amending procedure no amendment can carry if any four provinces are opposed, which means that both the West and the Atlantic region, each of which has four provinces, can veto any change that either region perceives to be against its own interest.¹¹⁶

While northern Canadians were frustrated with their constitutional setback, they soon had an opportunity to restate their case in a different forum: the Royal Commission on the Economic Union and Development Prospects for Canada (also known as the Macdonald Commission, so named for its chairman, former Finance Minister Donald Macdonald). According to David Milne, this commission's role was to study the, "Canadian economic union, federalism, and the broader functioning of Canada's political institutions and policies."¹¹⁷

The royal commission held public hearings in the northern territories in September, 1983, and released its three volume report two years later, in September, 1985. Its recommendations reflected much of what the Yukon government was asking for: the amendment of the *Yukon Act* to reflect current practices of responsible government; the negotiation of formula financing arrangements to increase predictability and promote better financial accountability; a federal commitment to the goal of provincehood; establish a timetable for the transfer of provincial-type responsibilities to the territorial governments, including Crown lands; institute

¹¹⁵ Government of Canada, *Commons Debates*, p. 13436.

¹¹⁶ Gordon Robertson, *Northern Provinces: A Mistaken Goal*, Montreal; the Institute for Research on Public Policy, 1985, pp. 37-38.

¹¹⁷ David Milne, 1991, p. 188.

resource-revenue/sharing arrangements similar to those negotiated with Nova Scotia and Newfoundland; and confirm territorial participation in federal-provincial forums where matters of concern to northern Canadians were being discussed.¹¹⁸

The report also recommended a speedy resolution of land claims, and an increase in smaller provinces' and territorial representation in the senate.

Trudeau's approach to constitutional issues was replaced with Brian Mulroney's following the September 4, 1984 national election. The Progressive Conservative government began to implement some of the report's recommendations by negotiating formula financing arrangements with the territorial governments in 1985 and signing an agreement on the devolution of federal programs with the Yukon government in 1988. The commission's recommendations were also reflected in the federal government's 1987 policy statement on northern development, entitled *A Northern Political and Economic Framework*.¹¹⁹

The Meech Lake Accord

Prime Minister Mulroney was also keenly interested in redressing Quebec's constitutional grievances, and in April, 1987 he met with the provincial premiers at Meech Lake, Quebec to address those issues.

In contrast to the protracted series of conferences on aboriginal rights that concluded without substantial progress on a constitutional amendment, the first ministers' conference resulted in an agreement in principle on a set of constitutional

¹¹⁸ Government of Canada, *Report of the Royal Commission on the Economic Union and Development Prospects for Canada*, Vol. III, 1985, p. 406.

¹¹⁹ Government of Canada, *A Northern Political and Economic Framework*, Ottawa: Minister of Supply and Services Canada, 1988.

amendments almost over night. This conference did not include any representatives of the territorial governments, and their interests were not addressed in the draft accord. A subsequent meeting of first ministers to finalize the text of the accord was held on June 2-3, 1987 in Ottawa, and the territories' political leaders, Yukon's Premier Penikett and Northwest Territories' Government Leader Sibbeston, flew there to seek involvement. However, their requests for admission were rebuffed.¹²⁰

The Meech Lake Accord proposed, amongst other things, to: allow every province (but not territories) an opportunity to nominate persons to be appointed to vacancies in the Senate and on the Supreme Court of Canada; require the unanimous consent of provinces to create new provinces, and to extend the boundaries of a province into the territories; and, establish annual first ministers' conferences which only provincial premiers and the prime minister could attend.¹²¹

On June 16-17, 1987 the Senate and House of Commons established a Special Joint Committee to review the Meech Lake Accord. The committee subsequently held a series of public hearings from August 4 to September 1, inclusive.

The territorial governments attacked the accord on two fronts: by launching a legal challenge in the Yukon Supreme Court, and in their representations to the special joint committee and subsequent committees established to review the accord.

The Yukon government's legal challenge met with some initial success. In his August 11, 1987 decision, Mr. Justice McDonald ruled that two parts of the claim could proceed to trial:

¹²⁰ Senate of Canada, *Report of the Senate Committee on the Meech Lake Accord and on the Yukon and*

(1) The lack of consultation with the government of the Yukon territories [sic] by the federal government could possibly be held to violate the legal rights of the Members of the Territorial Council

(2) the judgement also held that the signing of the Accord by the federal government could possibly be a breach of an alleged duty to act in the best interests of the citizens of the Yukon.¹²²

Lawyers for the federal government immediately launched an appeal of Mr. Justice McDonald's decision, arguing that the Yukon government was an arm of the federal government and thus could not launch an action against itself.¹²³

The federal lawyers eventually dropped the argument that the Yukon did not exist as a separate political entity, but they did succeed in having the court challenge rejected in the Yukon Court of Appeal on December 23, 1987.¹²⁴ This decision was in turn appealed to the Supreme Court of Canada, which ultimately declined to hear the matter in a decision released on June 2, 1988.¹²⁵

Northwest Territories, Ottawa: Government of Canada, 1988, p. 16.

¹²¹ Lorne Ingle, (ed.), *Meech Lake Reconsidered*, Hull: Voyageur Publishing, 1989, pp. 83-93.

¹²² Government of Canada, *The 1987 Constitutional Accord: The Report of the Special Joint Committee of the Senate and House of Commons*, 1987, p. 116.

¹²³ *Whitehorse Star*, July 22, 1987, p. 4.

¹²⁴ Yukon Court of Appeal, *Reasons for Judgement of the Court*, Vancouver: Yukon Court of Appeal, December 23, 1987.

¹²⁵ Steven Smyth, 1991, p. 225.

The governments of the Northwest Territories and Yukon made their cases to the special joint committee on August 18 and 31, respectively. According to the committee's report:

1. The territorial governments of the Yukon and the Northwest Territories, together with Members of Parliament from the territories and many other witnesses, have criticized the 1987 Accord on the following grounds:
 - (a) it is unfair to give each of the existing provinces a right of veto over the creation of a new province ...
 - (b) it is not entirely clear whether the Governor General retains the authority to appoint territorial Senators under Section 24 of the Constitution Act, 1867 without the participation of the provinces;
 - (c) qualified territorial residents should have the opportunity of being considered for appointment to the Supreme Court of Canada without having to be nominated by a province;
 - (d) northern Canadians should have a say in constitutional and other matters by allowing territorial government leaders to participate in First Ministers' Conferences on issues that directly affect them.¹²⁶

The special joint committee sympathized with the territorial objections to the accord, but recommended that their issues be addressed in processes that did not

¹²⁶ Government of Canada, *The 1987 Constitutional Accord: The Report of the Special Joint Committee of the Senate and the House of Commons*, 1987, p. 115.

require amendments to the accord.¹²⁷ However, the Liberal and New Democratic Party members of the special joint committee made recommendations that the accord be amended to address the demands of the northern territories. The Liberal members were especially critical, and abstained from supporting the report's recommendations.¹²⁸

Outside of the special joint committee hearings and the court challenge, a variety of comments were made and initiatives taken that supported the validity of the territories' demands. These included: a New Democratic Party motion in the House of Commons proposing that the territories be allowed to become provinces without the concurrence of all the provinces (defeated on June 8, 1987); a public statement by the Supreme Court of Canada agreeing with the Canadian Bar Association report that stated territorial lawyers should be eligible for appointment to the Supreme Court of Canada (issued on August 23, 1987); a statement by Prime Minister Mulroney that a separate first ministers' conference should be held to discuss the future of the northern territories (August 28, 1987); and the establishment of a special senate committee to review in detail the grievances of the territories respecting the Meech Lake Accord.¹²⁹

However, none of these initiatives persuaded the federal government to depart from its stated position that the Meech Lake Accord had to proceed without

¹²⁷ Government of Canada, 1987, pp. 145-147.

¹²⁸ Government of Canada, 1987, p. 150.

¹²⁹ Steven Smyth, 1999, pp. 215 – 219.

amendment, and, on October 25, 1987 the resolution to adopt the Meech Lake Accord was passed by the House of Commons.¹³⁰

The senate committee established to review the Meech Lake Accord conducted its hearings in Whitehorse, Yellowknife and Iqaluit between October 24 and November 2, 1987, and presented its report to the Senate in February, 1988. The report recommended that significant changes be made to the Meech Lake Accord to accommodate the interests of northern Canadians: that the governments of the Northwest Territories and Yukon be given the right to nominate persons to sit as supreme court judges and territorial senators; that the territories be invited to attend all future first ministers' conferences on the constitution and the economy; that changes to territorial boundaries only be made with the consent of the affected territory; and that territories become provinces through the approval of the territorial government and the federal government alone.¹³¹

The Senate debated the Meech Lake Accord resolution in April and proposed a variety of amendments, including amendments favorable to the North. However, none of the Senate's recommendations were accepted by the government, and on June 22, 1988 the House of Commons passed a motion to approve the Meech Lake Accord without amendment.¹³²

Nationally, the debate over the Meech Lake Accord continued, and support for it began to erode. A first ministers' conference held February 27, 1989 failed to

¹³⁰ David Milne, 1991, p. 11.

¹³¹ Senate of Canada, *Report of the Senate Committee on the Meech lake Accord and on the Yukon and Northwest Territories*, 1988, pp. 27-28.

¹³² David Milne, 1991, p. 228.

resolve the outstanding concerns of Premier Filmon of Manitoba and Premier McKenna of New Brunswick. The federal New Democratic Party National Council decided to review its support for the accord in March, and the Liberal Party of Newfoundland, which opposed the accord, became the governing party of the province subsequent to the April 20, 1989 election. In October, 1989 the Manitoba and New Brunswick legislative committees reviewing the accord tabled reports supporting their premiers in calling for amendments to the accord.¹³³

With only three months remaining in the ratification process and support for the accord waning, Prime Minister Mulroney quickly supported Premier McKenna's March 21, 1990 proposal to adopt a "companion resolution" to the accord as a mechanism for obtaining ratification of the accord. Under this approach, the Meech Lake Accord would have been adopted without amendment, while at the same time a "companion resolution" of amendments to the accord would be adopted. This compromise approach was designed as an attempt to satisfy both the federal government's position that the Meech Lake Accord could not be amended, while also accommodating the major concerns of those who wanted to see the accord changed. Among the proposed amendments found in the "companion resolution" were amendments that would have permitted the Yukon and Northwest Territories to nominate people to the Supreme Court of Canada and the Senate and allow the

¹³³ David Milne, 1991, pp. 15, 18.

establishment of new provinces by resolution of Parliament alone, with no provincial vetoes.¹³⁴

The companion resolution was referred to a Special House of Commons Committee, headed by the Honorable Jean Charest, on March 27, 1990. The committee held hearings in Yellowknife and Whitehorse on April 18 and 19, 1990, and reported back to Parliament on May 17, 1990, that: the companion resolution would address the omission of the Yukon and Northwest Territories in the selection of Senators and Supreme Court Judges; recommended that the companion resolution adopt the territories' position on creation of new provinces; the territories be invited to participate in first ministers' conferences where an item on the agenda directly affects them; and, that the territories be invited to the proposed annual first ministers' economic conferences where an item on the agenda directly affects them.¹³⁵

The tabling of the report of the special committee set the stage for the final first ministers' conference on the constitution to address the constitutional impasse. In a marathon negotiation session that ran from June 3-9, 1990, Prime Minister Mulroney was able to obtain a commitment from the premiers of Newfoundland, Manitoba and New Brunswick, "to undertake to submit the Constitutional Amendment, 1987 for appropriate legislative or public consideration and to use every possible effort to achieve decision prior to June 23, 1990."¹³⁶

¹³⁴ Government of Canada, *Report of the Special Committee to Study the Proposed Companion Resolution to the Meech Lake Accord*, Ottawa: Queen's printer for Canada, 1990, pp. 69-71.

¹³⁵ Government of Canada, 1990, pp. 7, 11-12.

¹³⁶ Government of Canada, *Final Communique*, June 9, 1990, p. 1.

Yukon's Premier Penikett and Northwest Territories' Government Leader Cournoyea flew to Ottawa to participate in the discussions as they were granted delegate status at open sessions. However, all the negotiations were carried out *in camera*, without their direct participation. In any event, the *Final Communique* and appended schedule of constitutional amendments contained provisions to: allow territories to nominate people for Senate and Supreme Court appointments; permitted the attendance of territorial government leaders at annual and economic first ministers' conferences, at the invitation of the Prime Minister; and established a series of triennial constitutional first ministers' conferences to which aboriginal and territorial governments had a right of attendance. Furthermore, the *Final Communique* provided for territorial participation on a federal/provincial/territorial commission to consider Senate reform. Finally, the *Communique* noted that:

The Prime Minister and all Premiers agreed future constitutional conferences should address available options for provincehood, including the possibility that, at the request of the Yukon and Northwest Territories to become provinces, only a resolution of the House of Commons and Senate be required.¹³⁷

David Milne commented that, while some of the proposals represented substantive concessions to public criticisms, the proposals did little to address the

¹³⁷ Government of Canada, June 9, 1990, p. 3.

desires of aboriginal peoples for self-government or the aspirations of territorial governments to confirm the rules for provincehood.¹³⁸

The federal government's efforts to save the Meech Lake Accord failed when the resolutions affirming the accord were not approved in the Manitoba and Newfoundland legislatures within the required time frame. Its demise came about as a result of the federal and provincial governments' inability to accommodate the demands of Canada's aboriginal people in the process. Elijah Harper, an aboriginal member of the Manitoba legislature, stonewalled the resolution, and it could not be approved within the required timeframe.¹³⁹

Quebec's Premier Bourassa felt that the failure of the accord reflected a rejection by Canada of Quebec's demands, and he vowed not to attend any more constitutional conferences, and the Quebec legislature approved a bill requiring the Quebec Government to hold a referendum on Quebec sovereignty in 1992.¹⁴⁰

The Charlottetown Accord Constitutional Proposal

The process leading to the Meech Lake Accord was criticized as a closed process that did not allow for meaningful public input, and amendments to reflect what Canadians wanted. The federal government stuck steadfastly to its position that it would not change the accord.

Faced with another sovereignty referendum in Quebec in 1992, the federal government tried a new strategy to obtain an acceptable constitutional reform package. The process was turned over to federal Constitutional Affairs Minister, Joe

¹³⁸ David Milne, 1991, p. 245.

Clark, who sought to build consensus through a broadly based, open and inclusive process. Territorial governments, aboriginal organizations, and the public were invited to participate in various forums.¹⁴¹

The constitutional amendment process was revived in late 1990 with two new initiatives: the appointment of the Citizens' Forum on Canada's Future, chaired by Keith Spicer, on November 1, and the establishment of a Special Joint Committee of the House of Commons and the Senate to review the constitutional amending formula, on December 17.

The Citizens' Forum on Canada's Future was a broad ranging, eight month consultative process designed to discover, "the values and characteristics fundamental to the well-being of Canada."¹⁴² To accomplish their task the forum's staff conducted content analyses on letters and briefs received by the commission, organized discussion groups in communities across the country utilizing local volunteers to obtain responses to a group of standardized questions, and compiled comments phoned in on toll-free, "idea lines." However, the process did not explicitly address the North or northern issues, and, despite repeated requests and two opportunities to appoint a northern resident to the forum's panel, the prime minister refused to make such an appointment. Of the 168 pages of the forum's final report, the North merited

¹³⁹ David Milne, 1991, pp. 252-253.

¹⁴⁰ Robert J. Jackson and Doreen Jackson, *Politics in Canada*, 2001, p. 174.

¹⁴¹ Robert J. Jackson and Doreen Jackson, 2001, p. 174.

¹⁴² Government of Canada, *Citizen's Forum on Canada's Future: Report to the People and Government of Canada*, 1991, p. 149.

only one substantial paragraph noting the need to ensure northerners were heard at the constitutional table.¹⁴³

In contrast to the Citizens' Forum, the Special Joint Committee on the Process for Amending the Constitution of Canada devoted significantly more attention to northern issues. Two pages of its report addressed northern Canadians' concerns, and its recommendations supported what northerners requested: changes to territorial boundaries should only be made with the consent of the territory involved; the creation of new provinces should be effected through the approval of the territorial legislature and the Parliament of Canada; and, territories should be invited to participate in all future constitutional conferences.¹⁴⁴

While the Citizens' Forum and the special joint committee were carrying out their mandates, progress on northern participation at first ministers' conferences was being made. On May 13-14, 1991 Premier Penikett and Northwest Territories' Government Leader Patterson attended the Western Premiers' Conference at Nipawin, Saskatchewan as full participants. This was followed by full participation at the premiers' conference held at Whistler, British Columbia, on August 25-27, 1991. These were the first times that the northern political leaders had been granted full participatory status at such meetings. Then, on September 6, 1991, Prince Edward

¹⁴³ Government of Canada, 1991, p. 6.

¹⁴⁴ Government of Canada, *Report of the Special Joint Committee on the Process for Amending the Constitution of Canada*, 1991, p. 19.

Island's Premier, Joe Ghiz, announced that he fully supported territorial participation at first ministers' conferences.¹⁴⁵

Given the territories' recent participation at first ministers' conferences, and the support for territorial positions expressed in the reports of the Senate task force (1987), the provisions of the Premier McKenna's "Companion Resolution" to the Meech lake Accord (1990), the Report of the Special Committee to Study the Proposed Companion Resolution (1990), the June 9, 1990 *Final Communique*, the Citizens' Forum Report (1991), and the report of the Special Joint Committee on the Process for Amending the Constitution of Canada (1991), the proposals outlined in the federal government's document, *Shaping Canada's Future Together*, on September 24, 1991, came as a disappointment to northern Canadians. Among the proposals outlined in the federal document were recommendations for an elected Senate, and nominations of appointees for the Supreme Court for provinces and territories.¹⁴⁶ However, there were no provisions to address territorial boundary alterations without the consent of territories, or territorial attendance at first ministers' conferences, and the document proposed the maintenance of the "7 and 50" formula for the admission of new provinces.¹⁴⁷ Furthermore, the proposed Council of the Federation would only have permitted non-voting membership for territorial representatives, thus preserving the difference between provinces and territories.¹⁴⁸

¹⁴⁵ *Whitehorse Star*, September 9, 1991, p. 3.

¹⁴⁶ Government of Canada, *Shaping Canada's Future Together*, 1991, pp. 53-54.

¹⁴⁷ Government of Canada, *Shaping Canada's Future Together*, 1991, p. 55. See also footnote 112.

¹⁴⁸ Government of Canada, *Shaping Canada's Future Together*, 1991, p. 59.

The Special Joint Committee of the Senate and the House of Commons on a Renewed Canada, created on June 21, 1991, heard Yukoners' responses to *Shaping Canada's Future Together* at its hearings in Whitehorse on January 28, 1992. Its final report was released on June 28, 1992, but it did not address the full range of northern concerns. The report recommended that senators be elected and that the territories be permitted to nominate persons for Supreme Court of Canada appointments. However, territories would not be invited to attend first ministers' conferences, the issue of amending territorial boundaries without territorial consent was ignored, and, on the issue of the amending formula for creating new provinces, the committee said, "We endorse the recommendations of the Beaudoin/Edwards Committee on the need to review the effect of the creation of new provinces out of existing territories on the amending procedures."¹⁴⁹

The committee's recommendations with respect to the amending formula and creation of new provinces were so confusing that its interpretation was publicly disputed by the Yukon's member of parliament and the Yukon's premier: Member of Parliament Audrey McLaughlin argued that the committee recommended in favor of the pre-1982 formula for creating new provinces, while Premier Penikett argued that it meant Quebec would retain a veto over constitutional amendments.¹⁵⁰ A third interpretation was offered by the committee's co-chair, Dorothy Dobbie, who said the report recommended that the existing "7 and 50" formula should apply.¹⁵¹

¹⁴⁹ Government of Canada, *Report of the Special Joint Committee on a Renewed Canada*, 1992, p. 95.

¹⁵⁰ *Whitehorse Star*, March 2, 1992, pp. 1-2.

¹⁵¹ *Whitehorse Star*, March 5, 1992, p. 2.

Following the release of the Report of the Special Joint Committee on a Renewed Canada, "... the Prime Minister invited representatives of the provinces and territories and Aboriginal leaders to meet with the federal Minister of Constitutional Affairs to discuss the report."¹⁵² The meeting, held March 12, 1992, resulted in agreement to continue negotiations, and eleven more meetings were held, culminating on July 7, 1992, with an agreement on a package of constitutional amendments. These amendments included provisions to recognize aboriginal self-government and to allow territories to negotiate provincial status with the federal government alone.¹⁵³

Representatives of the government of Quebec did not officially participate in these constitutional meetings, so it was necessary for Prime Minister Mulroney to convene a first ministers' meeting to involve Quebec in the process. A first ministers' luncheon meeting was held at Harrington Lake on August 4, 1992 and Premier Bourassa attended on the condition that territorial and aboriginal leaders not be invited.¹⁵⁴

Prime Minister Mulroney offered to brief territorial and aboriginal leaders on the results of the meeting afterwards, but Assembly of First Nations Chief, Ovide Mercredi, and Premier Penikett declined the offer. Northwest Territories Government Leader Nellie Courneyea and other aboriginal leaders did attend.¹⁵⁵

Another first ministers' conference was held on August 10, 1992, and again territorial leaders were excluded. However, a full first ministers' conference involving

¹⁵² Government of Canada, *Consensus Report on the Constitution*, 1992, p. i.

¹⁵³ *Whitehorse Star*, August 10, 1992, p. 8.

¹⁵⁴ *Whitehorse Star*, July 31, 1992, p. 8.

¹⁵⁵ *Whitehorse Star*, August 5, 1992, p. 9.

territorial and aboriginal leaders was held on August 18-22 in Ottawa. During this session agreement on aboriginal self-government, senate reform, and admission of new provinces was achieved. Again, the territories' right to negotiate provincial status with the federal government alone was confirmed.¹⁵⁶

The final first ministers' conference on renewing Canada was held in Charlottetown, Prince Edward Island, on August 27-28, 1992. This meeting, involving the Prime Minister, all provincial premiers, and territorial and aboriginal leaders, finalized the wording of the Consensus Report on the Constitution, (the Charlottetown Accord), which was released to the public.

The Charlottetown Accord laid out the principles to be addressed in future constitutional amendments, the issues to be addressed at future constitutional conferences, and the issues to be addressed in a proposed political accord. For example, the territories' right to nominate people for Supreme Court appointments would have been assured in a constitutional amendment, while the right to attend first ministers' conferences would have been included in the political accord.¹⁵⁷ With respect to the creation of new provinces, the Charlottetown Accord proposed that the "7 and 50" formula be rescinded and replaced with the pre-1982 formula. However, all provinces would be consulted at a first ministers' conference before a new province was created, and new provinces would not have a role in the amending formula without the consent of all provinces and the federal government, (except in some circumstances). Furthermore, any proposed increase in the representation of

¹⁵⁶ *Yukon News*, August 26, 1992, p. 6.

new provinces in the Senate would require the unanimous consent of the provinces and the federal government.¹⁵⁸

The Charlottetown Accord also supported northern demands that provinces not be entitled to extend their boundaries into the northern territories without the consent of the territories.¹⁵⁹

Additional measures benefiting the territories included amendments to section 36 of the *Constitution Act, 1982*, whereby:

Parliament, the provincial legislatures and the territorial legislative authorities, together with the government of Canada and the provincial and territorial governments, are committed to ... (d) ensuring the provision and maintenance of reasonably comparable economic infrastructure of a national nature in each province and territory of Canada.¹⁶⁰

Furthermore, under subsection 36(4), the governments and legislatures of the federal, provincial and territorial governments were, “committed to the promotion of regional economic development to reduce economic disparities.”¹⁶¹

Finally, the territories also obtained constitutional guarantees with respect to negotiating agreements with the government of Canada in the areas of culture,

¹⁵⁷ Government of Canada, *Consensus Report on the Constitution*, 1992, pp. 7-8.

¹⁵⁸ Government of Canada, *Consensus Report on the Constitution*, 1992, p. 19. The areas where territories could have a role in the amendment process would be bilateral or unilateral matters described in sections 38(3), 40, 43, 45 and 46 as it relates to 43, of the *Constitution Act, 1982*.

¹⁵⁹ Government of Canada, *Consensus Report on the Constitution*, 1992, p. 19.

¹⁶⁰ Government of Canada, *Draft Legal Text*, 1992, p. 44.

recreation, telecommunications, urban and municipal affairs, tourism, housing, mining, forestry, labor market development and training, and regional development.¹⁶²

The provisions of the Charlottetown Accord were written into a *Draft Legal Text*, completed on October 9, 1992, just seventeen days before the national referendum on the accord was held. The Charlottetown Accord was defeated in the referendum conducted on October 26, 1992, with 54.4 percent of voters opposing the accord. The accord was a very diverse set of proposals, and because it was an, “all or none” package, voters tended to reject the whole accord if they objected to any part of it.

The defeat of the Charlottetown Accord meant that Canada’s constitutional *status quo* remained. The *Constitution Act, 1982* remained substantially intact, leaving northern governments, native peoples and the government of Quebec frustrated with the result. The government of Quebec renewed its efforts to promote separatism, and its proposal to negotiate separation from Canada was only narrowly defeated in a provincial referendum on October 30, 1995.

Liberal Prime Minister Jean Chretien, elected in 1993, seeking to appease Quebec’s demand for a constitutional veto, obtained Parliament’s approval of Bill C-110, *An Act Respecting Constitutional Amendments*, in 1996. The act gave a veto over any proposed amendment to the *Constitution Act* to Quebec, Ontario, the Atlantic

¹⁶¹ Government of Canada, *Draft Legal Text*, 1992, p. 44.

¹⁶² Government of Canada, *Draft Legal Text*, 1992, pp. 16-21, 27-28.

provinces, the western provinces, and British Columbia.¹⁶³ The Yukon government opposed the bill, then later made representations to have the bill amended to give the territories involvement in the process, but to no avail.¹⁶⁴

The June 28, 2004 federal election returned a Liberal national government in Canada, under the leadership of Prime Minister Paul Martin. Prime Minister Martin launched a new approach toward Canada's North in the October 5, 2004 Speech from the Throne, in which he announced that the government of Canada will develop a comprehensive northern strategy in cooperation with the territorial governments and the North's aboriginal peoples. The strategy "will foster sustainable economic and human development; protect the northern environment and Canada's sovereignty and security; and promote cooperation with the international circumpolar community."¹⁶⁵ Furthermore, in November 2004, the Prime Minister offered his opinion that the territories would "eventually" become provinces, and that he felt the provinces would support this evolution. Mr. Martin tied the constitutional change to advancing Canada's claims in the Arctic: "The prime minister says the future of the North is not just about creating provinces, but about asserting Canadian sovereignty in the Arctic. He says that climate change will make it possible for shipping to sail through the North and because of the vast natural resources to be exploited in the region."¹⁶⁶ However, the prime minister did not provide a time table for this evolutionary change, and indicated that he was not yet prepared to engage in constitutional

¹⁶³ Steven Smyth, 1999, p. 250.

¹⁶⁴ Steven Smyth, 1999, pp. 250, 252.

¹⁶⁵ Government of Canada, *Speech from the Throne*, October 5, 2004.

¹⁶⁶ CBC North, November 22, 2004.

negotiations.¹⁶⁷ Nevertheless, this announcement does indicate a shift that Canada once again is concerned about its sovereignty claims in the Northwest Passage, and that constitutional change for the territories is one means for advancing those claims.

Summary

During the 1960s and 1970s the federal and provincial governments dominated the constitutional agenda by attempting to negotiate various agreements on patriating and amending the constitution of Canada, the *British North America Act*. The Yukon and Northwest Territories were excluded from these constitutional conferences, which focused on the division of federal and provincial powers, a formula for amending the constitution (including whether Quebec should have a veto over constitutional amendments), and whether Canada should adopt a charter of rights. The primary avenue for citizens and organizations, including territorial governments, to speak to constitutional reform proposals was to various committees established by parliament. These committees often traveled around the country to hear ideas and concerns about constitutional reform proposals, and reported to parliament about what they heard. The government in power was free to accept or reject the recommendations of these committee reports.

During this period, the territorial governments attempted to persuade the federal government to let them participate in constitutional conferences, and to retain the right to negotiate provincial status with the federal government alone (without

¹⁶⁷ Campbell Clark, *The Globe and Mail*, Nov. 23, 2004; Jack Aubry *National Post*, November 23, 2004.

provincial involvement in the process). Throughout Canadian history, new provinces were created by the federal government acting alone.

The 1981 federal-provincial agreement to patriate the Canadian constitution was achieved without the consent of the territories, and the governments of the territories opposed those proposals in the constitutional package that would impair their ability to become provinces and that codified a process for extending provincial boundaries into the territories without territorial consent. They also continued their efforts to try to be guaranteed representation in first ministers' conferences. Their efforts were in vain: in 1982 the Canadian constitution was patriated and none of the territorial demands was successful. This was a major constitutional setback for the territories.

Territorial efforts since patriation have focused on changing the amending formula to revert to the pre-1982 formula for creating new provinces and eliminating or qualifying the provisions enabling the extension of provincial boundaries: if the provision remained, territorial governments wanted a veto over any proposed extensions. The territories also continued lobbying for inclusion in first ministers' conferences so that they could influence future constitutional amendments. The Meech Lake Accord proposed to set back territorial aspirations even further than the 1982 amendments: all provinces would have been given a vote (and a veto) on creation of new provinces, and the accord also proposed to give provinces, but not territories, the right to nominate citizens for senate and Supreme Court of Canada appointments. It also ignored territorial aspirations for representation at first

ministers' conferences. The territories fought doubly hard to defeat the accord, launching court challenges as well as voicing their objections to parliamentary committees. But the accord was defeated, not by territorial objections, but by aboriginal objections and the recalcitrance of two provincial governments.

In contrast to the Meech Lake Accord process, the process leading to the Charlottetown Accord provided the territories with an opportunity to be directly involved in the federal-provincial negotiations, and the result was dramatically different from the Meech Lake Accord: the territories were able to convince the federal and provincial governments that their interests could be met without compromising those of the federal or provincial governments. The results of the two processes for the territories are summarized in Figure 5. The territories won credibility and acceptance through this process, but lost, once again, not because of provincial or federal concerns, but because the federal and provincial governments, collectively, were unable to convince the Canadian public that the entire package of reforms was in the best interest of Canadians.

Conclusion

Alaska and the Yukon were federally run colonies or territories for most of their histories, and their constitutional status, form of government, public finances, and restrictions on their powers all reflected a powerful role for, and involvement of, the federal government. Elected legislators distrusted and resented the powerful role played by federal agencies and federal appointees, especially the territorial governors

Meech Lake Accord	Charlottetown Accord
Every province given a veto over creation of new provinces	No province could veto
Provinces and federal government could alter territorial boundaries without territorial consent	No boundary alterations without territorial consent
Territories could not nominate persons for appointment to Senate or Supreme Court of Canada	Territories guaranteed opportunity to nominate people for appointment
Territories could participate in first ministers' conferences only upon invitation	Territories guaranteed right to participate in first ministers' conferences

Figure 5

A Comparison of Outcomes Demonstrating Efficacy of Involvement

and territorial commissioners, and sought to find ways to strengthen their hand against the federal government.

Each jurisdiction's society was fragmented into three social forces: aboriginal, settler, and non-resident interests. Non-resident interests included representatives of federal agencies as well as non-resident corporations. The federal government, as the dominant force in each region, was lobbied by the other three parties to invoke policies that favored their disparate interests. Many settlers wanted self government and economic opportunities, aboriginal people wanted their land and harvesting rights recognized, and the non-resident corporations wanted policies that ensured they could maximize profits, including limiting the ability of local governments to tax them.

But there was little social solidarity in the North. Settlers were divided amongst themselves over the issue of whether, when and how self-government should be achieved; Natives and settlers were divided over the issues of aboriginal rights and entitlements; "boomers" and conservationists argued over conservation of lands versus development of those lands; and regional interests within the North also competed for influence and entitlements. Some of these disputes have been resolved, while others remain and are debated today.

National governments also had interests that they pursued in the North. In Alaska, the strategic location of the territory, made apparent by World War II, ensured federal investment in military bases and infrastructure. Military interests hindered the statehood movement to some extent as military officials argued that

allocation of lands to a state government might hinder the establishment of bases. Moreover, Alaska's pristine natural environment and its oil and gas resources are viewed by many Americans as national resources, and their significance to the United States has increased when world production declined at various times since the 1970s.

In Canada, federal interest in the North increased when Canada's sovereignty over its northern territory and the Northwest Passage were apparently threatened – primarily by the actions of the United States. Federal interest was also engendered during resource “booms” such as the Klondike gold rush and the oil and gas exploration boom in the late 1970s and early 1980s that spawned major pipeline proposals. Otherwise, most national governments left the Canadian North to private business to develop.

As residents of territories, the inhabitants of the Yukon and Alaska possessed fewer rights and privileges than those who lived in states and provinces. As we saw in Chapter 1, Alaskans could not vote in presidential elections, could not manage their land and resources, their laws could be overturned by Congress, and their delegate had no vote in Congress. Alaska Natives were not even considered citizens until 1924. Yukon residents had no representation in the Senate until 1975, very limited ability to manage land and resources (until 2003), territorial laws could be vetoed and were subordinate to federal laws, and Yukoners had no vote in national constitutional amendments. Discriminatory laws such as the *Indian Act* further limited aboriginal residents' rights in the territories. This subordinate status upset many territorial residents, who sought constitutional change to address their concerns.

The United States' constitutional provisions relating to the admission of new states remained unchanged during the years that Alaska sought admission as a state, while in Canada, efforts to change the national constitution were ongoing. In the 1980s, the Canadian federal government succeeded in "patriating" the constitution from Great Britain, and, in so doing, changed the rules for admitting new provinces. After 1981, Parliament alone could not approve the admission of a new province; 7 provinces which collectively possessed 50 percent or more of the population of Canada also had to approve. A further proposal to require the unanimous approval of all the provinces was vigorously opposed by the territorial governments. Since 1982 there has been an ongoing debate over the admission rule – parliamentary committees and first ministers' conferences that included northern leaders have generally supported the pre-1982 formula for admission of new provinces, while Quebec and national governments have sought to impose a veto for Quebec. Yukon residents who sought provincial status were diverted from their goal by constitutional proposals and changes that required them to battle efforts to make the acquisition of provincial status more difficult. When northern and aboriginal leaders were included in first ministers' conferences, they were often able to have their needs and interests addressed. When they were excluded, their interests were ignored or overlooked.

Alaska Natives mobilized to ensure that their land rights would be protected if statehood were granted, but they had little organized involvement in the statehood campaign. Only one aboriginal person attended the 1955-56 constitutional

convention, and the issue of Alaska becoming a state prior to a land claims settlement was not viewed as a significant concern by the dominant political powers. This can be contrasted with the Yukon situation, where the First Nations and the Council for Yukon Indians demanded a veto over provincial status, at least until their land claims were settled, at a different point of historical development.

The Yukon government's demands for constitutional development and devolution of federal programs were, in effect, demands for land claims and self-government that paralleled the Yukon First Nations' demands for land claim and self-government. They were also viewed as competitive processes, which created tension and animosity between the Yukon government and Yukon First Nations. The Yukon government was able to address many First Nation concerns by: making commitments to treat land claim negotiations as their highest priority; supporting the entrenchment of aboriginal self-government in the constitution; moving from a competitive negotiating model to a consensus building model; developing government to government relationships; improving consultation processes; and, by negotiating economic development agreements with some First Nations. Furthermore, Yukon Indians became major participants in the Yukon's system of public government since 1978 by running for elected office and receiving appointments to key roles in the legislative and executive branches of government.

With the exception of the issues of contiguity and racial composition of the population, arguments launched by those who opposed provincial status for the Yukon were similar to those raised by the opponents of statehood: lack of an

economic base, small population, and excessive reliance on federal programs. Both jurisdictions also had to contend with the purely political issues that were raised about the potential impacts admitting new jurisdictions would have on the *status quo*.

In the American political system of separation of powers, initiatives for admission of new states can be sustained because proposals can be launched in Congress without the support of the executive. Under Canada's parliamentary system, where power is concentrated in the executive, serious legislative initiatives are only effected after the support of the executive has been gained, because the executive controls the parliamentary agenda. Historically, Canadian prime ministers, except for Joseph Clark, have not given demands for provincial status for the Yukon any support. Clark was willing to give Yukoners' request serious consideration, but his government fell before he could take action on the issue. Subsequent prime ministers (until 2004) have been more concerned with addressing the interests of Quebec than they have with northern constitutional development.

The American "loose" federal system has been spared the process known as "first ministers' conferences" familiar to Canadians. While state governors meet with the president to discuss matters of national importance, they are not able to guarantee any particular outcome. Under the U.S. system, the initiatives of governors and presidents can be thwarted by their legislatures. While the same is true in Canada, Canada has a relatively "tight" federation that permits greater coordination of federal and provincial efforts. Provincial premiers and prime ministers with majority

governments are generally more able to reach consensus on issues and to gain the compliance of their legislatures.

The inability of northern Canadians to get the constitutional amending formula changed to allow admission of new provinces by federal initiative alone (the pre-1982 formula), forced the Yukon government to focus on areas where it could make substantive gains. The Yukon government succeeded in gaining significant new powers through the devolution of federal programs and amendments to the *Yukon Act*. However, the territory's constitutional status remains problematic because it has no guarantees that its new powers will not one day be removed, that its budget will not be drastically cut, or that its borders will not be altered without its consent. Historically, all the constitutional and budgetary reversals that the Yukon suffered in the past can legally be recreated in the future under territorial status. Only provincial status provides constitutional protections and guarantees against such actions.

Unlike incorporated territories in the United States, Canadian territories have little constitutional certainty. There are no provisions or precedents in Canadian law that requires the federal government to confer provincial status on a territory by virtue of any financial or population formula. And under Canada's constitutional amending formula, the federal government can veto any resolution that proposes to grant a territory provincial status. Consequently, Canada's territories could conceivably remain territories for many years to come.

While some might doubt that constitutional reversals are still possible in the twenty-first century, the Yukon's history provides numerous examples of Yukon

residents being surprised by the unilateral actions of federal authorities that acted without consultation. This dissertation provides some of those examples, but it is not exhaustive. Without guarantees of involvement in federal-provincial negotiations, the Yukon may well be surprised once again.

On the other hand, as noted in Chapter 4, climate change appears to be convincing the government of Canada that it needs to pay more attention to its North and to its claims of sovereignty over the Northwest Passage. As in the past, perceived threats to Canada's northern sovereignty, rather than claims for equal treatment, are the major factors in turning Canada's attention northward.

Chapter 6

Greenland: An Internal Colony?

Introduction

As noted in Chapter 1, Greenland provides an opportunity to study a region that differs significantly in many ways from that of the Yukon and Alaska. Greenland's proper Inuit name is Kalaallit Nunaat, or "Greenlanders' Land." It is an enormous island, 90 percent of which is ice-covered. Its small population of approximately 50,000 people is scattered along an immense coastline. The island itself is remote and separated from Denmark by a vast expanse of ocean. Greenland's economy is primarily based on extracting renewable resources from the sea, with shrimp being the major economic resource. There is little mining activity and offshore oil exploration has yet to yield significant discoveries. Greenland thus continues to depend on massive cash transfers from the Danish government to support its economy and standard of living. Yet, despite its small population, limited economy, and ongoing dependence on Denmark, Greenland achieved a significant degree of autonomy from Denmark with the granting of Home Rule in 1979. Under Home Rule, Greenland remains a part of the Danish realm but has its own premier, parliament, and system of governance.

The majority of Greenland's population is of Inuit descent, with non-Inuit forming only about 18 percent of the population. The predominant language is Kalaallisut, a dialect related to other Inuit languages spoken in Canada, Alaska, and Chukotka. The settler community has always been small relative to the Inuit

Greenlandic population, as settlement was never a priority of the Danish government. Most Danes or other Europeans stayed in Greenland for only short periods of time – until their postings as teachers, police officers, KGH (*Den Kongelige Gronlandske Handel* – also known as the Royal Greenland Trade Department) officers, etc. were over.

Denmark's policies toward its Inuit population differed significantly from those of Canada and the United States towards their aboriginal populations. Having stated this, Greenlanders today experience many of the same socio-economic problems that indigenous peoples in northern North America experience. Anthropologist Jens Dahl argued that, "In contrast to ANCSA and land claims agreements in Canada, Greenlandic Home Rule is a *political reform* recognizing a politically, geographically, and demographically undivided Greenland."¹

This chapter attempts to answer the questions: how have Denmark's policies toward Greenland affected Greenland's constitutional and economic development, and what can we learn from the Greenlandic experience of constitutional change?

A Brief History of the Colonization of Greenland

The Inuit lived in Greenland for nearly 4000 years prior to European contact. Prior to colonization, "Greenlanders numbered less than 10,000 people, and they wintered in numerous dispersed settlements along the coast. They relied primarily on sealing, whaling, bird hunting, and localized fishing for their livelihoods. The

¹ Jens Dahl, "Greenland: Political Structure of Self-Government," *Arctic Anthropology*, Vol. 23, Nos. 1 and 2, 1986, p. 323.

extended family groups were to all practical purposes self-reliant.”²

Viking settlements were established in Greenland from about 982 until the mid- fifteenth century. European interest in Greenland was sporadic from the 1400s to the 1600s, with a variety of Basque whalers, British explorers, and Dutch and Danish-Norwegian expeditions traveling to the island at various times. Expeditions often captured individual Inuit and brought them home as curiosities, which provided Europeans with some rudimentary knowledge of the people occupying the island, and their language and technology.³

Relations between European whalers and traders and the Inuit people were not always amicable, largely because of the kidnappings. However, the Europeans and Greenlanders did establish trade relations, bartering furs for manufactured products such as knives, clothing, tools, etc. According to historian Finn Gad, trade relations had a significant impact on the island’s indigenous residents:

The influence on the Eskimos’ culture took place through the consumer goods bartered to them. Needs were created that could be satisfied only by outside supplies. Side effects of this contact with foreigners were sexual promiscuity and some use of strong drink. It is probable that tuberculosis got its foothold in Greenland through this contact.⁴

² Ole Marquardt and Richard Caulfield, “Development of West Greenlandic Markets for Country Foods Since the 18th Century,” *Arctic*, Vol. 48, No. 2, 1996, p. 108.

³ Finn Gad, “History of Colonial Greenland,” *Handbook of North American Indians – Arctic*, Washington: Smithsonian Institute, 1984, pp. 556-557.

⁴ Finn Gad, 1984, p. 558.

Trade with the Greenlandic Inuit people increased significantly in the 1700s, and Danish-Norwegian enterprises competed with Dutch companies for furs and whale blubber. Finn Gad noted that:

Danish-Norwegian trade with Greenland was carried on by various enterprises: from 1728 to 1733/34 for the Crown, and from 1733/34 to 1749 by a Copenhagen merchant, who transferred it to the Royal Chartered General Trading Company, which went into liquidation in 1774. From 1774-1776 to 1950 the Royal Greenland Trade Department ... had a monopoly on trade in Greenland.⁵

Greenland was administered by Denmark-Norway until 1814, when the Treaty of Kiel resulted in Denmark relinquishing Norway to Sweden. Greenland remained under Danish colonial rule and Denmark resisted efforts by other nations to surrender control. For example, Denmark refused to sell Greenland to the United States in 1916.⁶ Finally, in 1933, the International Court of Justice at the Hague confirmed Danish sovereignty over all of Greenland.⁷

Viking settlements had been established on Greenland in the distant past, but no permanent settlement of Europeans was established there until Hans Egede, a Norwegian Lutheran priest, was granted permission from the Denmark-Norway government to establish a mission in 1721. The mission was moved in 1728, and, after Egede – filled with missionary zeal - convinced the king that he had obligations

⁵ Finn Gad, 1984, p. 558.

to baptize Greenlanders, additional missions, trading and whaling stations were established along the western coast.

In 1774 – 1776, the Royal Greenland Trade Department was given responsibility for managing trade in West Greenland by the Danish Government, and on March 18, 1776 it created a trading monopoly by officially closing the coast of Greenland to foreign ships except for emergency landings.⁸

European colonization of Greenland had major impacts on Greenlandic society. As in North America, the most immediate impact was the introduction of new diseases, and in 1733-34 the first of several smallpox epidemics hit the population, and nearly half of the Greenlandic population perished.⁹ The population dropped to an estimated 5,000 people.

Greenlandic Inuit dependency on Europeans and manufactured goods increased as the European presence increased. For example, Finn Gad notes that, “After 1750 bad hunting years occurred more and more often, resulting in famines. This called for active social welfare. Not dictated by any elevated philosophy, this policy was due to an obligation to protect the Eskimos, pure necessity, and the positive humanism of the mission.”¹⁰ The introduction of firearms by Dutch traders resulted in a demand for gunpowder and lead for bullets as well. Consequently, “arms, gunpowder, and lead had become necessities for Greenlandic hunters. These

⁶ Finn Gad, 1984, p. 570.

⁷ Finn Gad, 1984, p. 571.

⁸ Richard Caulfield, *Greenlanders, Whales, and Whaling*, Hanover: University Press of New England, 1997, p. 30. Finn Gad, 1984, p. 558.

⁹ Richard Caulfield, 1997, p. 30.

¹⁰ Finn Gad, 1984, p. 560.

consumer goods thus had an enormous influence on the Eskimo culture and increased dependence on outside supplies.”¹¹

The advent of Christianity in Greenland also had a profound impact on the Inuit. In addition to Hans Egede’s mission, a German Moravian mission was established in 1733, a church was funded and built by Greenlanders in Holsteinsborg in 1775, and most people in West Greenland were baptized by 1782.¹²

With Christianity came rudimentary education for Greenlanders, and as in North America, residential schools were established. Finn Gad wrote that, “Schools for children, organized as boarding schools, seem to have been established as early as the 1730s. In addition, each missionary trained the Greenlandic catechists he thought he needed....”¹³

Still other changes to Greenlandic society included the slow growth of communities around missions and trading stations, intermarriage between Europeans and Greenlanders, and the evolution of a “half-breed” population, which, “in the following centuries ... formed the nucleus of the population of West Greenland. Not until after 1782 was the future of such children attended to.”¹⁴

A cultural division of labor was established early-on in Greenland history.

Finn Gad noted that:

Greenlandic manpower was attractive because it was cheap.

... In principle, Greenlanders were to be kept to hunting and

¹¹ Finn Gad, 1984, p. 561.

¹² Finn Gad, 1984, p. 562.

¹³ Finn Gad, 1984, p. 563.

¹⁴ Finn Gad, 1984, p. 563.

must not therefore be 'spoiled' by 'un-national food.' The Greenlandic standard of living was considerably lower than that of Europeans stationed in Greenland, so that the wages in money of a Greenlander could also be kept lower. Payment in money was considered in any case only a supplement.... Greenlanders' needs were considered to be small, and they had to get their own payment in kind by hunting and fishing. Thus the concept of 'Greenland wages,' considerably less than the wages of Europeans stationed in Greenland, was introduced. Once in practice, it became traditional and difficult to eradicate, especially since it aided economizing efforts.¹⁵

Government policy respecting European-Greenlander relations became important in 1782, after "the KGH divided West Greenland into two *inspectorates*, each headed by its own colonial administrators (*Inspektor*). These inspectorates consisted of 13 trading stations ... stretching from 60 N latitude northward to about 72 N."¹⁶

The Danish Crown, through the KGH, issued the Instruction of April 19, 1782. Finn Gad commented that, "The main objective of the Instruction ... was to formulate a set of regulations to protect the Greenlanders."¹⁷ Regulations were established respecting mixed marriages, the training of mixed race children, prohibition of the sale of alcohol except to those employed in whaling, outlawing

¹⁵ Finn Gad, 1984, p. 563.

semifraudulent practices, providing for social welfare during famines, conservation of eider ducks, regulating commodities sold to Greenlanders, and so on. KGH Inspector Johan Schwabe also “set up the world’s first relief fund, based on the earnings of the local occupations. A certain percentage of the Greenlanders’ share in the whaling proceeds, as well as fines for violating the Instruction of 1782, were put into savings. The fund provided relief in kind to all in times of need, help to widows, and others without providers, as well as occupational help.... The relief fund of the northern inspectorate was partially used to pay the first resident doctor in Greenland.”¹⁸ While a single doctor was inadequate to meet the needs of the population of Greenland, assistants and catechists also provided rudimentary medical services to the people, including smallpox vaccinations. Indeed, a “...systematic program of vaccination was initiated in 1804, with successful results.”¹⁹

Denmark’s colonial policies towards Greenlanders reflected the perspective that Greenlanders could and should be “civilized” – that their indigenous economy, beliefs, and practices could be supplanted by those of Europeans. History professor Ole Marquardt compared American and Danish policies towards indigenous peoples, and discovered that, “For decades Danish politicians had believed that Denmark successfully and simultaneously could elevate the cultural level of the Greenlandic Inuit and instigate a continued improvement in their economic situation and general

¹⁶ Marquardt and Caulfield, 1996, p. 109.

¹⁷ Finn Gad, 1984, p. 564.

¹⁸ Finn Gad, 1984, p. 564.

¹⁹ Finn Gad, 1984, p. 565.

welfare.”²⁰ However, this view began to change in 1856, after H.J. Rink, a Danish administrator, began lobbying for changes to Denmark’s policies. From Rink’s perspective, contact with European society resulted in decadence which would lead to the destruction of Inuit society. According to historian and geographer Michael Bravo, Rink, “blamed the missionaries’ harsh Lutheran dogmatism for doing more to accelerate than remedy the problems of rapid cultural change in Greenlandic society.”²¹ Rink’s view prevailed, and Marquardt states that thereafter, “Greenland was to be protected against any impact of Western civilization which might jeopardize the proficiency of its inhabitants in that art of the seal hunt.”²² Under Rink’s administration, Greenlanders regained some element of political control within the colonial regime.

Despite this official policy, the socio-economic conditions in Greenland began to change in ways that resulted in increasing westernization of the Inuit. Greenland’s population grew from 1880 to 1920 by nearly 50 percent. A dramatic rise in ocean temperature around 1916 resulted in a massive influx of cod from the North Atlantic and a shift in the seal population to the North.²³ Greenlanders began to pursue fishing as a commercial activity, rather than for personal use. Danish authorities began to explore prospects for economic diversification, such as sheep farming and whaling.²⁴

²⁰ Ole Marquardt, “Reservation, Westernization or Annihilation: A Comparison of U.S. Indian Policy and Danish Policy in the Nineteenth Century,” in I. Sigurdsson and J. Skaptason, (eds.), *Aspects of Arctic and Sub-Arctic History*, Reykjavik: University of Iceland Press, 2000, p. 74.

²¹ Michael Bravo, “Measuring Danes and Eskimos,” in M. Bravo and S. Sorlin (eds.), *Narrating the Arctic: A Cultural History of Nordic Scientific Practices*, Canton: Watson Publishing International, 2002, pp. 238-39.

²² Ole Marquardt, 2000, p. 77.

²³ Richard Caulfield, 1997, p. 32.

²⁴ Richard Caulfield, 1997, p. 33.

Mining for cryolite began in 1859, and increased in importance in the twentieth century with the advent of aircraft and increased demand for aluminum.

In 1924 the Danish government signed the Treaty of East Greenland with Norway, allowing Norwegians hunting rights in East Greenland. The action was taken without consulting Greenlanders, and Greenlanders demanded changes when the new administrative law was passed in 1925. The new law established district councils that, “were to review and comment on all proposed changes in Danish law affecting Greenland.”²⁵

World War II transformed Greenland in a variety of ways. Germany occupied Denmark early in the war, and Greenland was effectively disconnected from its center. The Danish ambassador to the United States signed a treaty with the United States’ government authorizing the building of American military bases on the island, and the Americans were quick to occupy and exploit Greenland’s cryolite mine and to establish air bases.²⁶

The United States’ military quickly appreciated Greenland’s strategic location and after the war signed additional treaties with Denmark that allowed it to maintain bases on the island. This continues to this day, with a major radar installation at Thule Air Base in northern Greenland. The bases were kept off limits to most Greenlanders until fairly recently, when the Greenlandic government was able to participate in the treaty negotiations and arrange for economic benefits to accrue to Greenlanders.²⁷

²⁵ Richard Caulfield, 1997, p. 34.

²⁶ Richard Caulfield, 1997, p. 34.

²⁷ Clive Archer, “The United States Defence Areas in Greenland,” *Cooperation and Conflict*, XXIII, 1988, pp. 123-144.

The Modernization of Greenland

According to economist Graham Poole, Denmark's pre-war approach to Greenland was, "characterised by a paternalistic social policy which had kept Greenland more-or-less isolated from the rest of the world for two centuries."²⁸ This approach changed in the post-war era as a result of several important factors: the ongoing presence of American military installations, and,

The growing perception in Denmark of the abysmally low material standard of living prevailing in the colony, and the extremely low average lifetime expectancy of the Greenlandic population (Hoyem 1988). The second was a requirement made by the United Nations concerning the registration of conditions in non-self governing territories (Gad 1984). These factors created the right atmosphere for change to be considered in accordance with the wishes of the Greenlandic population as put forward by their representatives.²⁹

Unlike the approach taken in North America, where entrenched bureaucracies made policies affecting indigenous peoples without consulting them, Denmark launched a consultative process in 1948 that resulted in the development of a ten-year modernization plan (referred to as G-50), and the passage of nine laws with profound effects on Greenland: establishing the Greenland provincial council elected by

²⁸ Graham Poole, *The Development of Greenland's Shrimp Fishing and Processing Industry Since 1979: A Study in Applied Economics*, unpublished PH.D. thesis, Cambridge: Scott Polar Research Institute, 1995, p. 7.

²⁹ Graham Poole, 1997, p. 7.

Greenlanders; separating the school system from the church; abolishing the state monopoly over business in Greenland; overhauling the justice system, and numerous other reforms.³⁰ In 1953, a new Danish constitution was enacted to fully integrate Greenland and the Faroe Islands into the Danish realm, and all Danish laws were made applicable to the island unless expressly excluded.³¹

According to Greenland scholar Richard Caulfield, “Frustration with the results of G-50 led to creation of another state-controlled commission, the Greenland Committee of 1960 (referred to as G-60). The G-60 commission’s goal was to normalize relations between Greenlandic and Danish institutions; in large measure, to assimilate Greenland fully into the Danish realm.”³²

The modernization process was accompanied by unprecedented investment by the Danish state in Greenland, with expenditures to improve housing, schools, hospitals and other infrastructure in Greenland, as well as program improvements in education, governance, health and welfare, justice, and so on. However, Finn Gad pointed out that while, “Modernization was able to begin in all fields ... all plans were undone almost at once by a rapid rise in population.”³³ The population of Greenland grew quickly with the influx of Danish laborers and administrators and as a result of improved health care. Consequently, “The population born in Greenland rose from 22,148 in 1948 to 30,378 in 1960 and to 38,914 in 1969: a total increase of

³⁰ Finn Gad, 1984, p. 574; Richard Caulfield, 1997, p. 35.

³¹ Roxann Henry and Kenneth Miller, “Denmark, Including Greenland and Faroe Islands,” in Albert P. Blaustein and Gisbert H. Flanz, (eds.), *Constitutions of the Countries of the World*, Dobbs Ferry: Oceana Publications, Inc., 1985, pp. 15-24.

³² Richard Caulfield, 1997, p. 36.

³³ Finn Gad, 1984, p. 574.

over 75 percent. Modernization likewise brought about a drastic increase in the population born outside of Greenland, from over 900 in 1948 to 2,762 in 1960 and 7,417 in 1969: an increase of over 700 percent.”³⁴

Other aspects of the modernization process were the efforts to transform the Greenland economy – to replace the subsistence economy with one focused on harvesting the abundant cod and shrimp stocks. This required relocating much of the rural population into larger communities where services could be provided more efficiently and where fish processing plants were located. These efforts proved unpopular with many Greenlanders who were reluctant to give up their traditional livelihoods and cultural homelands.³⁵

The cultural division of labor was reinforced as modernization progressed in the 1960s. Danish workers that came to Greenland took many of the well paying jobs, and Richard Caulfield pointed out that, “In 1967, Danes in Greenland comprised only 15 percent of the population yet earned 50 percent of all private income.”³⁶ Thus, at least one author has argued that, “Legally, Greenland’s colonial status was suspended in 1953, but in practice the colonial policy was intensified by virtue of an economic neo-colonialism and the immigration of a considerable number of Danes.”³⁷

Anthropologist Jens Dahl went on to note that, “Observers of Greenlandic politics pointed out that the economic, social, and political oppression of Greenlanders

³⁴ Finn Gad, 1984, p. 574. Note, “born outside of Greenland” refers to the large influx of Danes.

³⁵ Richard Caulfield, 1997, p. 36; Graham Poole, 1995, p. 8. See also: Jens Dahl, p. 317.

³⁶ Richard Caulfield, 1997, p. 36.

³⁷ Jens Dahl, 1986, pp. 316-317.

resulted in a growing ethnic consciousness. Among Greenlanders, the well-educated and Danish-speaking elite were most aware of this oppression.”³⁸

It was this small group of disaffected and educated Greenlanders that led the movement for greater autonomy from Denmark in the 1960s. Their efforts were given impetus by a variety of events that galvanized Greenland society to oppose Danish policies, such as the closure of the mining town of Qutdligssat and the forced removal of its inhabitants, and the integration of Denmark and Greenland into the European Economic Community against the wishes of the people of Greenland in 1973. These events contributed to the politicization of Greenland society, including the creation of the Siumut (or “Forward”) movement and political parties, and increasing demands for home rule.

The non-indigenous minority population (primarily Danes) of Greenland either did not, or could not, oppose home rule. Jens Dahl referred to this group of people as the “Danish bourgeoisie,” which was, “heterogeneous in its composition and included persons employed in leading positions in the KGH and the Greenlandic Technical Organization (GTO) ... doctors and other holders of service and cultural/ideological positions ... [and] bureaucrats in higher administrative positions, independent master artisans, and similar persons”³⁹

The non-indigenous population of Greenland lost its over-whelming influence in Greenland as the sentiment for home rule gained momentum. Dahl stated that:

³⁸ Jens Dahl, 1986, pp. 317-318.

³⁹ Jens Dahl, 1986, p. 318. Note: The GTO was the Danish government’s administrative arm in Greenland prior to the establishment of Home Rule. It was responsible for most of the construction and

In the early 1970s, when it was obvious that the Danish implemented development policy (“modernization”) had to be changed, the small Danish bourgeoisie lost the initiative to a still more critical elite of young Greenlanders. The heterogeneous composition of the Danish bourgeoisie and the ideological and political basis of their dominant economic position caused this group to fall apart when radical changes in the colonial policy came about. After 1970, the small Danish bourgeoisie began to loose [sic] its influence as a group, as changes occurred in economic and political colonial policy.⁴⁰

Unlike Alaska and the Yukon, where the settler population played a major role in promoting constitutional change, Greenland’s settler community lost its role as a major political force in Greenland. Inuit Greenlanders supplanted the Greenland settler community as the driving force for change in Greenland society.

The Danish government responded to the demands for change by appointing a committee of Greenlanders to make recommendations on enhancing self-determination. This committee recommended the formation of a Commission on Home Rule in Greenland. The proposed commission, composed of an equal number of Danish and Greenlandic members, was established in 1975, and it reported its recommendations in 1978. According to Caulfield, the commission recommended:

infrastructure development set out in the G-50 and G-60 ten year plans. Richard Caulfield, *pers.*

a system of Home Rule that retained the unity of the Danish realm. Greenlanders' aboriginal rights were hotly debated by the commission, with *Siumut* representatives arguing that Greenlanders had full and complete ownership of nonrenewable resources under international law. Negotiations nearly broke down until Denmark's prime minister stated bluntly that Greenland could insist on full ownership, but doing so would mean leaving the Danish realm. Greenlanders, recognizing their continuing dependency on Denmark, were forced to back down.⁴¹

The Political and Constitutional Development of Greenland Under Home Rule

The Danish Parliament (*Folketing*) approved Act No. 577, *The Greenland Home Rule Act*, on November 29, 1978, which came into effect on May 1, 1979 after voters in Greenland approved it in a referendum. The Act gave Greenland an elected parliament (*Landsting*), and an executive body (*Landsstyre*), elected by the *Landsting*. Greenlanders also continued to be represented in the Danish parliament by two elected representatives.⁴² Home Rule in Greenland mirrored in many respects similar governmental arrangements in the Faroe Islands, also part of the Danish realm.

comm., 2005.

⁴⁰ Jens Dahl, 1986, p. 318.

⁴¹ Richard Caulfield, 1997, p. 38.

⁴² Richard Caulfield, 1997, p. 39; Roxann Henry and Kenneth Miller, 1985, pp. 59-66.

The *Greenland Home Rule Act* made provision for the Greenland government to take over a broad range of responsibilities from Denmark. Powers that could be drawn down included responsibility for education, hunting, fishing, agriculture, reindeer herding, taxation, county planning, environmental protection, health, and social welfare, amongst others. Furthermore, Section 7 of the act stated that, "The central authorities of the Realm may after negotiation with and having secured the consent of the home rule authorities by statute determine that jurisdiction in fields not listed in the schedule to this Act shall be transferred to the home rule authorities...."⁴³ Consequently, there was opportunity for additional powers to be transferred to the Greenland government as a consequence of negotiations. However, the natural resources of Greenland are jointly administered by Denmark and the Greenland government.⁴⁴ Denmark would continue to have sole jurisdiction over defense, the constitution, national finances, and foreign affairs, although special provisions were included in the *Home Rule Act* to inform, consult, and involve the Greenland government on international issues and agreements that might have an impact on Greenland and its economy.⁴⁵ These provisions were put to the test when Greenland successfully withdrew from membership in the European Economic Community (EEC) in 1982, while retaining favorable trading status with Europe.⁴⁶

⁴³ Roxann Henry and Kenneth Miller, 1985, p. 61.

⁴⁴ Finn Larsen, "The Quiet Life of a Revolution: Greenlandic Home Rule 1979-1992," *Inuit Studies*, 16 (1-2), 1992, p. 201.

⁴⁵ Roxann Henry and Kenneth Miller, 1985, pp. 63-64.

⁴⁶ Hans Mortensen, "Greenland's bilateral fisheries agreement with the European Union," *Cultural and Social Research in Greenland*, 95/96, Nuuk: Ilisimatusarfik/Atuakkiorfik A/S, 1996, pp. 199-208.

The Danish approach to law-making and treaty-making on issues related to Greenland is highly consultative. The *Home Rule Act* requires the Danish government to refer bills, administrative orders and proposed treaties which are of importance to Greenland to the Greenland government before they are approved by the Danish parliament. According to historian Finn Larsen:

When the Danish authorities draft new laws in fields already within the competence of the Home Rule authorities, the governing rule is that such laws are invalid in Greenland. Other laws, drafted by the Danish authorities, must be made available for comment by the Home Rule authorities before they can be legally enforced in Greenland. In practice, no new Danish law will be rendered valid in Greenland without the Home Rule authorities' affirmative consent thereto. (Harhoff, 1987).⁴⁷

Constitutionally, Greenland's status resembles that of a Canadian province or an American state. Thus, while Denmark is formally a unitary state, Larsen notes that:

It has ... developed into something more like a federal state consisting of Denmark, the Faroe Islands and Greenland. Each constituent state has its own legislative and executive branch, while the Danish Government continues to operate as a federal government ...The Danish Parliament's delegation

⁴⁷ Finn Larsen, 1992, p. 201.

of power to the Faroe and the Greenland Home Rule authorities does not, according to constitutional law experts, allow the Danish Parliament to unilaterally rescind the Home Rule Act without violating the constitutional principles and international law.⁴⁸

Importantly, Greenland's government is a public government in which both indigenous and non-indigenous residents have full rights of citizenship. Both can run for election, and the country has an advanced system of political parties. However, Greenland's political parties are a relatively recent phenomena, evolving only in the 1970s. The Siumut movement that evolved in the 1960s and 1970s was a nationalist movement acting in response to the modernization process and the "Danification" of Greenland. The movement picked up momentum after the 1972 referendum that brought Denmark into the European Economic Community in spite of Greenland's opposition. The Siumut (or "Forward") party, a moderate socialist and nationalist party, was created in 1977 out of the social and political movement of the same name that promoted Greenlandic culture.⁴⁹

The Atassut (or "Mutual Connection") party, was also created in 1977, but as a reaction to the Siumut party's aggressive stance toward Denmark. It supported Home Rule for Greenland, but wanted to ensure that the movement did not advance to being a separatist movement. Atassut emphasized resource development in

⁴⁸ Finn Larsen, 1992, p. 205.

⁴⁹ Finn Larsen, 1992, pp. 206-207.

Greenland, advocated the exploitation of Greenland's oil and mineral potential, and supported Greenland's continued membership in the EEC.⁵⁰

Differences within Siumut over the issue of ownership of Greenland's resources resulted in a new party being created in 1978. Left-wing members of the Siumut Party who thought Greenlanders should own their resources formed the Inuit Ataqatigiit party. The party proclaimed itself a Marxist-Leninist party, but later moderated its position and advocated less radical positions. It succeeded in getting members elected in every election since 1983 and worked as a coalition partner with Siumut in three successive governments in the 1980s.⁵¹

The Atassut Party also lost support with the formation of two center-conservative parties: Issittup Partii-a, (or "Arctic Party") established in 1986, and Akulliit Partiaat, (or "Inuit Brotherhood") party, established in 1991. Both parties achieved some electoral success by promoting expansion of the private sector and limitations on the public sector. The Issittup Partii-a is the most nationalistic of the three right wing parties.⁵²

The devolution of powers to the Greenland government, combined with the rapid maturation of party politics and a broadly supported constitutional arrangement with Denmark provided Greenland with the political and constitutional stability of a modern nation. Presumably, these arrangements would also have provided Greenland with a stable basis for attracting foreign investment and the capital required to foster

⁵⁰ Finn Larsen, 1992, p. 207.

⁵¹ Finn Larsen, 1992, p. 208.

economic development. But Greenland's economic success has not materialized, and, according to economist Lise Lyck:

The Greenlandic welfare state has income disparities and such extreme differences in real living standards and opportunities for the approximately 58,000 people who live in Greenland that we would not accept them in the context of the Danish welfare state. There is a world of difference between life and opportunities for the Danish/Greenlandic born upper civil servants in Nuuk and for Greenlanders in East Greenland, in many west coast municipalities and in North Greenland. Greenland has towns and settlements which largely survive on income transfers alone....⁵³

The social and health problems on the island, particularly amongst indigenous Greenlanders, have proven to be devastating. Historian Finn Larsen wrote in 1992 that:

The social malaise in Greenland could be characterized by the following: alcohol abuse, violence, sexual crimes, suicide, accidents, absenteeism. The various mischiefs

⁵² Finn Larsen, 1992, p. 208. Statistics Greenland provides slightly different dates for the formation of the various parties. See *the Greenland 1997 Statistical Yearbook*, Nuuk: Kalaallit Nunaanni Naatsorsueqqisaatarfik, 1997, p. 20.

⁵³ Lise Lyck, *Arctic International Trade: A Study Focused on the Greenlandic International Trade Regime*, Copenhagen: New Social Sciences Monographs Institute of Organizational and Industrial Sociology, 1999, p. 17.

are often connected to, and enhanced by, alcohol consumption.

The number of alcohol related crimes, accidents and suicides is still frighteningly high. Greenland has one of the highest suicide rates in the world, and the murder rate is 20 times higher than that of Denmark. The explanation for these depressing numbers is the way of drinking, associated with a number of cultural and social factors (Larsen 1992b). The pattern is well known from other countries in the fourth world which have undergone the same rapid change from being a traditional country to becoming a modern society.⁵⁴

Mark Nuttall's 1994 assessment of Greenland's social problems echo those of Finn Larsen. Nuttall commented that, "The modern health problems experienced by Greenlanders seem to correspond with those experienced elsewhere in industrialized and developing countries."⁵⁵ Nuttall also noted that the infant mortality rate in Greenland was five times higher than in Denmark.⁵⁶

⁵⁴ Finn Larsen, 1992, p. 221.

⁵⁵ Mark Nuttall, "Greenland: Emergence of an Inuit Homeland," *Polar Peoples: Self-Determination and Development*, London: Minority Rights Group, 1994, p. 18.

⁵⁶ Mark Nuttall, 1994, p. 18.

Greenland's Economy

The Greenlandic economy shares several attributes with other circumpolar subnational jurisdictions like Alaska and the Yukon Territory: heavy reliance upon national government expenditures and on resource extraction; long distances to markets; high costs for developing infrastructure; and a shortage of manufacturing industries. Greenland's reliance on the fishing and shrimping industries has been well documented, and a variety of studies have attempted to analyze and rationalize this sector to maximize economic benefits for the island and its people.⁵⁷ In addition to commercial fishing, many Greenlanders – particularly those in smaller, more remote settlements - continue to hunt seals and go whaling as part of a mixed subsistence-cash economy. Greenland also has commercialized hunting so that hunters can sell their produce in local markets or to a Royal Greenland subsidiary company for resale. Thus, "In 1991, GFI sold about US\$5.5 million worth of country foods in local markets."⁵⁸ These activities are important, not only for local economies, but for sustaining Greenlanders' cultural identity in the face of the trends of industrialization and westernization.⁵⁹

Political economist Ivar Jonsson has concluded that:

The general problems of the Greenlandic economy stem from the fact that it is a microeconomy ... that suffers from 'organizational dependency.'

Being a microeconomy, Greenland is particularly

⁵⁷ Graham Poole, 1995; Lise Lyck, 1999.

vulnerable in terms of capital accumulation because the local markets are unusually small and there are unusually long distances between local markets....

As for 'organizational dependency', one has to keep in mind that Greenland is dependent on Denmark, in terms of both specific institutions and techno-economic paradigms. This is to be expected, because of Greenland's historical relations and because Greenlanders are still in the first phase of their independence struggle.⁶⁰

Lise Lyck concurs with Jonsson's assessment of Greenland's dependency relationship with Denmark:

If one takes into consideration how mercantilism and colonisation have affected Greenland's limited variety of export products, its diversification of imports, and yet its dependency on Denmark for both imports and exports, one might surmise that the old trade colonial relations form the single most important factor affecting Greenlandic society related to external trade. This leftover from the old trade regime has meant that import volume is ensured en route from Denmark to Greenland and that prices for these

⁵⁸ Ole Marquardt and Richard Caulfield, 1996, p. 114.

⁵⁹ Richard Caulfield, 1997; Mark Nuttall, 1992.

imports are higher, due to the transportation system having excess capacity on the return voyage – factors which deeply affect the relative prices of exports from Greenland.⁶¹

Unlike the relatively open, competitive economies of the Yukon and Alaska, the Home Rule Government of Greenland inherited an economy dominated and monopolized by Danish Crown corporations, which might be referred to as mercantilist.⁶² Since Home Rule, Greenlanders have nominally transformed most of these state-controlled corporations into private firms. However, the state continues to have a controlling interest in most of them. Royal Greenland Ltd. is a corporate structure wholly owned by the Home Rule government and is by far the largest company in Greenland. While Royal Greenland Ltd. is a multi-faceted, multi-national corporation, its primary and most profitable business is the harvesting, processing, exporting and marketing of the island's stocks of cold water shrimp.⁶³ However, the corporation is also expected to create jobs and provide social benefits for Greenlanders. This conflict of goals has created difficulties for the company that at times affected its profitability. For example, in 1991 the *Landsting* required the

⁶⁰ Ivar Jonsson, "Reflexive Modernization, Organizational Dependency and Global Systems of Embedded Development: A Post-Colonial View," *Cultural and Social Research in Greenland, 95/96*, Nuuk: Ilisimatusarfik/Atuakkiorfik, 1996, p. 140.

⁶¹ Lise Lyck, 1999, pp. 2-3.

⁶² According to Hechter, "Mercantilism basically held that economies should operate in the service of states, to increase their wealth and power relative to other states in the international system. Accordingly, it was the proper function of government to intervene in the economy to achieve these ends, primarily by manipulating exports and imports in such a way as to nourish native manufactures and bring about a favorable balance of trade." Michael Hechter, *Internal Colonialism: The Celtic Fringe in British National Development, 1536-1966*, Berkeley: University of California Press, 1975, p. 91.

company to fill the cold storage capacity of the Disko Bay region with unprocessed shrimp in order to secure factory employment, which cost the company extra money to fulfill.⁶⁴

KNI (Kalaallit Niuerfiat) Pisiffik Ltd., is another corporation wholly owned by the Home Rule government. According to Lyck, its primary purpose is, “running a business based on wholesale and retail trade in Greenland outside of the settlements and outlying districts.”⁶⁵ Created in 1992, “The company forms a part of the KNI concern, which includes KNI Pisifik Ltd., and its divisions, as well as an affiliated company, KNI Pilersuisok Ltd., and a holding company, KNI-mik Piginnittut Ltd.”⁶⁶

Lyck notes that, together:

The two home rule owned corporations, ... provide complementary parts of Greenland’s international trade. Royal Greenland Ltd. collects fish products, processes them and markets them in Greenland and abroad. In this way it supervises the export and import for export for most of Greenland’s economy. KNI Pisifik Ltd. purchases Greenlandic and international products for distribution in the competitive centres along Greenland’s west coast. For both corporations it is true that they affect the perspective

⁶³ Lise Lyck, 1999, p. 52.

⁶⁴ Graham Poole, 1995, pp. 81-82.

⁶⁵ Lise Lyck, 1999, p. 60.

⁶⁶ Lise Lyck, 1999, p. 60.

that Greenlander's have on their geo-strategic position.

Sales to Denmark indicate a continuing reliance on relations within the Danish Realm for economic prosperity.⁶⁷

Lyck goes on to state that Royal Greenland Ltd. contributes to Greenland's efforts to reduce dependency on Denmark by finding markets for Greenlandic products in Japan, NAFTA, and other European countries. However, she also notes that:

Import appears to be fixed in terms of post-colonial relations. Traditions and monopolies have hindered all forms of flexibility. It seems unlikely that KNI Pisifik Ltd. can expand its purchasing from Japan, NAFTA and other EU countries. Many barriers block any diversification in this direction....

KNI Pisifik Ltd. has a commitment to Greenlandic suppliers/producers and to the tastes of Greenlandic customers. To some extent it can affect the purchasing patterns so that they resemble those of Danish customers ... but it cannot single-handedly unravel the post-colonial system of trade routes and the unitary system. KNI Pisifik Ltd. must make import purchases which have a hope of arriving. The present set up allows almost exclusively for an acceptable level of frequency and volume from Denmark

⁶⁷ Lise Lyck, 1999, p. 66.

alone. Because of these factors, its hands are tied.⁶⁸

While Greenland has numerous economic problems to overcome, its constitutional arrangements and relationship with Denmark did provide it with one significant advantage: a significant voice in international relations and a large degree of independence in how it relates to the international community. As noted earlier in this chapter, Greenland was able to remove itself from the European Union even though Denmark remained a member. According to Richard Caulfield:

Greenlanders' resistance to membership was clear from the 1972 referendum; they clearly feared that Brussels would dictate fisheries policy. The issue of the country's continuing membership came to a head in a 1982 election, which proved to be a major test of Home Rule. Voters decided overwhelmingly to withdraw from the EC. Despite this decision, Greenland was able to retain favorable trading status, which brings lucrative multiyear fisheries agreements and free access to European markets.⁶⁹

Greenlanders were also concerned about their right to continue whaling in 1982. Denmark was a member of the International Whaling Commission (IWC) and, as a consequence, Greenland was bound by IWC rules. As Caulfield relates:

Though Greenlanders' primary concern in the [1982] referendum was control over fisheries, they also feared

⁶⁸ Lise Lyck, 1999, pp. 66-67.

outside control over marine mammal hunting. In previous years proposals had surfaced suggesting that EC members speak with one voice in the IWC. Remembering well the support given in the 1970s to anti-sealing campaigns, by some EC nations, Greenlanders feared being overwhelmed politically on an issue vital to their economy. As a result, they began to work more closely with Alaskan and Canadian Inuit on whaling issues.⁷⁰

The Home Rule government was compelled to adopt an increasingly restrictive and stringent management regime for whaling, and to subsidize the modernization of the Greenlandic whaling fleet in order to comply with the IWC requirements. This increasingly difficult management regime generated a variety of conflicts within Greenlandic society, so that, "The Home Rule faces disgruntled hunters who resent reduced quotas and increased regulation. It also continues to confront ideological challenges to whaling both within the Danish realm and within the IWC."⁷¹

Summary

Hechter's model of internal colonialism predicts that the integration of two cultures results in a cultural division of labor, with a superordinate group or culture dominating the subordinate culture, and the evolution of an economic system that exploits the subordinate group.

⁶⁹ Richard Caulfield, 1997, p. 41.

This examination of Greenland's political and economic history reveals that national policies of internal colonialism are an integral part of the Greenlandic experience. Denmark sought to dominate Greenland in order to "civilize" the indigenous population and to exploit the resources of the island. However, Danish policies reflected a much greater degree of concern for the social and economic well-being of the indigenous population than was reflected in the North American policies towards indigenous peoples, even though the underlying assumption was that Greenlanders were an inferior people in need of civilizing. Denmark's benign policies likely reflect the fact that Greenlanders embraced Lutheran teachings and the material culture offered by the Europeans, did not resist colonization, and were a valued component in providing the furs and blubber sought by the European traders. As in North America, the indigenous population became dependent on manufactured products that could not be developed locally – sugar, firearms, steel knives, tea, and so on.

The Danish approach is best contrasted with the American approach. Denmark had no wars with the Inuit of Greenland. Indeed, they were introducing smallpox vaccinations into Greenland around the same time that American soldiers were using the disease in isolated cases in a form of germ warfare against North American Indians. And since 1838, when the Greenland Health Service was created,⁷² the Danes were more involved in delivering active health care programs to the Inuit, whereas many North American Natives were left to fend for themselves.

⁷⁰ Richard Caulfield, 1997, p. 126.

The Danish government had no policy or practice of entering into treaties with aboriginal peoples as the British did since the 1700s. Furthermore, the Inuit in Greenland were open to the teachings of Christianity, rather than resistant. And they did not pose a large military threat to the colonizers or to colonization. Consequently, there was no need for a treaty with the Greenlanders, and this reflects more the approach taken toward northern indigenous peoples in Canada and Alaska by their respective federal governments.

Non-indigenous Alaskans and Yukoners have taken issue with indigenous subsistence harvest and access rights, and this issue has been a thorny one in the twentieth century. It has been largely resolved through land claim settlements in the Yukon, but remains a contentious issue in Alaska. However, it has not been much of an issue in Greenland, where the island's remoteness and small non-indigenous population have kept conflicts to a minimum. Greenland's major challenge, on the other hand, comes from animal rights and anti-whaling movements that have had significant impacts on the subsistence economy of northern aboriginal peoples throughout the circumpolar North.

A cultural division of labor was established early in Greenland's history and persists today. Greenlanders were paid less than Danish workers and they received only rudimentary education until the 1950s, when some Greenlanders began attending

⁷¹ Richard Caulfield, 1997, p. 146.

⁷² Michael Banks, *Greenland*, Totowa, New Jersey: Rowman and Littlefield, 1975, p. 116.

university in Denmark. Greenlanders did not have the option of attending university in Greenland until 1984, when the Inuit Institute became the Greenland University.⁷³

This dissertation suggests that policies of internal colonialism have been implemented by Denmark in Greenland, and that they have had some of the same consequences as the policies of internal colonialism implemented in Alaska and the Yukon. Policies of internal colonialism are one way of explaining why these indigenous populations suffer socio-economic problems akin to those experienced by populations in developing countries. (Other explanations are not excluded). These conditions include: poor and crowded housing conditions; high rates of alcoholism, unemployment, and suicide; health problems, such as higher rates of infant mortality, diabetes, and other forms of illness than are found in non-Native populations; lower wages and incomes per capita, than non-Natives; high drop-out rates in high school; and so on.

These conditions are exacerbated by an under developed economy that relies on the extraction of raw materials and which requires extensive transfers from Denmark to support the standard of living that exists on the island. Greenland continues to rely upon Denmark for about half of its annual budget, and thus is less dependent than the Yukon is on transfer payments, but certainly more so than Alaska.⁷⁴

⁷³ Statistics Greenland, *Greenland Kalaallit Nunaat*, Nuuk: Kalaallit Nunaanni Naatsorsueqqisaartarfik, 1997, p. 97.

⁷⁴ *Arctic Human Development Report*, Akureyri: Stefansson Arctic Institute, 2004, p. 231.

In contrast to Alaska and the Yukon, Greenland's social order did not evolve through a large settler community that grew to dominate the population of the island. Rather, indigenous Greenlanders remained the majority population, even after World War II. Furthermore, the predominance of state run corporate structures on the island meant that there were few trans-national corporate interests to oppose Home Rule. Consequently, when indigenous Greenlanders began demanding greater political autonomy, there were few interests to oppose this movement. Greenland society was not divided over the issue of Home Rule.

While a long history of internal colonialism, and its consequences, are evident in Greenland today, it is important to note that Danish governments should also be credited with a good record, in recent decades, of consultation with Greenlanders. Both the G50 and G60 processes were developed in close consultation with Greenlanders, as was the process leading to Home Rule. Furthermore, the consultation requirements written into the *Home Rule Act* reflect the importance Danish governments attach to the need to consult Greenlanders on important issues that affect them. As noted in Chapter 1, unilateral decision making is fundamental to internal colonialism, so measures to guarantee consultation are fundamental to reversing policies of internal colonialism.

Secondly, the Danish government acted swiftly to implement Home Rule without preconditions for fiscal viability. While the Danish government retained a role in managing the resources of Greenland, it did not insist that Greenland had to be

self-supporting economically in order to advance constitutionally. Denmark has extensively subsidized, and continues to subsidize, the social welfare programs and government of Greenland. Today, a small but growing number of Greenlanders favor the idea of complete independence from Denmark. However, most Greenlanders recognize that independence without a more substantial and diversified economy would likely cause a significant and politically unacceptable decline in the quality of life.⁷⁵

A third significant feature of Danish-Greenlandic relations is the considerable influence that the Greenlandic government has in foreign relations. Given Greenland's subordinate constitutional status, its relative independence in foreign affairs appears unprecedented in the circumpolar North. Greenland was able to withdraw from the European Community and to negotiate a special fishing agreement with the EC nations. These arrangements have benefited the Greenland economy enormously. The Greenlandic experience appears to offer a useful argument that northern subnational jurisdictions can be given greater flexibility to pursue international agreements that benefit them economically without threatening the integrity of national governments.

Greenland's constitutional advancement was, in some respects, similar to Alaska's. In the post-World War II anti-colonial era, the Danish government acceded to demands for constitutional change. However, the change was effected much more

⁷⁵ Richard Caulfield, *pers. comm.*, 2005.

quickly than anywhere else in the circumpolar North, reflecting a positive disposition towards its northern periphery and the needs of its people.

Many Greenlanders still want unilateral control of Greenland's resources and to reduce Greenland's dependence on Danish grants. These will likely be difficult, although not impossible, goals to achieve. Greenland still has opportunities to diversify its economy and its markets. And Greenland's strategic location may provide opportunities for providing support to increased shipping in the Arctic Ocean if global warming continues to reduce sea ice conditions.

Chapter 7

Summary and Conclusions

Summary: Correlates of Internal Colonialism

Michael Hechter's elaboration of the theory of internal colonialism provides an insightful tool for understanding conflict in circumpolar northern jurisdictions today. This dissertation utilizes the theory for analyzing the evolution of relations amongst aboriginal peoples, settlers and "Outside" interests in Alaska, the Yukon, and Greenland.

The theory predicts that, as two societies merge, a cultural division of labor will be established in which the dominant society will subject the subordinate one to discriminatory policies, and relegate members of the subordinate society to less valued roles in the overall social system. Members of the subordinate society will likely experience lower self-esteem, greater stress, higher levels of unemployment, higher rates of suicide and alcoholism, and other social-psychological problems as they experience policies of sustained systemic discrimination.¹ Where the subordinate society is also readily identifiable due to racial features, the effects of the policies will be even more difficult to overcome. Such a system can result in inter-racial conflict, and, as Amy Chua points out, in societies where majority populations are repressed by a racially different minority, the conflict can escalate to violent behaviors of genocidal proportions.²

Policies of internal colonialism can also be economic in nature and directed at

¹ There will be exceptions to this proposition. For example, it does not apply very well to the Jewish or Chinese diaspora, where resilient communities and individuals thrived while under extraordinary pressures from, first, colonial, and then nationalistic, politically dominant forces. Gerald McBeath, *pers. comm.*, 2005.

² Amy Chua, *World on Fire: How Exporting Free Market Democracy Breeds Ethnic Hatred and Global Instability*, New York: Doubleday, 2003.

discrete regions within a country. Where this occurs, we may refer to the problem as one of regional economic disparities. In this scenario, a developed region uses its periphery as a source of raw materials and a market for centrally-produced manufactured products. Investment in the peripheral region will occur when a resource is discovered there that is valued by the market, and investment will be withdrawn when the desired resource is exhausted or demand for it ceases. Consequently, the peripheral region is subjected to exploitation and development booms and busts.

This dissertation utilized case studies to examine the relationships of citizens of three circumpolar subnational jurisdictions: Alaska, Yukon Territory, and Greenland. It presents evidence that the national governments of the United States, Canada and Denmark have used policies of internal colonialism toward the indigenous populations of these jurisdictions, and that the consequences of these policies appear to have manifested themselves in various forms of conflict.

The dissertation argues that, as northern North America and Greenland were settled, the indigenous peoples were viewed as inferior peoples in need of “civilizing.” At the urging of white evangelists, educators and government officials, efforts were made to inculcate the indigenous peoples with Christian values and beliefs. The “civilizing” of indigenous peoples was sanctioned by national governments and became the official policy of those governments. Policies toward the aboriginal peoples varied greatly from jurisdiction to jurisdiction, and over time, but the impact of the policies appear to have had the same ultimate impact on the lives of the Natives: poverty, high levels of suicide, illness, and premature death.

In each jurisdiction exploitation was spurred by the search for furs, minerals and other resources of value to Europeans. The aboriginal peoples were initially valued for their skills as hunters, trappers, guides and packers. Their trapping skills were utilized to supply fur traders and trading companies with valued trade goods that sold for high prices in Europe. Aboriginal people were also used as cheap labor in more industrial activities like mining, but, over time, many were displaced from the work force by an influx of white settlers and laborers (a cultural division of labor).³

Most explorers, missionaries, fur traders, and other representatives of the corporate enterprises from the “center” arrived in the northern regions with no intention of staying. However, over time, some began to settle in these regions with the intention of making it their home. This represented a significant shift in relationships: a settler population with interests in developing the North, rather than exploiting it, meant that conflicts with national and international interests would inevitably result. It also meant that the settler population had some interests that coincided with those of the indigenous peoples. Inter-marriage became more common, and aboriginal peoples became dependent on manufactured products in much the same way that non-aboriginals were.

The conflict between settler, aboriginal and non-resident interests became apparent during the gold rush period in the Yukon and Alaska, and during other “boom”

³ Robert McPherson provides examples of how Inuit in the eastern Canadian Arctic were underpaid compared to the non-Inuit workers in the 1950s, prompting social scientists to recommend, “scrutiny ... to ensure fairer wage levels and equitable benefit deductions.” However, he also points out the exceptional situation of the Nanisivik mine in the 1970s, where living conditions, on the job training, and good wages provided long term employment for some Inuit and few social problems. Furthermore, “fur harvesting ... increased, in part because wages could be used to purchase better hunting equipment and supplies.” Robert McPherson, *New Owners in Their Own Land: Minerals and Inuit Land Claims*, Calgary: University of Calgary Press, 2003, pp. 9, 11, 13, 107 - 113.

times in the North. As wealthy corporate interests began buying up valuable gold properties, local miners protested. Indigenous peoples recognized that powerful non-resident interests could override their rights to land and resources such as salmon and caribou, and began asking that their interests be protected by federal agencies. The federal government became a crucial actor in allocating rights in the North, and thus became the focal point of lobbying by settler, aboriginal and “Outside” interests. The settlers soon recognized that the laws or constitutions creating the jurisdictions they inhabited could provide them with self-governing powers that could be used to control the “Outside” interests, and lobbying soon commenced to have those laws amended to grant them self-government.

The movements to promote self-government in Alaska, Yukon and Greenland took time to consolidate, and during that time divisions arose amongst those who advocated self-government and those who wanted the *status quo* to continue. As Gurston Dacks, Kenneth Coates, and Oran Young have noted, a colonial culture is a divided culture, filled with conflicts amongst competing interests, and competing with “Outside” forces for control of the land and resources.⁴

National authorities were often slow to respond to proposals for change, and changes came incrementally. Alaskans lobbied on and off for some 43 years before statehood was achieved. In the Yukon, the struggle has lasted for over 100 years, and provincial status remains elusive. However, in Greenland’s case, Danish authorities

⁴ Gurston Dacks, *A Choice of Futures: Politics in the Canadian North*, Toronto: Methuen, 1981, pp. 88-92, 94-98; Kenneth Coates, “The Discovery of the North: Towards a Conceptual Framework for the Study of Northern/Remote Regions,” *The Northern Review*, No. 12/13, 1994; Oran Young, *Arctic Politics: Conflict and Cooperation in the Circumpolar North*, London: University Press of New England, 1992.

reacted quickly to appease the demands for self-government once they were articulated, and Home Rule was achieved in a few short years.

National policies of internal colonialism began to be reversed in the 1950s and 1960s as the western world reacted against colonialism in the developing world and the civil rights movement spread in North America. Resistance to national policies and advocacy for change resulted in renewed demands for statehood, provincial status and devolution, the abandonment of termination policies, legal challenges and lawsuits that forced governments to reconsider their approaches to aboriginal land rights. As a consequence, Alaskan statehood was achieved in 1959, Alaska land claims were settled in 1971, Greenland Home Rule was granted in 1979, and devolution of federal programs and land claim settlements progressed in the Yukon from the 1980s to today. These accomplishments have substantially reduced federal influence in local decision-making in the North, although large federal transfer payments continue to ensure that the federal voice is still a loud one. In some cases, such as northern Alaska, “The victory of the North Slope Borough in its legal battle to win the authority to levy property taxes on the oil development infrastructure at Prudhoe Bay institutes an exceptional situation in the Arctic.”⁵ North Slope Borough residents have reaped huge profits from their taxing authority, making them the wealthiest aboriginal community in the circumpolar North.

Marxist theorists have generally asserted that national governments will pander to corporate interests at the expense of all others. If this were the case, one would presume that corporations would have unrestrained access to northern resources and substantial

⁵ *Arctic Human Development Report*, Akureyri: Stefanson Arctic Institute, 2004, p. 232.

subsidies to assist them in their endeavors. This was largely the case in the nineteenth century. However, today corporations contend with significant and complex environmental regulations and increasingly must negotiate with aboriginal organizations and governments because national governments have recognized aboriginal rights to land and resources, and, in many areas, have transferred large blocks of land over to regional governments and to aboriginal ownership. Furthermore, national governments have paid, or are paying, large sums of money to northern First Nations and governments to establish corporate structures that may compete with, or partner with, national and multinational corporations on northern development projects, such as pipelines. These factors suggest that national governments are somewhat independent from national and multinational corporate interests and may act in ways that can hinder those interests in the northern periphery.

If we accept this view of the role of national governments, it places those governments at the epicenter of conflicting demands from northern regional governments, northern First Nations, and corporations with interests in the North. In the past, the national governments of Canada and the United States did not have to pay much attention to northern aboriginal interests. Poverty stricken, disorganized and disenfranchised, they posed no threat to the established order. Demands for land claim settlements were ignored, social and educational programs were minimal, and discrimination was acceptable.

The interests of settler populations in the North fared little better. Their demands for self-government were largely ignored until after World War II, when the strategic

significance of the North became apparent, and the Arctic became an extensively militarized region. National governments then began investing in infrastructure for northern defense and resource development that attracted more people to the region, which in turn generated a louder voice in national politics.

Indigenous peoples were slower to mobilize and to learn the tactics of political lobbying, but World War II ended the isolation of many indigenous peoples in the circumpolar North, and by the 1940s and 1950s these peoples were becoming increasingly concerned about their land and harvesting rights as a result of the huge influx of non-Natives. The civil rights movement provided impetus to their demands, and by the 1960s their land claims were being effectively advocated. The settlement of Alaska's land claim spurred Yukon Indians to lobby more effectively for their claims and by the 1970s Yukon and Canadian First Nations were actively seeking to have their aboriginal rights recognized in the constitution of Canada.

Greenlanders' experience was similar, although Danish national policies were different from those administered in North America. Danish officials did not contest Inuit ownership of land and did not treat land in Greenland as a commodity to be bought and sold to settlers. Government owned corporate structures displaced capitalist enterprises as the catalyst for development in the evolution of Greenland. Greenland was first exploited for its fur resources, but colonization was justified on the basis of bringing civilization and Christianity to the Inuit. Non-Inuit ran the colony with increasing input from Inuit Greenlanders, but indigenous Greenlanders were restricted occupationally to being hunters, trappers, and assistants to the clergy. A cultural division of labor was

established early in Greenland's history, so that Danish labor was more highly valued and more highly paid than Inuit labor.

As in northern North America, Greenlanders' isolation ended with World War II, and Danish policy toward Inuit Greenlanders also changed dramatically. After the war, the conditions and living standards of colonized peoples, including Greenlanders, came under international scrutiny. The Danish government made concerted efforts to improve living standards, to modernize the economy, and to improve educational opportunities in Greenland. The influx of Danish workers and new policies to integrate Greenland into the Danish political and economic framework brought the two cultures into closer proximity. Danish policies began to affect Inuit Greenlanders negatively. Greenlanders disliked the closure of their small communities and forced centralization; they opposed joining the European Union; and so on. And, as in other parts of the circumpolar North, their response was to seek empowerment through the devolution of state power by legislative change.

Self-government (Home Rule) was more quickly achieved in Greenland, largely because there were few counter-forces against the movement. The settler community in Greenland was small and disorganized, and there were few "Outside" economic enterprises (corporate interests) to oppose the movement. Greenland's economy was monopolized by government spending and government-controlled corporate structures, rather than by private sector interests.

This recapitulation of the history of social forces in Alaska, Yukon and Greenland emphasizes the importance of understanding the relationships amongst the three major

segments in northern societies: the indigenous population, the settler community, and the “Outside,” interests. It also emphasizes the important role the national government plays in the North. Federal policies can play an important role in mediating the conflict in interests amongst the three groups, or exacerbating conflict if its policies favor one group over another.

In Alaska, federal economic policies appeared to favor “Outside” interests for many years: fishing and canning industry interests clearly controlled federal fisheries policy to the detriment of aboriginal people and settlers alike; large mining interests dominated the gold fields and coal-mining in the territory; and so on. Settlers and aboriginal people struggled to acquire control of state land and resources, and the right to control “Outside” interests for decades.

In Alaska, the Yukon, and Greenland, aboriginal policy was federal policy. The settler communities in each jurisdiction often sought to influence federal policy toward First Nations in ways that the aboriginal people themselves often found offensive.

Settlers in Alaska and the Yukon did not generally want to recognize aboriginal claims to the land and often resented subsistence harvest rights.

Aboriginal labor was welcomed when it was cheap, but was quickly displaced when non-aboriginal labor was available. Aboriginal efforts to negotiate fair wages for their work as guides and packers were resented. And aboriginal people were generally treated as lower class citizens and excluded from many social activities. Representatives of the various churches in the North often spoke out for better treatment of the aboriginal peoples, but they were also the most active agents of cultural change, and their mission

schools later became the most notorious symbols of cultural oppression.

Federal policies differed amongst the three jurisdictions: being moderately interventionist in Alaska; “laissez-faire,” in the Yukon; and dominating in Greenland. In all three jurisdictions, national aboriginal policy had the same ultimate goal until recent times: assimilation. “Outside” organizations in the form of churches were the primary agents of the federal policy of civilization. However, Indian agents, police officers, and other national government officials also had important roles to play.

National policies of “civilization” had mixed results. Many aboriginal people did not assimilate and vanish into a melting pot. However, many also acquired skills that enabled them to function well in modern industrial economies. Today, Inuit control the government of Greenland, and many aboriginal people hold positions of power and influence in northern societies, including important positions in territorial, state and municipal governments. But many also resented and resisted efforts to reduce or eliminate their rights to land and resources, to eliminate their language and culture, and to remove or restrict their rights to harvest animals on the land and in the sea.

Many aboriginal people were also confounded by the experience of rising expectations and low achievement as a consequence of attitudes of racism and inferior educational opportunities. Educators in northern Canada and Alaska continue to struggle with the issues of culturally appropriate curriculum, high drop out rates, and appropriate educational standards. In Alaska, the well-intentioned federal “No Child Left Behind” policy has created issues for rural schools that may well result in those schools closing and providing rural students, the large majority of whom are Native, with fewer

educational opportunities.⁶ Furthermore, “Alaska has a statewide educational assessment system, including annual testing on Benchmark examinations and a High School Graduation Qualifying Examination, which lowers Native graduation rates.”⁷

Lacking adequate education, many aboriginal people in Alaska, Yukon and Greenland continue to face high rates of unemployment. The “boom and bust” economies of the circumpolar North exacerbate the problem of Native unemployment. Many remain in their northern communities even when there is no employment there, while non-Natives are more likely to travel to regions where employment is more available.⁸ While the subsistence economy assists aboriginal people to remain on the land, it usually does not provide the economic resources for retraining or upgrading required to take advantage of new opportunities in a changing economic environment.

Federal policies tended to alienate both aboriginal and settler populations in Alaska, the Yukon and Greenland, in large measure because they often sided with powerful “Outside” interests, such as the fishing and canning industries based in Seattle and California. Efforts to achieve constitutional change or recognition of rights were frequently resisted by national politicians or bureaucrats. And once the legitimacy of settler or aboriginal arguments was accepted, they often created conflicts between aboriginal peoples and settlers. In Alaska, efforts by the settler community to gain land for the state government and to build the pipeline were stymied for years by the legal claims of Alaska Natives to the land. And in the area of subsistence harvest rights, many

⁶ *Fairbanks Daily News-Miner*, August 22, 2003.

⁷ Gerald McBeath, *pers. comm.*, 2005.

⁸ Michael Whittington, *The North*, Ottawa: Ministry of Supply and Services Canada, 1985, pp. 26-32.

people view aboriginal subsistence rights as anathema to individual hunting rights.

It should also be noted that land claims were not a significant issue at the time Alaska sought statehood, and Natives did not argue that their land claims needed to be settled before statehood was achieved (although “Outside” interests attempted to make this issue at hearings into statehood). Consequently, the conflict between aboriginal interests in land and settler interests in land did not arise until after the constitutional status of Alaska was resolved.

In the Yukon, the advocates of provincial status and advocates for Indian land claims advanced their arguments to federal officials at almost the same time, and Yukon Indians argued strenuously that their claims had to be addressed first. Federal officials took neither claim seriously because federal policy was still focused on the elimination of aboriginal rights, and addressing the separatist challenge in Quebec. In the 1970s, the federal government was forced to change its policy on aboriginal claims because of the *Calder* decision in the Supreme Court of Canada. Thereafter, disputes amongst the three parties over process and priorities undermined constructive negotiations until the Yukon government recognized the necessity of settling land claims as the highest priority. This recognition eventually led to an informal *quid pro quo* in negotiations that allowed devolution (of federal programs) negotiations to proceed, culminating in limited constitutional development for the Yukon government in 2002-03.

In Greenland, land rights were not an issue because Inuit Greenlanders always formed the large majority of the population and the settler community was miniscule – most non-Inuit were transients who never intended to settle in Greenland. And few

exploitable resources, such as oil and gas, have been found to attract multi-national corporate interests.

Conclusions

As noted at the beginning of this dissertation, political scientists and historians have commented that northern populations are embroiled in numerous forms of conflict, and Gurston Dacks observed that, “Nowhere do the conflicts within northern society and between North and South make themselves more acutely felt than in the issue of native claims.”⁹ Charles Wilkinson then pointed out that Native land claims, or treaty negotiations, “are parallel in concept to negotiations with representatives of prospective states over statehood.”¹⁰ And Oran R. Young commented that, “the recent experience of the Arctic offers a variety of fascinating cases worthy of close examination by those interested in the links between the exercise of political authority and the availability of secure sources of public funding.”¹¹ This dissertation provides a comparative case study of the struggle for constitutional change in the circumpolar North, focusing on the efforts of aboriginal and non-aboriginal peoples to achieve self-determination in Alaska, the Yukon, and Greenland. A key element in these struggles has been the policies of national governments towards their northern populations, and their willingness to engage in negotiations to permit constitutional change.

A variety of books and theses have now been written about aboriginal land claims in the North, and the struggle for Alaska statehood has been well documented by Alaska

⁹ Gurston Dacks, 1981, p. 50.

¹⁰ Charles Wilkinson, *American Indians, Time, and the Law*, New Haven: Yale University Press, 1987, p. 102.

¹¹ Oran Young, 1992, p. 20.

historians. A few books and papers have compared aboriginal policy in Canada and the United States, and Ole Marquardt has compared Danish policy toward Greenlanders with the United States' Indian policy.¹² Unfortunately, few authors have addressed comparisons of policies by national government towards their northern peripheries. Yet it seems obvious that national policies are critical components of northern development, and their application has had significant impacts, not only on the pace of northern development, but also on how the North has developed, and the social relationships within the North.

This dissertation fills a gap in the literature on the North by providing a comprehensive comparative analysis of the evolution of three northern jurisdictions – from colonial status, through territorial status, to statehood and home rule. The dissertation also provides social scientists with new insight into the role that policies of internal colonialism have played in the North's evolution, and how such policies have created or exacerbated social tensions within the North.

The dissertation applies the globally-oriented dependency theory to a regional context, in which I have tested both the advantages and disadvantages of the theory. It suggests that dependency may not be a permanent condition, and that social revolution is not the only cure. The dependency relationship may be reversible, or at least ameliorated, by independent states displaying characteristics of "embedded autonomy" and acting to advance the interests of their peripheries. The dissertation also provides evidence that northern economic and constitutional development can be fostered through vigorous

¹² Ole Marquardt, 2000, pp. 68-79.

national support – either direct economic investment, as happened in Alaska, or through supportive “greenhouse” type policies, as described by Peter Evans, that foster partnerships with multi-national corporations on terms favorable to the developing region.¹³

Understanding national government policy processes, the history of national policies, and the impact of national policies of internal colonialism are crucial elements to understanding and resolving many northern conflicts. Alaskans, northern Canadians, and Greenlanders had little involvement or input into national policy development, even when the policy directly affected northern populations, until they achieved statehood, Home Rule, and devolution, respectively. Many northerners were disempowered by discriminatory policies, such as Canada’s disenfranchisement of Indian voters, Alaska and Yukon’s subordinate constitutional status, lack of representation in national forums, and so on.

Given this lack of power and influence, federal or national agencies, national and international corporations, national and international churches, and special interest non-governmental organizations frequently held more sway over national northern policies than local indigenous organizations or territorial legislatures.¹⁴

National policies often resulted in divisions and conflicts within northern communities. Lack of consultation ensured that there was little opportunity for aboriginal and non-aboriginal peoples to discuss the potential impacts of policy initiatives on their

¹³ Peter Evans, *Embedded Autonomy: States and Industrial Transformation*, Princeton: Princeton University Press, 1995.

¹⁴ Gurston Dacks, 1981.

communities. Often they could only react to, and protest, decisions that had already been made and were difficult to reverse. Many communities were divided on racial lines, often because national policy, as interpreted by local Indian agents or the clergy, determined that it was best to keep aboriginal people segregated. The poorer living conditions and social problems found in many aboriginal communities reinforced negative stereotypes of aboriginal people and hampered communication between the aboriginal and settler communities.

In Alaska, federal policies on subsistence access have generated protests from Natives and non-Natives, and brought national policies into conflict with the state constitution. Today, Natives prefer the provisions in ANILCA to state proffered solutions, but this has not satisfied many non-Natives. The stalemate continues.

National policies, processes and decisions have also created conflicts within and among aboriginal communities. In the Yukon, decisions to amalgamate some bands in and near Whitehorse without consulting them, and without their consent, created tensions and problems that are only now being tackled. In Alaska, tensions between North Slope Natives and other Native communities were generated during negotiations over ANCSA,¹⁵ and other Native communities are divided on the issue of tribal sovereignty.

More recently, aboriginal people in Alaska became divided over the issue of opening the Alaska National Wildlife Refuge to oil exploration and drilling, with Gwich'in peoples and North Slope Natives taking opposing views on federal policy. Furthermore, as a result of ANCSA, Alaska Natives became embroiled in a variety of

¹⁵ Donald C. Mitchell, *Take My Land, Take My Life: The Story of Congress's Historic Settlement of Alaska Native Land Claims, 1960-1971*, Fairbanks: University of Alaska Press, 2001, pp. 346-348, 359, 483-486.

issues and disputes that were non-existent in the past: the gulf between wealthy and poorer Natives widened, corporations competed with one another for business, and law suits proliferated.

While the legacy of internal colonialism has been social conflict and dysfunction in the North, it has also generated creative new ways of addressing conflict as well as innovative solutions. The land claim agreements achieved in Alaska and the Yukon, and the creation of the Home Rule regime in Greenland, were innovative approaches that pioneered new ways of dealing with land claims and demands for aboriginal self-government.

The power of cooperation between and among social forces, particularly between settler and aboriginal communities, is apparent. It is important, therefore, for political and social scientists to carefully assess how social forces align themselves on issues that generate conflict in the North. Where conflicts appear intractable, the interests of each party to the conflict need to be assessed to determine where common interests lie. When coalitions can be built on the basis of achieving common goals, difficult problems can be overcome. For example, once it became apparent to state officials and oil companies that a rapid settlement of land claims was in everyone's interest, the provisions of ANCSA were quickly agreed upon. And federal officials were only too happy to eliminate the vexing problem of Alaska land claims quickly when they were able to find ready compromises.

In the Yukon, a decade of fruitless land claims negotiations quickly began to gel into agreements in principle when a cooperative conflict resolution approach was injected

into the process, and the mantle of secrecy gave way to public briefings on the claims process.

In Greenland, there was little opposition to the demands of indigenous Greenlanders for Home Rule, so it was relatively easy for national leaders to acquiesce to Greenlanders' demands. Social cohesion on the issue of Home Rule was an important factor in achieving their goal. Such social solidarity is rare in most other circumpolar subnational jurisdictions.

Seeking Empowerment Through Constitutional Change

As noted above, northern peoples have responded to their colonial or territorial status by demanding changes that would grant them greater powers of self-government and greater control over their land and resources. National government responses to these demands have been mixed: Alaska and Greenland were able to achieve constitutional reforms that granted statehood and home rule. Alaska Natives, a minority within Alaska, demanded that their claims to land in Alaska be recognized, and Congress eventually agreed to pass legislation to recognize those rights when pressures to develop Alaska's oil resources mounted. Negotiations subsequently focused on what the legislation would grant Alaska's aboriginal peoples in terms of land rights, monetary compensation, corporate structures, and so on.

In the Yukon Territory, demands for constitutional change and land claim settlements were influenced by events in Alaska, but national governments were slower to respond. There were no resource "booms" to spur the pace of negotiations. National governments inflicted constitutional setbacks on the territory, and only gradually

devolved federal powers to territorial control over decades of negotiations. Yukon's Indians were also engaged in decades-long negotiations before their claims reached resolution, and some settlements are still pending in 2005.

What factors have expedited constitutional change and land claims settlements in Alaska and Greenland? It appears that two inter-related forces have served to expedite constitutional change: sustained national government interest in their North, and united social demands for change within the northern region.

In the case of Alaska, national government interest in Alaska was sustained by the Cold War. The federal government invested heavily in military infrastructure in Alaska in the 1950s. Federal investments in Alaska spurred a large population increase and a building boom in the state, enhancing interest by Alaskans in constitutional change (statehood). With economic development came renewed faith that Alaska could sustain itself economically. Alaskans' dissatisfaction with their constitutional arrangements increased.

The achievement of statehood resulted in the Alaska government commencing the process of making state land selections. These selections, combined with attempts to establish a pipeline route, compelled Alaska Natives to launch legal action to defend their land rights, forcing the issue of land claims in the state, and compelling the federal government to take action.

In Greenland, Danish interest and investment in the island over three decades alienated Greenlanders by increasing the population of non-Inuit and imposing policies that Greenlanders did not approve of. A cultural revival movement and demands for

greater autonomy for Greenland ensued.

Federal government interest in the Yukon since World War II was more sporadic. The federal government had no plan for northern development until Prime Minister Diefenbaker proposed the “roads to resources” program. The people and government of the Yukon began demanding constitutional change in the 1960s, but federal interest in the North was not consistent. The federal government only paid attention to its northern territories when Canada’s sovereignty was threatened by American actions or when northern resources were in high demand.

Lessons from Alaska

Alaska provides a model of constitutional and economic achievement that remains unparalleled in the circumpolar North. For example, the Arctic Human Development Report notes the, “ease with which it is possible to overlook Arctic issues in the national capitals of the Arctic states. [But] There are exceptions. The American constitution accords Alaska the same representation in the US Senate as it grants to California.”¹⁶ Alaska is a wealthy and influential state with a large land and resource base, a small population, and few taxes. Yet, less than fifty years ago it was a relatively insignificant territory whose citizens could not even vote in presidential elections.

Alaska’s development was expedited by World War II, which brought unprecedented federal investment to the territory, which in turn supported population growth and private sector investment. The statehood movement was rekindled in the post-war years, and ended successfully in 1959 after a vigorous campaign. Statehood was

¹⁶ *Arctic Human Development Report*, 2004, p. 230.

won at a time when Alaska's economy was growing but uncertain, and statehood was achieved without any financial preconditions having to be met.¹⁷ Fortunately, the state then prospered with the discovery of oil on the North Slope and the settlement of Native land claims.

ANCSA was the first modern aboriginal land claim in northern North America, and it departed significantly from the treaties negotiated in the southern states. It provided Alaska's Natives with financial resources, corporate structures, and a land and resource base to enable them to participate effectively in a modern economy. ANCSA improved the economic condition of many aboriginal Alaskans, although the benefits have not been equally shared throughout the state. Many rural Alaska villages still have substandard infrastructure and many social and economic problems. For many rural aboriginal people, the benefits of ANCSA have yet to be realized.

Unfortunately, while ANCSA clarified subsistence harvest rights on the surface estates of ANCSA corporations, ANILCA did not resolve the broader issue of subsistence harvest rights on public land in Alaska. Many Alaskans continue to be dissatisfied with the dual management system in the state.

ANCSA has both the benefit and the problem of being subject to changes by Congress. Unlike Canadian land claims and treaties, which are constitutionally protected, ANCSA can be amended by Congress, with or without the consent of the tribes of Alaska. This situation provides flexibility – enabling ANCSA to change as the social and

¹⁷ However, Congress was aware of the Swanson oil field discovery on the Kenai Peninsula which provided some comfort that Alaska had resources to support statehood. Gerald McBeath, *pers. comm.*, 2005.

economic situation of Alaska and Alaska Natives change, but it also opens the door to the possibility that some future federal government might once again adopt a policy of termination of aboriginal rights that could negatively impact Alaska's indigenous peoples.

Lessons from Greenland

The Danish government readily acceded to requests from Greenlanders for Home Rule. The struggle was relatively short once the interests of Greenlanders were clearly articulated. The absence of a large settler community meant there was little dissent over the legitimacy of the demands.

Denmark has not been stingy with economic support for the island, and it has allowed Greenland a level of independence that has enabled the Greenlandic government to opt out of the European Community and negotiate its own fishing treaty with the European countries. This flexibility has been extremely important for the Greenland economy.

Thirdly, the Danish government has recognized the importance of consultation, and has incorporated requirements for consultation into the Greenland constitution. Essentially, no law affecting Greenland can be implemented without some form of consultation with the government of Greenland.

Unfortunately, the Greenland economy continues to struggle. It continues to rely on the fishery resource as its economic mainstay, and thus its economy remains subject to the vagaries of world market prices and the sustainability and location of the resource. Should global warming or some other factor, such as over-fishing, intervene to remove or

deplete the fisheries, Greenland would lose its economic base, unless some other attractive resource is found, or the economy is diversified to reduce its dependence on resource extraction.

Lessons from the Yukon

The Canadian approach to settling aboriginal claims in the North has been protracted. It bore little fruit until the consensus approach to negotiating land claims was adopted in 1986. Soon after, innovative and practical land claim settlements were achieved with most of the Yukon's First Nations. These agreements could not have been achieved without the leadership and innovative approaches taken by the Yukon government's chief negotiator, applying the principles of conflict resolution theory to achieve agreements. Neither were they possible without the support of federal negotiators who were able to coax the massive federal bureaucracy into accepting the innovative approaches contained in the agreements. These included strong self-government agreements that enabled Yukon First Nations to assert jurisdiction in areas such as education, taxation, justice, and social welfare, if they so wished.

The Umbrella Final Agreement required the enactment, by the federal government, in consultation with the Yukon government and First Nations, of a single development assessment process that would apply on federal, Yukon, and First Nation lands, so that there would not be a patchwork approach to environmental assessment processes in the Yukon.

A third innovative element was the dispute resolution process written into the Umbrella Final Agreement and the individual First Nation Final Agreements, which

enables parties to a claim related dispute to seek mediated solutions rather than going to court. While these provisions have yet to be utilized, they remain an inexpensive alternative to costly court battles that have plagued other indigenous peoples in North America.

A fourth major innovation of the Yukon land claim settlements was the resolution of taxation issues relative to Yukon First Nations. Historically, non-aboriginal Yukoners would point to taxation benefits that Yukon First Nation people received as a discriminatory practice that was race-based and unfair. With the settlement of a land claim, First Nation citizens became subject to the payment of income taxes, and, in addition, First Nation governments were empowered to levy taxes on their citizens. A major issue that generated inter-racial resentment was eliminated.

A major point of contention between Yukon Indians and non-Indians that historically proved problematic for race relations was the issue of subsistence harvest rights. Historically, Yukon Indians could harvest virtually any form of wildlife at any time of the year for subsistence purposes under federal law, while non-Indians were restricted to a variety of seasons, bag limits, and other restrictions. As land claims are settled, First Nation citizens are entitled to hunt on their own lands or the lands of another First Nation which grants them hunting rights. However, they will be subject to whatever laws the First Nation governments pass that govern hunting on First Nation lands. Indians can also hunt on Crown lands, but are then subject to the laws of general application. These arrangements appear to satisfy most aboriginal and non-aboriginal people throughout the Yukon, although there have been legal actions launched recently

contesting the application of some public laws to First Nation hunters.

Still another area of innovation found in the Yukon land claims settlements has been the codification of the requirement to consult First Nations on issues that affect them. Historically, national and territorial governments enacted laws that had significant impacts on Yukon First Nations without consulting them. A significant measure to address this patently colonial problem was the inclusion of specific requirements to consult Yukon First Nations on major issues that affected them. Since land claim agreements are incorporated into the constitution of Canada, Yukon First Nations now have a powerful and enforceable right to be consulted. And, while there continue to be complaints about how effectively government conducts consultations, the signing of consultation protocols by the Yukon and First Nation governments should help to address this issue.

While the benefits of the land claims settlements are significant, the Yukon has pioneered other innovations that have fostered better inter-racial relations, such as circle sentencing, and protocols and agreements to foster economic development, consultation, and priority setting and planning, as outlined in Chapter 5.

Lessons for Canada

Canada's history has demonstrated that national policies can play a significant role in regional development. The National Policy was an essential element in opening up and developing western Canada in the face of concerns over national sovereignty in the west. Canada created the Royal Northwest Mounted Police, supported the creation of a national railway, promoted immigration and settlement of the prairies, and developed

policies to address the causes of rebellion by the Metis and to “civilize” the Indians.

In contrast, the Canadian North was left to corporate interests to develop, except when northern sovereignty was threatened by real or imagined actions of Canada’s North American neighbor. The consequence has been an underdeveloped Canadian North that relies on substantial transfer payments from the national government to support northern and aboriginal populations and governments.

The federal government of Canada will need to develop a visionary policy of northern development, similar to the old National Policy, if Canada’s North is ever to develop a self-sustaining economy that can contribute to, rather than be a drain upon, the national economy. This alone is a compelling argument for northern development. However, as the impacts of global warming become increasingly apparent, it would seem that Canada will once again be faced with a threat to its sovereignty, as the arctic ice pack becomes thinner and easier to penetrate by commercial shipping. If Canada is to retain any compelling argument for ongoing jurisdiction over the Northwest Passage, it will have to demonstrate that it can monitor and control traffic through the Passage. This will require new northern infrastructure, such as port facilities, airports, monitoring stations, as well as oil recovery and spill response capability, vessel inspection capability, and so on.

The argument for developing northern economies has never been more compelling, and Peter Evans has demonstrated that a combination of effective policy and bureaucratic capacity can provide the necessary “greenhouses” for local entrepreneurs to

thrive in.¹⁸

Furthermore, the evolution of northern Native corporate structures and self-government capacity, combined with supportive territorial government policies, could provide additional assets to ensure the success of greenhouse enterprises. By providing northern entrepreneurs with sufficient leverage, they can negotiate effectively and partner with multi-national corporate enterprises willing to do business in northern regions. The future Canadian North may well provide a multitude of opportunities for partnerships with enterprises interested in minerals, oil and gas, shipping, and services related to the transportation and communication needs of large shipping operations.

The prospect of creating northern provinces was raised by Prime Minister Paul Martin in November 2004, and the issue has generated renewed interest in Canada. *Globe and Mail* commentator, John Ibbitson, commented that while the northern territories are sparsely populated and heavily dependent on the federal government, “The arguments in favour of maximizing territorial sovereignty ... are compelling. All three premiers effectively enjoy the rights and responsibilities of first ministers; it is unthinkable that they would not be at a first ministers’ meeting.”¹⁹ Furthermore, “Canada’s ability to project and protect its claims to sovereignty over the arctic would be enhanced if the islands of the archipelago were provincial lands, rather than mere federal protectorates.”²⁰

And finally:

There is the question of dependency. The peoples of the territories

¹⁸ Peter Evans, 1995.

¹⁹ John Ibbitson, *Globe and Mail*, Nov. 23, 2004.

²⁰ John Ibbitson, *Globe and Mail*, Nov. 23, 2004.

will lessen their dependence on southern largesse when they have the tools and the responsibility to manage their lives and their lands by themselves. Canada is arguably the world's least imperialist power. Yet our territories are effectively colonies. Other colonial powers have granted sovereignty to seemingly improbable states – Iceland, Belize, St. Kitts-Nevis – that have survived and even prospered. Are our Territories to remain dependencies forever?²¹

²¹ John Ibbitson, *Globe and Mail*, Nov. 23, 2004.

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