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INTEREST GROUP/GOVERNMENT INTERMEDIATION IN
THE YUKON INDIAN LAND CLAIM

by

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ABSTRACT

The Yukon is presently undergoing immense change. Since 1973 The Yukon Indian Land Claim process has been the focus of this change. The emergence of the Indians a political force concurrent with the devolution of federal powers to the newly legitimized Yukon Territorial Government has created an unique environment for politics. In addition, the Yukon has a northern location and its territorial status results in a more subservient relationship with the Federal Government than would be found with a province; both of these characteristics contribute to the unprecedented political challenges the Yukon faces within Canada.

This study gives some insight into political development in the Yukon by analyzing how four interest groups relate or associate with the various parties negotiating the Land Claim Settlement. The interest groups of choice are the Yukon Outfitters Association, the Association of Yukon Communities, the Yukon Fish and Game Association and the Yukon Chamber of Mines. The governing parties involved in territory-wide negotiations are the Council for Yukon Indians, the Yukon Territorial Government and the Federal Government. This study utilizes four models of interest group intermediation to assess what type of relationship each group maintains with the various governing bodies.

This assessment takes place in Chapter Four and concludes that all four groups barely communicated with the Council for Yukon Indians. However the Federal and Yukon governments collaborated to create a strategy of interest group involvement which included most interest groups in the territory. In addition, even though there is at present very little association between interest groups and Yukon Indians, the Land Claim Settlement proposes formal institutions which will promote joint involvement for both interest groups and Indians in policy making and policy decisions.

Societal corporatism seems to be the model that best describes each of the four relationships and the land claim process in general. Unlike pluralism and consociationalism, the two models most used to describe interest group and government relations in North America, societal corporatism displays more pro-active government involvement with interest groups. As well, this type of interaction promotes formal institutions and agreements which bring government and interest groups together. This strongly suggests different interest group/government relations for the Yukon land claim than that observed by most political scientists for the rest of Canada. Indeed this is one indication of the emergence of a very different regional political system in Canada.

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INTRODUCTION

This is a study of how four interest groups relate or associate with governments in the Yukon. The interest groups are the Association of Yukon Communities, the Association of Yukon Outfitters, the Yukon Chamber of Mines and the Yukon Fish and Game Association. The policy area is the Yukon Indian Land Claim Negotiations. As of 1973 the Federal Government of Canada has recognized the legitimate claim of the Indians¹ of the Yukon. The three negotiating parties, The Council for Yukon Indians, the federal Government of Canada and The Yukon Territorial Government are still at the negotiating table today. Several interest groups have formed relationships with the negotiating parties in order to receive information about and/or influence the Land Claims. This is a comparative study of four of those relationships.

The study of interest group association or "intermediation" (as it is called in this thesis) has been an area of increasing interest for Canadian political scientists since the late 1960's. However, there has only been two interest group studies of note conducted in the

¹ The original peoples of what is now called the Yukon are referred to as Native Indians or Indians in this thesis.

Canadian north.² The Yukon Indian land claim has also never been studied from an interest group perspective. This study is interested with more than just the description and comparison of interest group intermediation. We will hopefully learn something about applying southern oriented interest group theories in the Yukon.

THE POLITICAL ENVIRONMENT

The Yukon is undergoing a profound transformation in its political infrastructure. The 1980's have seen increased political autonomy for both the territorial and municipal governments. Most importantly it has seen increased Indian political participation through the Land Claims process. On the national stage Yukon politicians such as Eric Nielsen, Senator Paul Lucier, Audrey McLaughlin and Tony Penikett add to the increased Canadian awareness of the Yukon.

This transition particularly affects the Yukon Indians. They want legitimate authority which they can administer to preserve their future interests in the Yukon. They especially want to partake in the administration of land and wildlife issues.

² Orvik and Dacks have conducted the only notable interest group studies in northern Canada.

The 1972 Calder Case saw the Supreme Court of Canada recognize the existence of "aboriginal title" to land.³ Shortly after the Calder Case the Yukon Indians presented their policy paper "Together Today for Our Children Tomorrow" which demanded a stake in the future of the Yukon through a negotiated land claim settlement. The Land Claim process has gone on for 17 years in one shape or another and it is within this unstable and transitional atmosphere that this study will occur.

INTEREST GROUP INTERMEDIATION IN CANADA

Since the beginning of the Dominion, lobbying, pressure group politics, or interest group intermediation have played a crucial role in political decision making. In the United Province of Canada, before Confederation, commercial capitalist interests sponsored the development of railways and canals which formed the infrastructure for the developing colony.⁴ These relationships were fostered between the politicians and entrepreneurs. However, with the passage of time bureaucracy has grown and government has become complex.

³ The Calder Case was struck down due to technicalities, nonetheless the Court expressed the view that aboriginal title exists.

⁴ Hugh G. Thorburn, Interest Groups in the Canadian Federal System (Toronto: University of Toronto Press, 1986) p.5.

Relations now are often between business leaders and high ranking government officials.

In recent years other interests such as labour and ethnic associations have relations with government. As a result, two levels or processes of government have emerged in Canada. On the one hand there is the representative process; Members of Parliament voice the concerns of the people who elect them. On the other hand there is influence through sectoral and private means (ie. interest group intermediation). It has only been in recent years that political scientists have been studying this second process. A few political scientists have tried to simplify or impose order on this process⁵ and have endeavoured to add to interest group theory which will tell us something about the role interest groups play in policy making and more importantly how much the political system relies on sectoral representation. One can legitimately question whether sectoral representation has rendered territorial representation less useful and this has direct bearing on our perception of democracy. If sectoral representation is more important in today's democracies, then we may look at ways of adapting our institutions to reflect this reality. It is the intention of this thesis to shed some

⁵ A. Paul Pross, Group Politics and Public Policy, (Toronto: Oxford University Press, 1986). Robert Presthus, Elite Accommodation in Canadian Politics, (Cambridge: Cambridge University Press, 1973). Theodore J. Lowi, End of Liberalism, (New York: W.W. Norton and Company, 1979)

light on four models of sectoral representation and intermediation by comparing them to interest group and government relationships in the Yukon land claim.

INTERMEDIATION IN THE YUKON: THE RESEARCH ISSUES

Theories of interest group intermediation frame the central research question: What type of relationships do these four interest groups have with the negotiating parties in the Yukon Land Claims? The time frame for the study will be approximately one and 1/2 years, from January 1988 to June 1989. What makes this period so interesting and valuable is that a great deal occurred in a short time. The period begins with a new round of negotiations, with a new framework to work under and ends with a written Agreement of Principles.

This study gains significance from its theory, topicality and policy relevance. Most major interest group analysis has been conducted on the federal level.⁶ There are only a few provincial analyses⁷, with only one major work on the effects of federalism on interest group relations.⁸ As mentioned

⁶ See Pross, 1986; Kwavnick, 1973; Presthus 1973.

⁷ See Leon Dion, Quebec Interest Groups and the Search for an Alternative Political System in "The Annals of the American Academy of Political and Social Sciences" 413, 1974(124-144) and R. Baird, Interest Groups and Departments in Alberta. Proceedings Canadian Political Science Association. Winnipeg: June 1970.

⁸ Thorburn, 1986.

earlier, the only two works on interest groups and the northern territories are by Orvick(1979) and Dacks(1981). Orvick's is considerably dated and in addition concentrated primarily on the NWT. Dack's book Choice of Futures is a general analysis of the north in a colonial and social context. For this reason only two of his chapters scanned the major social determinants of interest group input in the north. In short, there is very little interest group analysis of the Yukon and none specifically that takes into account interest group intermediation. Thus the newness of this study will allow us to add to interest group knowledge and enable us to examine whether generalizations about other forms of interest group intermediation, federal or provincial, hold true in the Yukon.

The political setting of the Yukon is important because it is unique. As described earlier it is in a state of political transition. The Yukon is described by Michael Whittington as "quasi-provincial" in nature. This means, the Yukon Territorial Government (YTG) has inherited some, but not all the responsibilities associated with provincial government. Unlike a province, none of their jurisdictional powers is "entrenched" in the Constitution Act. The Federal Parliament can change the powers, the size and even the very existence of the Yukon Legislative Council. Its unique political situation could have some bearing on this study. For instance, will it effect interest group and government

relations in the land claim? The thesis is not arguing about the Yukon's aspirations to become a province. However, the land claim and the devolution of provincial type powers are inextricably linked and this will be further discussed in Chapter One.

Indian Land Claims is the policy area of choice for this study. It was selected because it is at the top of the agenda for both the Federal, Territorial and Indian governments. Literally everything is on hold until the Land Claim is settled. One very large side effect of this is that the Federal government has put a virtual freeze on all land transfers to the Territorial government pending a settlement. For better or for worse, at this time, Land Claims is "politics" in the Yukon.

The very small population of the Yukon is further justification for this study. The Yukon has comparable government infrastructures to the provinces, however it serves a significantly smaller population than even the smallest province. The latest statistics published by the Yukon Governments Executive Council Office estimates the Yukon population to be 29,700 permanent residents. How interest groups associate with government, in such an intimate environment, should provide some very interesting observations.

This study consists of four chapters and a conclusion. Chapter I focuses on the political history of the Yukon and the Yukon Land Claims. Chapter II describes and justifies the theoretical models of interest group intermediation - pluralism, consociationalism, state corporatism and societal corporatism. Chapter III examines the four interest groups and their relationships to the three negotiating governments. Chapter IV compares the models of intermediation to the four interest groups and their intermediation with government. This final chapter answers the question asked earlier : What type of relationship do these groups have with government? It is concluded that societal corporatism is the model that best describes every relationship in the Yukon Indian Land Claim process. However, it is not a precise fit and therefore further considerations and studies should be initiated.

CHAPTER ONE
THE YUKON: A VOLATILE ENVIRONMENT

INTRODUCTION

The following chapter will present a brief overview of the political history of the Yukon and the Indian land claim. Historically, Yukon politics have dwelled on the Yukon's struggle for political responsibility vis a vis the federal government. The land claim in one sense is a continuation of this struggle. Most observers are ignorant of the Yukon's political past and this information will be especially necessary when we compare the Yukon land claim process with interest group observations of other political systems.

POLITICAL HISTORY OF THE YUKON

The Yukon is a territory and not a province and this distinction has played an important role in its political development. Recently the constitutional status of the Yukon has been a very prominent topic. A historical constitutional chronology, called the Yukon Overview was published by the Yukon Territorial Government(YTG) in 1988. This shows the

attention YTG has given to such matters (and this shows their interest in the Yukon's constitutional development).

There are two striking facts in the Overview. First, it points out that the Yukon is the only territory or province in Canada, that has had its responsibilities severely reduced and then slowly returned.⁹ In 1898 Parliament passed the Yukon Act which established the present geographical area known as the Yukon, a Commissioner and an appointed legislative council of six members. Shortly after, in 1899, the council was increased to 11 members. In 1902 the first Member of Parliament was elected from the Yukon. In 1908 the Yukon Act was amended to allow a fully elected council of 10 which held office for three years. In effect the Commissioner held the executive power while the elected council held the legislative power. However, due to the rapid decrease in the population after the gold rush the size of the council decreased until it reached an ultimate low of 3 members in 1932. In 1919 the Office of Commissioner was abolished and replaced with the office of the Gold Commissioner. By 1932 the duties and powers of the Gold Commissioner were transferred to the Comptroller¹⁰, effectively merging three

⁹ Newfoundland lost Dominion status when it joined the federation in 1949 however it gained the same provincial powers every other province enjoyed. Its change in status was not as severe or as one sided as the responsible powers lost in the Yukon.

¹⁰ Yukon Government; Yukon Overview (Whitehorse: Yukon Government, 1988)

positions into one. In 1948 the position of Commissioner was reinstated and in 1952 the elected council was increased from its low of 3 members to 5. From here, to the present, the Yukon has crept closer and closer towards responsible government. However, this rollercoaster of responsibility is one indication of the political difficulties and frustrations Yukoner's have faced.

Ken Coates refers to the relationship of the territories with the federal government as "Canada's Colonies":

The term colonies is used deliberately. So long a colony itself, Canada is most reluctant to acknowledge its own colonial tradition. Yet constitutional authority over the vast expanses of the Yukon and Northwest Territories rests in Ottawa, physically thousands of kilometres distant, and psychologically even more removed. To most northern residents the political realities are only too evident. The extensive powers of the national bureaucracy, the continued reliance on federal subsidies, and frequent federal intervention in regional affairs all make plain the north's colonial status.¹¹

Michael Whittington, a political scientist, expresses the same concerns in a study entitled The North. Whittington states that:

...any decision as to the future development of the N.W.T. and Yukon must be taken in the full knowledge of the competing claims of the national and northern interests. The engine that forces the pace of political and

¹¹ Ken Coates, Canada's Colonies (Toronto: James Lorimer and Co., 1985) p.9-10.

constitutional development is the need of the southern economy for the resources of the North. However, development must proceed within the context of the rights of the people who view the North as a homeland, not a hinterland.¹²

Whittington, like Coates, depicts the north in a dependent relationship with the south. Another political scientist, Gurston Dacks, produced one of the most comprehensive political studies of the Yukon and the N.W.T.. In Choice of Future's, Dacks fully accepts the colonial reality of the North and incorporates a colonial model as a part of his methodology. He emphasises that the residents' input is important but ultimately the final authority rests with Ottawa. Although his book was relevant for its time, it was published in 1981 and since this time the situation has changed. Dacks expressed that Indians and the north are urgent matters, recently this urgency has become even more acute.

There is evidence to show that the pace of constitutional and political development has quickened. Indeed some external factors have caused almost every Yukoner, and every Northerner for that matter, to question their status as Canadians.

Whittington states that;

...the two northern territories have been evolving gradually over many decades, and while many changes have occurred, there

¹² Michael S. Whittington, The North, (Toronto: University of Toronto, 1985) p.7.

was never perceived to be any urgency for settling northern issues. However, since the 1970s the tempo of constitutional and political change in the N.W.T. and Yukon has increased greatly; a number of northern issues have assumed prominent positions on the agenda of political debate in southern forums, and there is, in the 1980s, a growing sense of urgency to settle northern issues.¹³

Whittington suggests that these issues are at the forefront of the Canadian agenda due to the "resource hungry southern economy."¹⁴ He stipulates that the urgency "waxes and wanes" due to the supply and demand of the southern Canadian economy, but there is no doubt that the long range resource interest is acute. In the 1970's Southern Canada learned that the North needed to first settle its own aspirations before resources could be extracted. This realization came when Thomas Berger handed down his suggestions on the future of the Mackenzie Valley Pipe Line in the N.W.T.. Berger insisted that there be a 10 year cap on exploration and building of such a mega-project until a full investigation into its social and environmental impact could be reasonably determined.

The logical conclusion, for Whittington, is that provincehood, or a satisfactory quasi-provincial status, would have to be reached before such southern instigated resource exploration could take place. There are, however,

¹³ *ibid.* p.78-79.

¹⁴ *ibid.* p.78

many hurdles to be overcome before this would and could occur. First, and most notably is the problem of population size. This is a long and overworked discussion but nevertheless, most agree that the present population of roughly 30,000 residents would not suffice for provincial status. Gordon Robertson on the other hand suggests that this is not as important as other matters such as financial and constitutional obstacles.¹⁵ Whittington delves into these concerns to some length in his book the North.

Whittington gives a list of three preconditions which have to be met before any further steps toward provincehood can be made. First, there is the settlement of Indian land claims.¹⁶ He suggests:

If Canadians wish to maintain the international reputation of living in a just society through the coming decades, it is essential that the government of Canada settle the legitimate claims of the northern native people fairly and without undue delay.¹⁷

Whittington's second set of northern political development issues are the constitutional ones:

These include the establishment of responsible government in both territories and the continued development of power from federal to the territorial.

¹⁵ Gordon Robertson, Northern Provinces : a mistaken goal, (Canada: Institute for Public Research, 1986).

¹⁶ Whittington, The North, p,.7.

¹⁷ ibid. p.8.

The former is well on its way in the Yukon, although the practice in that territory should be formalized.¹⁸

There are two things in the above statement that should be further explained, the meaning of "well on its way" and "the practice in that territory should be formalized".

Responsible government is "well on its way", as of 1979 the role of the Commissioner in the Yukon was reduced to a ceremonial role similar to that of a Lieutenant Governor of a province. In 1978 the first Yukon election along party lines was held with the Progressive Conservatives winning a majority. The majority party assumes the executive functions of the government and is in control of all the day-to-day administrative duties that fall under its responsibilities. The only stipulation is that these powers have not been, as Whittington said, "formalized."

The powers of the Yukon Government fall under the Yukon Act, 1898. These powers under this act are not set out in the Constitution Act but rather in a federal statute. Therefore they are not similar to the provincial powers under the Constitution Act sections 92, 93 etc. The Parliament of Canada has unilateral authority to change the Yukon Act. In addition the Act allows the Canadian government to disallow anything that is legislatively passed by the elected government of the Yukon. Finally, the Yukon government,

¹⁸. *ibid.* p.7.

while it controls many of the same portfolios and responsibilities as the provincial governments, still lacks some of the more important ones, such as health care and non-renewable resources. They do have an administrative hand in some of these, such as health care, however funding and crucial decisions are administered by the federal government. To state how far along they are would be premature considering other non-constitutional variables that come into play. However some, such as Coates, have suggested that the territorial governments are at a similar stage and experiencing some of the same frustrations as Alberta and Saskatchewan prior to receiving control of their resources in 1932. In many respects this is a fair assumption but one must remember that they had the benefit of being called provinces.

Whittington's third precondition is the division of the N.W.T. into two separate territories. The basis for this is mainly racial, as the Inuit of eastern arctic would like to form their own territory. This appears sound considering the differences; in the people, their concerns, and the size of the N.W.T in general. This division is not a concern for this thesis directly but once again it shows the dependence of the Yukon on outside forces.

The Supreme Court of the Yukon Territory(which is the Supreme Court of British Columbia) has also contributed to the constitutional status of the Yukon. A traffic violation

was handed out to Daniel St. Jean in Whitehorse during the summer of 1983. St. Jean was asking the court to rule on whether the Yukon should be officially bilingual - a question that rested on how the judiciary interpreted the nature of the government of the Yukon. Was it simply an arm of the federal government, or did it have an identity independent of Ottawa?¹⁹ The Judge ruled the Yukon had been given responsible government in a letter in 1979 from the Minister of Indian Affairs and Northern Development, Jake Epp. The "historic" letter instructed the Commissioner to accept the advice of the elected council and effectively reduced the role of the commissioner to that of a ceremonial figure. Justice Perry Meyer ruled that the Yukon Government was not a branch or extension of the federal government but rather an 'infant province' with most but not all the attributes of a true province.²⁰ In her description of this event Janet Moodie Michael suggests that if " Mr. St. Jean would have taken this to court 25 years earlier he may have won."²¹ This is yet another indication that the Yukon is moving towards provincehood, at least in the eyes of the judiciary.

¹⁹ Janet Moodie Michael, From Sissons to Meyer; Whitehorse: Yukon Education (1988) p.3-4.

²⁰ *ibid.* p.3-4.

²¹ *ibid.* p.4.

The Meech Lake Accord which was signed in June of 1987 showed that provincehood would not be easy. In fact many saw the Accord as a permanent road block to provincehood for the Yukon and NWT. At the very least, it restricted the residents of the Yukon to have a constitutional voice in their future. The Meech Lake Accord would have affected Yukoners in the following manner: 1) It neglected the input of the Yukon in Senate appointments; 2) It neglected the Yukon input in Supreme Court appointments; 3) It left elected Yukon government leaders out of annual First Minister Constitutional conferences; 4) It allowed every province to have a veto over the formation of new provinces; 5) It proposed that every province may have a veto in proposals for the extension of provincial boundaries; and 6) It gave unfair distinct society status to Quebec when the aboriginal people of Canada are not guaranteed such a status.

Recommendations to make amends came from a number of sources. Official recommendations have been made by the "Senate Task Force on the Meech Lake Constitutional Accord and on the Yukon and Northwest Territories", "Special Joint Committee of the Senate and the House of Commons", "Ontario Select Committee on Constitutional Reforms" and the "New Brunswick Select Committee on Constitutional Reforms". The suggestions range from: Meech to remain as is, which was the recommendation of the findings of the Joint Committee; to the Senate Task Force which suggested bringing the

territories and Natives equally into the constitutional fold by changing major sections.

Yukoners took a common stance against it. Presentations by the New Democratic Party Government Leader (Premier) Tony Penikett and by the Leader of the Official Opposition Willard Phelps represent the joint disdain of the Accord by Yukoner's. Penikett in the introduction of his speech to the Joint Committee insists:

The Meech Lake Accord discriminates in three important ways against generations of Canadians solely because they choose to live north of the 60th parallel. 1. It makes provincehood virtually impossible for the territories. 2. It was done without our knowledge. 3. And it denies us some of our rights as Canadians.²²

Willard Phelps, in his speech to the Joint Committee points out that Meech is wrong because it directly affects progression towards effective regional government:

... a regional government is better able to meet the needs of the people it serves than a distant national government with regards to local matters. In a country with the size and diversity of Canada, proximity to the people is important. As one former Commissioner of the Yukon Territory said " You can't drive a team of horses with reins 3,000 miles long."

²² Tony Penikett, Presentation to the Senate Hearings on the Meech Lake Accord (Whitehorse: Government of the Yukon, 1988) p.2-3.

For most Yukoners then the question is not `if', it's `when'.²³

At the same time as it constructed the Meech Lake Accord the federal government issued its developmental policy through the Constitutional Development and Strategic Planning Branch of Indian Affairs and Northern Development. This policy report entitled A Northern Political and Economic Framework explicitly states that one of the foremost prerogatives of the federal government is "to transfer all remaining provincial-type programs to the territorial governments, including responsibility for managing the North's natural resources."²⁴ This forward looking policy is in direct contrast to the long term road blocks that were suggested in Meech Lake. This obviously confuses the people of the Yukon.

²³ Willard Phelps, Presentation to the Special Committee on the 1987 Constitutional Accord (Whitehorse: Yukon P.C. Caucus, 1988) p.5.

²⁴ Indian Affairs and Northern Development, A Northern Political and Economic Framework (Ottawa: Indian and Northern Affairs Canada, 1987) p.5.

THE YUKON LAND CLAIM

This study will start with what, according to Whittington and others²⁵, must be settled first before the Territory can take legitimate strides towards increased responsibility, the Indian land claim.

The land claim is the single most important political concern in the Yukon today.²⁶ The claim will give certainty to who owns the land. As a result many other political developments hinge on the completion of the land claim. Interviews for this project also confirmed that the land claim is a paramount concern among Yukoners.²⁷

The Yukon land claim is also of national concern. Native Indians live in almost every geographical area in Canada. What happens in the Yukon will have a direct effect on comprehensive claims everywhere. More importantly some traditional claims overlap into the NWT and B.C.. In the NWT separate land claims have been settled and are occurring and in British Columbia comprehensive claims have yet to be addressed. The Yukon land claim is making ground breaking

²⁵ David W. Elliot, Some Constitutional Aspects of the Government of the Yukon Territory (Whitehorse: Government of the Yukon, 1978) p.2.

²⁶ Dacks, Choice of Futures ... p.50 and 59.

²⁷ Interviews with Mike Phillips, Ken Coates, Michael Whittington and Kirk Cameron.

progress in areas such as Indian Self Government and aboriginal title. These could and most likely will have an effect on bordering claims, especially those which remain unsettled.

Legal Basis For the Claim

The traditional basis for the Yukon Indian land claim dates to a time well before non-Indians set foot in the Yukon. Documented legal basis for the claim dates back to The Royal Proclamation of 1763.²⁸ The British Proclamation required that treaties and fair compensation be made with Native Indians in turn for their land. This is, argue current Indian Leaders, the precedent for aboriginal rights in Canada. The literal interpretation of the Proclamation states that the land is reserved for hunting, and not land ownership, thus "the crown owns all". However, the Proclamation has grown to be the legal precedent requiring the government to provide reserve lands and perpetual hunting and fishing rights for Native Indians. In the Yukon the government, under the comprehensive claim, is granting aboriginal rights to the Indians on their settlement lands.

²⁸ The Royal Proclamation of 1763 stated that only the Crown, through treaties and compensation, could take land from the Indian people. This proclamation required the British Crown, and later the Canadian government, to negotiate a series of treaties with the Indian people across Canada.

However, there is still some disagreement between the two parties on what is an "aboriginal right".

Canada's Confederation of 1867 transferred responsibility for compensation to the Canadian Government. Canada's notion of compensation came in the form of treaties numbered from 1-11.²⁹ They provided cash or goods as compensation for perpetual hunting and fishing rights and reserve lands attributed by a land quantum based on the number of peoples in a area. The last treaty was signed in 1921. In 1870 a British government order transferred the Northwest Territory, including the land now known as the Yukon, to Canada. This imposed a constitutional order on Canada to compensate the Indian people for their lands under the ordinance of the Proclamation of 1763. However no treaties, such as 1-11, have been settled with compensation in the Yukon. Thus the ownership of the land and the rights of the Native Indians are still undecided.

In 1973 unsettled claims were challenged by the Nishga Indian tribe in what is now known as the Calder Case.³⁰ Frank

²⁹ Treaties 1-11 saw the Indians surrendering all title to the lands covered by the treaties and, in turn, the federal government granted tracts of land the Indians for reserves. In addition to the reserve lands provisions also included payments in money and goods; recurring payments of goods; annuities; education; and continued traditional use by the Indians of ceded lands. The last treaty was concluded in 1921. Many of the treaties were hastily concluded and their validity is still questioned.

³⁰ Frank Calder v the Attorney General of B.C. (1973), SCR 313 (SCC)

Calder appealed to the Supreme Court of Canada seeking a declaration that title to their ancient tribal territory has never been lawfully extinguished. The Court dismissed the appeal on a technicality. However six of the seven judges acknowledged that Aboriginal title to tribal territory exists. As a result, the Calder Case motivated the federal government to adopt a policy of comprehensive land claims (comprehensive claims are claims for land never settled by treaty or law). Since the Calder Case comprehensive claims have been settled with the Inuvialuit, the Cree and Naskapi in northern Quebec. The Constitution Act, 1982 further secured the rights of all Canadian Indians. Native Indians or Aboriginals have secured rights and claims to existing reserve land under sections 25, 35 and 52 of the Constitution Act 1982.

Whittington suggests there has been international consequences. Some Indian Organizations have lobbied international agencies and most recently the U.N. to draw attention to their concerns. However their position was somewhat weakened when Indian treaties were rejected as international treaties.³¹ But treaty agreements are referred to as contracts and therefore it is established that contract

³¹ Indian treaties are not International treaties which are recognizable agreements between two independent nations. Regina v. White and Bob (1965).

law applies.³² Thus there is the claim that Canadian Indians can internationally declare that the Canadian Government is relinquishing its contractual duties to Indians in Canada. However, the Yukon Indians, YTG and the Federal Government have striven for a negotiated settlement over a court settlement. In the eyes of all parties, taking it to the courts would only increase ethnic tensions and hurt the Yukon as a whole.

The Yukon Claim 1973-1984

In 1973 the Yukon Indians launched the first comprehensive claim north of latitude 60. The Yukon Indians policy statement Together Today For Our Children Tomorrow listed their demands for a Land Claims Settlement.³³ The Council for Yukon Indians was then formed to negotiate their claim. The Federal Government appointed a chief negotiator with a support staff. The Commissioner became the Yukon government representative. However, the Commissioner's credibility became an issue because he or she is a federal appointee, therefore no matter how local or good their intentions were, they were symbolically seen as appendages of

³² Gardner v. Regina (1984).

³³ Together Today for Our Children Tomorrow outlined that Indians and non-Indians in the Yukon never signed a treaty and it is the wish of the Indian people that a settlement be negotiated.

the federal government. Basically, it was a federal government and Yukon Indian negotiation.

For the first couple of years the negotiations were slow mostly due to inexperience and awkwardness of the new relationships. The land claim received a push when the Federal Government changed hands in 1979 and Joe Clark and the Conservatives formed a minority government. Taking advantage of the closer political ties to the federal government, the Conservative majority in the Yukon Legislative Council appealed for a stronger voice in negotiations. The request was granted in the form of the 'Epp Letter' and a Memorandum of Understanding (MOU) between the Federal and Yukon Governments. Jake Epp the Federal Minister of Indian and Northern Affairs granted representative and responsible government to the Yukon Legislature, thus effectively diminishing the powers of the Commissioner. The MOU between the Federal and Territorial governments recognized YTG at the Lands Claims negotiating table. Later in 1979 the Clark government fell but the tripartite negotiating structure remained.

Negotiations progressed and by 1984 76 Agreements In Principle (AIPs) were signed. The three negotiating parties collected all the AIPs into an Overall Agreement In Principle. However, the Yukon Indians did not unanimously agree to approve the Overall Agreement and negotiations came to an abrupt end. A number of factors contributed to the

fall of the 1984 Agreement In Principle the more important of which was the internal politics of national aboriginal groups. The national Aboriginal Rights Forum of 1984 and a 1983 Special Parliamentary Committee (Penner Report) called for increased aboriginal self-government. There was an expectation that the up and coming Aboriginal Constitutional Forum could guarantee more than a land claim agreement. The Association of First Nations and other aboriginal groups lobbied the CYI and The Yukon Bands themselves that the Yukon "deal" was a bad one. In addition there were political animosities between the Federal and Territorial governments during this time. A vicious circle seemed to ensue, the YTG not trusting the Federal Government and the Yukon Indians not trusting either in the end. Even though the 1984 AIP met its demise much had been accomplished. When the dust settled much of this work would be used in the new round of negotiations.

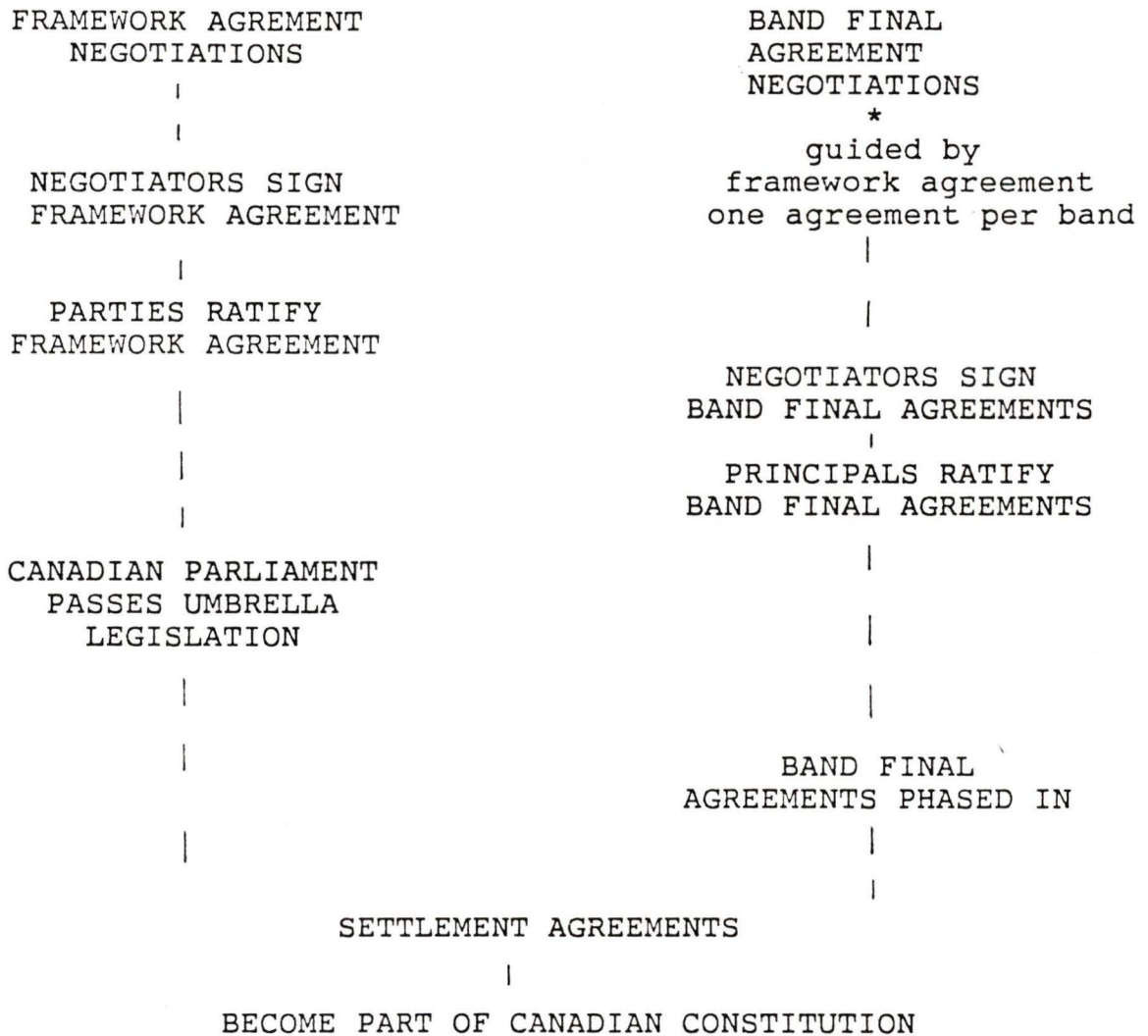
Present Negotiations

A new round of negotiations began in 1987 under a new federal comprehensive land claim policy. The present negotiations are based on the advice of recommendations from the Report of the Task Force to Review Comprehensive Claims Policy entitled "Living Treaties: Lasting Agreements". The present round adheres to the negotiating process in Table 1.1.. The process allows for the CYI to represent all Native

Indians in negotiating a settlement at the territorial level. At the same time this process, on the left hand side of the table, creates a method of negotiation for local powers and responsibility which each First Nation or Band will utilize in band by band negotiations. This process is outlined on the right hand side of the table.

Table 1.1

NEGOTIATION PROCESS



This process allows for more flexibility than in 1984. The 1984 process needed approval from every band before all points of the agreement were accepted, where as the 1988 process allows for bands unilaterally to negotiate and agree to individual aspects of the overall agreement. This staggered process allows for a more progressive band to receive compensation from a concluded agreement and at the same time a less progressive band to take their time and learn from the examples set. This process can also have its drawbacks, the flexibility of the process arguably weakens the unity of the Yukon Indians and their collective bargaining stance.

As of the spring of 1989 the negotiating parties have ratified a Framework Agreement and band by band negotiations are under way. The 23 Sub-Agreements cover everything from Eligibility and Land to Implementation and Dispute Resolution.³⁴ The Framework Agreement contains the ground rules for the band-by-band agreements. At this time the Agreement is not legislation and nor are the rights it provides entrenched in the constitution, therefore it can be easily changed. However, significant changes are not likely due to the "last chance for a while" scenario the Federal government has imposed on the package. Essentially this means that if the Yukon Indians veto this agreement, the

³⁴ Appendix B briefly describes all 23 Sub-Agreements.

Federal government may move on to awaiting comprehensive claims in other parts of Canada, relegating the Yukon Indians to the bottom of the comprehensive claims list.

THE INTEREST GROUPS

Whether it is a permanent document or not, a great deal of negotiation and input from various sources went into the composition of the Framework Agreement. It is not the purpose of this thesis to assess the document itself but rather, to shed light on the interests that participated in its development. This study will focus on the four interest groups mentioned earlier. These groups were selected out of a list of approximately 240 interest groups supplied by the YTG Land Claim Secretariat. The Secretariat indicated that they dealt most extensively with 13 interest groups but this list was decreased further to the Yukon Outfitters Association, the Yukon Fish and Game Association, the Association of Yukon Communities and the Yukon Chamber of Mines because it appeared that out of all the Yukon interest groups, they had the greatest concern in the land claim. In return the government had a great interest in them.³⁵ The prominence of the selected groups may have to do with their intense ties to the land under dispute. The land claim

³⁵ Whittington, Stuart and Peter all suggested these groups had intense intermediation

affects everyone in the Yukon one way or another; but it directly affects the livelihood and the local power of each of these groups. In addition sampling the interest groups with the highest level of perceived intermediation will be the best indicator of verifying if intermediation exists at all; if they don't communicate with government it is highly unlikely any other groups do. A detailed analysis of the Yukon Outfitters Association, The Yukon Fish and Game Association, The Association of Yukon Communities and the Yukon Chamber of Mines is provided in chapter Three.

CONCLUSION

This is a time of vigorous political activity in the Yukon and thus reason enough for inquiry. All at once the Yukon is challenged by constitutional, ethnic and financial changes that affect ever fabric of the territory. The Yukon is struggling to shed its colonial image and find for itself a new niche in the Canadian federal system. However, the Meech Lake Accord cast a dubious shadow on the Yukon's newly established responsible government. Internally the people are trying to tackle multicultural issues that are maybe more frustrating than the ongoing battles within Quebec. The most important issue at this time, the land claim, will without a doubt affect the institutional structure of government in the Yukon. In addition, the claim will most likely set ethical

and constitutional precedents that will affect land claims in other parts of Canada. However with all this political action there have been few substantive studies conducted. In fact, there have only been a handful of academics studying the current political situation in the Yukon.

This thesis examines the relationships of interest groups with governments in the face of an important policy problem in a very turbulent political environment. To accomplish this the thesis will analyze the relationship between four very crucial interest groups and the negotiating governments during the last year of the Land Claim in the Yukon. By juxtaposing this situation to four prominent models of group intermediation we will be able to compare characteristics of Yukon Land Claim intermediation with other interest group studies describing other areas. These models will be the focus of the next chapter.

CHAPTER TWO:
MODELS OF INTEREST GROUP INTERMEDIATION

THE IMPORTANCE OF INTEREST GROUPS

It is one thing for individuals to pursue their own interests as they always have: it becomes a qualitatively different kind of society when individuals organize to pursue their individual interests collectively. National life has become a struggle for advantage among large and powerful organizations - not simply trade unions and corporations. Organized pressure groups abound.

Robert Stanfield

In the 1970's politicians such as Stanfield, suddenly became cognizant of the awesome effect interest groups have on the political system. The 1970's also saw political scientists such as David Kwavinick and Kayyam Paltiel suggest that interest groups are one of the foremost parts of the policy making process, perhaps supplanting Parliament and political parties.³⁶ This caused a small revolution in the study of Canadian politics. No longer does one simply look at the older and more established institutions such as Parliament, the constitution and political parties.

³⁶ K.Z. Paltiel in Richard Van Loon and Michael Whittington, The Canadian Political System : Environment Structure and Process, 4th edition (Toronto: McGraw-Hill and Ryerson, 1987) p. 405.

Institutional studies are important in that they may proficiently describe the functions of formal government. However, they neglect important influences on government policy by the "non-governmental" environment. Interest groups are one of these "non-governmental" influences.

Richard Van Loon and Michael Whittington ³⁷ provide a very useful synopsis of the three main political functions interest groups serve. First, they provide legitimacy for government policies. Interest groups are respected by individuals, because they provide access to government; and by government because they channel political demands to individuals. Often if a group agrees with a policy the community will agree. Second, interest groups communicate, they are legitimate policy bodies and as a result relay new laws, regulations and other policy outputs to the public. The government finds this function particularly useful because their policies would hardly be useful if the public was not aware of them. Third, interest groups administer programs for governments. For example, Van Loon and Whittington point out that: "Law Societies determine who is qualified to become a lawyer, and Provincial Colleges of Physicians are largely responsible for the regulation of the

³⁷ . *ibid.*

medical profession in each province."³⁸ In summary interest groups are essentially bodies which act as intermediaries between governments and individuals, and they are often performing communication and administrative functions for or in place of the government.

The Yukon Territory is a prime candidate for interest group analysis due to the lack of such analysis in the past. There have only been two notable analyses of northern interest groups; Orvick's Interest Groups in the North, and Dack's Choice of Future's. However, Orvick's study dealt mainly with the NWT and Dack's was a broad-ranged socio-political study of the north. Thus, neither dealt specifically with the nature of interest group behaviour in the Yukon. In addition, both studies were conducted almost a decade ago when responsible government in the North was only in its infant stages. Since then the government of the Yukon has become much larger and more legitimate. The 1980's have seen the YTG assume new responsibilities in areas such as tourism, renewable resources and economic development. Because of this, it is probable that the nature of interest groups has also changed. Now that jurisdictional powers are devolving to the YTG many interest groups will most likely be seeking to influence them instead of the Federal Government.

³⁸ *ibid.* p.403-404.

Studies of Indian Land Claims are also few and far between.³⁹ There definitely is not strictly a interest group analysis of the various land claims in Canada, let alone in the Yukon specifically. These are some of the reasons why a new interest group analysis in the Yukon is needed. However one can legitimately say that there has not been extensive political analysis of any aspect of the Yukon and therefore reasons for giving priority to interest group analysis must be clarified.

There are definite reasons at this point in time for concentrating on interest groups, especially interest group intermediation. Studies inquiring into the institutional and legal framework of a government are often thought of as precursors to other more external factors which affect policy decisions. For the most part these institutional studies have been conducted in the Yukon. Publications by Elliot, Alstorm, Dacks and Whittington have addressed legal and constitutional questions pertaining to the Yukon. Other

³⁹ Frank Cassidy and Norman Dale, After Native Claims, (Canada: Oolican Books and The Institute for Research on Public Policy, 1988).

articles in law⁴⁰ and public administration journals⁴¹ have done the same and there are several federal and territorial position papers on its legal status. These studies are very useful, and without them an understanding of the role of interest groups in conjunction with the present federal and territorial governments would be difficult. However, the role of institutions in the Yukon is changing rapidly. Therefore, rather than analyze the institutions themselves, it makes sense to study aspects of the political environment which will influence future institutional roles and characteristics.

The proposed agreement on land claims will provide legitimate legislative authority for Indians by establishing guaranteed participation in many policy decisions, namely those involving wildlife and land development. (Of course, only time will tell whether this power will be utilized.) We can hypothesize about possible institutional arrangements for the Yukon without taking interest groups into account but by examining the present association of interest groups with the land claim process we are more likely to develop an

⁴⁰ Frank Fingland, Recent Constitutional Developments in the Yukon and Northwest Territories, in "University of Toronto Law Journal" vol.15 no.2 (Toronto: University of Toronto Press, 1964) p.299-316.

⁴¹ Kirk Cameron, Let the Yukon Evolve in "Policy Options", March 1986 vol.7 no.2 ,p.15-19. Gordon Robertson, Autonomous Federal Territories, in "Policy Options" Sept. 1985 vol.6 no.7, p.9-13.

understanding which has a good probability of being realized in the future.

MODELS OF INTERMEDIATION

Before delving into the specific models of intermediation the nature of models and the purpose they serve in this study will be examined. In basic terms a model is a simplified version of some aspects of the real world.⁴² It can be a physical representation such as an architect's proposed building or a doctor's life-like configuration of human anatomy. Models can also come in the form of charts or maps which help to describe or simplify complicated information. The models used in this study are a further type of model known as "conceptual models". Conceptual models are used in political science to study public policy. They are written models which, as explained by Thomas Dye, try to:

1. simplify our thinking about politics and public policy;
2. identify important aspects of policy problems;
3. help us communicate with each other by focusing on essential features of political life;
4. direct our efforts to better understand public policy by suggesting what is important is what is unimportant; and
5. suggest explanations for public policy and predict consequences.⁴³

⁴² Thomas R. Dye, Understanding Public Policy, 6th ed. (Englewood Cliffs, New Jersey: Prentice-Hall, 1987) p.20.

⁴³ *ibid.* p.20.

Throughout the years political scientists have developed models to interpret all aspects of politics. In this study we will only look at models which try to interpret interest group behaviour.

Models are often mistaken for theories. It is most important that we are aware that models of politics do not have the same explanatory status as theories. A theory, as described by Alan Isaak, in the most generous sense is a "system of related empirical generalizations."⁴⁴ Empirically sound theories are based on experience and therefore, unlike models, are generalizations which are directly or indirectly linked to "observable and operationally defined concepts."⁴⁵ Isaak explains that the functions of theories are three fold. First they explain empirical laws. Laws are used to describe our knowledge in a particular field, a theory explains them more concisely, relating seemingly unrelated facts. Second, theories are used to "organize, systemize and coordinate existing knowledge." For example "a theory of voting behaviour would be a set of relevant generalizations which have been collected and put into logical juxtaposition."⁴⁶ And third, a theory has heuristic use. In other words it can be used to predict whether or not certain generalizations hold true.

⁴⁴ Alan C. Isaak, Scope and Methods of Political Science, (Homewood, Illinois: The Dorsey Press, 1975) p.146

⁴⁵ *ibid.* p.140

⁴⁶ *ibid.* p.140.

Theories can generate hypotheses which "then can be tested and accepted or rejected."

A model does not have the same explanatory power as a theory. One who constructs a model admits that it does not fit the real world exactly, it is just a simplified version. Models unlike theories are "idealizations". However, the fact that they are less able to provide concise explanations of knowledge, does not render them useless.

Models are of great heuristic value. It should appear obvious that if political scientists are going to accumulate basic knowledge in their field of interest it would be of great benefit to start with a guideline which will, as Isaak says, "stimulate [their] imagination and sharpen their insight." Applied specifically to this study it is of benefit to select models of group intermediation to provide a plethora of hypotheses which we can test against observed realities in the Yukon.

Philippe Schmitter developed such models to analyze the emergence of systems of interest group intermediation in modern Europe.⁴⁷ Schmitter acknowledges that "charting the

⁴⁷ Interest intermediation is the term used to describe interest and government relations. Philippe C. Schmitter first used it in an essay in 1977 - Philippe C. Schmitter Modes of Interest Intermediation and Models of Societal Change in Western Europe, "Comparative Political Studies" Vol.10 (April 1977). It is a more useful description because it recognizes that government and group relations are two way relations, not solely a bottom up process from interest group to government - such as "interest lobbying" or "interest representation" imply.

murky waters" of interest intermediation is very tricky indeed. However he argues that there are "...a finite number of ideal-topic configurations of state-interest association relations".⁴⁸ Schmitter's study categorized and compared systems or nations; this study will compare interest groups on a more micro level in a specific policy area. While a specific state-interest relationship is hard to replicate, it seems possible that one of the following models will come close. The four models used in this thesis - pluralism, consociationalism, societal corporatism and state corporatism - are the most widely used models of interest group intermediation in the western world.

Consociationalism and pluralism are common to Canadian political science.⁴⁹ In comparison there are fewer studies of state or societal corporatism in Canada. In fact Pross argues that "Canada is not, cannot - and should not - be corporatist." Even though corporatism is often only associated with European systems, there is evidence that it occurs in Canada. Pross himself points out that Duplessis pondered replacing the Quebec Upper House with "an advisory economic council in which all corporations would be grouped

⁴⁸ *ibid.* p.9

⁴⁹ The two most definitive works on interest groups in Canada are by Pross and Presthus. Pross combines both, to a degree, in his assumptions. Presthus's book, cited earlier, is a comprehensive study of consociationalism and elitism in the federal system.

to formulate policy for the economy as a whole."⁵⁰ The most concrete evidence of corporatism in Canada can be seen in the creation of peak organizations, such as the Canadian Federation of Agriculture's treatment by the federal Department of Agriculture.⁵¹ However, Pross argues that "full-fledged corporatism entails far more extensive rationalization of interest intermediation than that described above."⁵² Assuming Pross meant full-fledged to mean an entire political system within a geographical area, this thesis for the most part will not have to worry about full-fledged corporatism because we are observing individual relationships between interest groups and governments, similar to the agriculture policy example, therefore the possibility for corporatism to exist is very real. However, the existence of "full-fledged European style corporatism" should not be ruled out either. Because the Yukon is an unique transitional society, the possibility of it not adhering to traditional North American models of intermediation should also be recognized. The following will briefly describe each model and the main characteristics necessary for each to be identified in the context of the Yukon.

⁵⁰ Leo Panitch, "Corporatism in Canada", in Richard Schultz, Orest M. Kruhlak, John C. Terry, The Canadian Political Process. (Toronto: Holt, Rinehart and Winston, 1979) p.53-72.

⁵¹ Pross, Group Politics..., p.223.

⁵² ibid. p.224.

Pluralism

Pluralism begins with the assumption that there are many sources of power other than the state.⁵³ It also argues that these sources are so well organized and represent so many varied interests that there is no possibility of society being divided into two or three dominant classes. Essentially, a pluralist society will have a plethora of interests which will be represented by organizations able to wield enough power to offset the monopolization of decision-making by any one group. However, the concept of a pluralist society goes beyond this. Pluralists assume that every individual has a variety of interests and that they will be represented in various voluntary organizations. As a result, class, ethnic, religious and regional cleavages will be eased and consensus will be achieved because of multiple memberships of individuals in interest groups.⁵⁴

In a pluralist society the group is the prime means for communicating the interests of individuals. Thus the onus is on the interest group to articulate policy concerns. Group pressures are the one and only determinant of the government policy and therefore the state is only a... "complex of

⁵³ Lowi, The End of Liberalism.

⁵⁴ David B. Truman, The Governmental Process, 2nd ed. (New York: A.A. Knopf Ltd., 1971)

groups..."⁵⁵ Another main characteristic of pluralism is that a group's ability to compete for policy influence is based on the resources it possesses.⁵⁶ However the resources are not just economic, it is often a consequence of how much is at stake for a particular group when a policy is being formed. The various resources of groups are interest, skills in organization, leadership, information, and commitment. Pluralism also does not condone a necessary majority for policy acceptance but rather policy emerges from a fair playing field and is determined between the prevailing competitive interest groups.

If pluralism were to occur, group/government relations would be very similar to Schmitter's following description:

Pluralism can be defined as a system of interest intermediation which the constituent units are organized into an unspecified number of multiple, voluntary, competitive, non hierarchically ordered, and self-determined (as to type or scope of interest) categories that are not specifically licensed, recognized, subsidized, created, or otherwise controlled in leadership selection or interest articulation by the state and that do not exercise a monopoly of representational activity within their respective categories.⁵⁷

Hypothetically, if pluralistic relationships occurred

⁵⁵ Arthur F. Bentley, The Process of Government, (Chicago: University of Chicago Press, 1908).

⁵⁶ Truman, The Governmental Process, p.501-535.

⁵⁷ Philippe Schmitter, Modes of Interest..., p.9.

in the Yukon the following would take place: First, we would discover overlapping memberships and more importantly multiple interests. Individuals would distribute their support over several groups and be aware of many interests outside their chosen groups. This would cause many to be aware of any one group's tendencies towards a monopoly of the policy community and thus enable them to counter such aggressive behaviour. Second, we would find a multiplicity of access points to government decision making. Access would not be hierarchically arranged therefore we would find "criss-crossing relationships that change in strength and direction with alterations in the power and standing of interests."⁵⁸ Third, membership in groups would be voluntary and self-determined. The groups would not in any way be subsidized or controlled by the negotiating governments. Fourth, the groups themselves would not be hierarchically arranged. The negotiating governments would not impose any type of order on the priority of group involvement. This would be checked, as stated earlier, by having a variety of equal access points.

⁵⁸ Truman, The Governmental Process, p.519.

Consociationalism

Presthus, following the theory of Arend Lijphart⁵⁹, classifies Canada as a consociational society. A consociational society is one whose most essential characteristic... "is an over-arching cooperation at the elite level with deliberate aim of countering disintegrative tendencies in the system."⁶⁰ These disintegrative features of Canadian society are its ethnic, cultural, religious and regional diversities which are exemplified most in the French-English dichotomy. Presthus insists that elite accommodation is necessary for governing such a complex and divergent country but he also maintains that this elite accommodation not only exists at such formal levels as cabinet but also between governmental and private political elites. Presthus argues that the private-public relationship in Canada is essentially governed by an accommodation of the elites. He states:

Within the formal governmental apparatus, legislators and top-level bureaucrats remain perhaps the central elements in the decision making process, while in the private sphere, the leaders of interest groups assume a critical role in formulating the claims of their various constituencies and hammering out an

⁵⁹ Arend Lijphart, The Politics of Accommodation; Berkeley and Los Angeles: University of California Press (1968).

⁶⁰ Presthus, Elite Accommodations ..., p.8.

accommodation of such claims with political elites.⁶¹

Meanwhile he suggests that the political role of ordinary citizens is minimal and indeed that this is healthy because mass interaction along religious and ethnic lines can be disruptive to the stability of the political system.

Presthus presents evidence for his model in the Canadian political system. This thesis will investigate the degree to which there is evidence of consociationalism in the Yukon.⁶² Presthus identifies three main characteristics of consociationalism. First, there is a constant interaction of the governmental and non-governmental elites. If this were true in the instance of the Land Claim, the leaders of the interest groups, the elected leaders and the bureaucrats involved in the Claim would constantly interact and communicate. In addition to constant interaction Presthus argues that a constant interchange of roles among the elites takes place. In the Yukon we would then find many interest group leaders, the negotiators, other senior bureaucrats and the Ministers in charge reversing roles at one time or another.

Second, there should also be a shared normative consensus among the elites. Presthus sees these "people at the top" as being committed to the ideal of a united nation,

⁶¹ *ibid.* p.8.

⁶² *Ibid.* p.11-18.

or in this case a united Yukon, "and [engaged in] the pragmatic compromises required to maintain the political system in a state of shifting equilibrium". This homogeneity, he argues, enables them to counter the conflicting interests of class, religion, region and ethnicity in the mass political culture. The elites also have a strong conservative belief in the present system - the one which keeps them in power.

Third, Presthus argues that the effectiveness of the elites is created by their similar socio-economic origins. In effect, most of the bureaucrats, elected members and interest group leaders comprise the economically well-to-do in society. This again adds to the homogeneity of the elite and its selective acceptance.

Hypothetically if the Yukon Land Claim process or the Yukon political system acted in this manner one would find the following. First, we would find consociationalism which would assume accommodation among interest group leaders or executive, elected officials and some senior bureaucrats, especially the negotiators. Second, these elites would make all the decisions. Because the situation is so complex and they are superior in knowledge and the ability to compromise, elites would make decisions with minimal input from the general public. Third, these elites would be bound together by mutual interaction, a common social and economic background, and shared norms. One would also find several of

the elites shifting from public to private sector positions. Fourth, changes in public policy will be incremental- not revolutionary - and movement of non-elites would be slow but continuous to maintain stability.

Corporatism

Whereas pluralism focuses on the voluntary, competitive and ad hoc involvement of interest groups in the policy process, corporatism emphasizes the rigid control of interests by the state. Corporatism assumes that governmental institutions seek to organize the political world. Formal structures are created, often called corporatist structures, to regulate communication and decision making. When we think of corporatist style governments those of Brazil, Portugal, and to a slightly lesser degree Austria and Sweden come to mind. Dominique Clift argues that Canada is becoming a corporatist state similar to these European and South American states.⁶³ He asserts that in Canada "the kind of consensus that guides contemporary society comes not from the people , but is sponsored by the state itself."⁶⁴ This occurs because the state is now dominated by the public sector, which "co-opts" those elements of society which support it

⁶³ Pross, Governing Under Pressure..., p. 181.

⁶⁴ *ibid.* p.181.

and attempts to destroy those that oppose it.

Before delving into whether or not the Yukon is corporatist we will first state the main characteristics which make up the corporatist relationship. For a concise definition, we will turn once again to Philippe Schmitter. Schmitter explains that corporatism is:

... a system of interest representation in which the constituent units are organized into a limited number of single compulsory non-competitive, hierarchically ordered and functionally differentiated or licensed (if not created) by the state and granted a deliberate represented monopoly within their respective categories in exchange for observing certain controls in their selection of leaders and articulation of demands and supports.⁶⁵

Pross suggests that this complex definition, when broken down, consists of three main tenants. First, corporatism is a system of representation in which government recognizes some groups role in policy while others are not recognized or consulted. Second, each recognized group is seen as representing a larger group because of their expertise in their designated field (for example the United Auto Workers will represent all auto workers). Third, a system of rewards and punishment holds this hierarchical system together; the government will recognize the peak or prestigious interest groups, and in exchange the group must ensure its membership will abide by decisions made by government.

⁶⁵ *ibid.* p.213.

Corporatism is often thought of as a triangular structure of communication between labour, business and government. However this definition basically limits the model to dealing with economic policy. Pross argues it is more useful to use Schmitter's definition of corporatism because it encompasses all relations between government and interest communities. This thesis will apply Schmitter's more versatile definition. With his aforementioned definition, Schmitter identifies two types of corporatism - state and societal. Both will be discussed as separate models in the thesis because they each show distinct types of intermediation.

State Corporatism

The main characteristic of state corporatism is that power stems from the top down. In this system the state dominates various interests in the community. A good example of state corporatism in the extreme would be Fascist Italy prior to World War II. Present day examples include Brazil and Portugal. Charles E. Ziegler indicates that the state corporatist model is particularly useful when it is applied to authoritarian systems such as the U.S.S.R..⁶⁶ Ziegler says "...in applying this model...it is useful to think in

⁶⁶ Charles E. Ziegler, Issue Creation and Interest Groups in Soviet Environmental Policy : The Applicability of the State Corporatist Model, in "Comparative Politics" (January 1986) p.171-192.

terms of the policy parameters established by the state." ⁶⁷
In other words, the state dominates the policy agenda and therefore indicates which issues will and will not be raised for consideration. Basically, groups are "co-opted" by the state and are encouraged to abide positively through means such as monetary incentives or negatively through fines or threats of punishment. Ziegler points out that state control of the mass media is an extremely effective way of "focusing group activities toward regime goals."

Hypothetically if relationships in the Land Claim acted in such a manner we would most likely find the following. First, a formally structured interest representation system which is initiated, perhaps created, and controlled by the negotiating governments. Second, groups arranged in a definite hierarchical manner. Third, groups at the top of this hierarchy performing and implementing government policy. Fourth, evidence of the governments ability to administer rewards or punishments on groups which are either abiding by or disagreeing with the government policy.

Societal Corporatism

In contrast to state corporatism, societal corporatism sees government and interest groups meeting in the middle, both seeking to harmonize their differences. Pross explains

⁶⁷ ibid p.172-173.

that policy making in societal corporatist systems is not totally monopolized by the state. Rather, groups work in conjunction with the state "...to build institutions of communication that not only strengthen their hand in their relations with the state, but help to protect them from [the states] full coercive authority."⁶⁸ However, Ziegler is quick to point out that even though "...societal groups are autonomous entities capable of penetrating the state apparatus for their particular individual purpose"⁶⁹, it closely resembles state corporatism; it is naturally oligarchic, non-competitive, institutionalized and essentially state orchestrated. The distinguishing factor of societal corporatism is that these tendencies have been created from the bottom up, and formal structures have arisen as a matter of course.

This formalized system may occur as result of social change and a breakdown of the present government-interest consultative mechanisms. He argues that corporatist tendencies will occur when policy making becomes very complex and unmanageable. "Social change has outdistanced the existing consultative mechanisms with interest groups".⁷⁰ As a result, to impose some type of order, government

⁶⁸ Pross, Group Politics..., p.215.

⁶⁹ Ziegler, Issue Creation..., p.172.

⁷⁰ Thorburn, Interest Groups..., p.14.

officials will implement, with the cooperation of an interest representative, a formal and monopolistic (or privileged) relationship with interest groups.

Hypothetically if the Claim acted in a societal corporatist manner the following would occur. First, a formally structured representation system voluntarily implemented by the negotiating governments and the interest groups involved is present. Second, the formal structures would be implemented not by dictatorial powers stemming from the governments but as a result of societal changes which have made the land claims process complex and existing communication unmanageable. Third, a definite group hierarchy is in place, however one that is less rigid than the state corporatist system. Groups not at the top can penetrate the formally arranged system if they are aggressive and have the will to do so.

METHODS AND SOURCES

The empirical research was conducted from documents and a series of personal interviews designed to obtain views on intermediation and the Land Claim. The research was conducted primarily in the Yukon from May 1989 to August 1989. The following will provide some information about the documents used and interviewing in the Yukon.

Documents

Document research included the coverage of the Whitehorse Star, The Yukon News, Dansha, Edmonton Journal, and Globe and Mail. Public, and some confidential, statements and papers produced by the negotiating parties and the interest groups were analyzed. In addition the documents of other individuals and bodies interested in the Yukon were reviewed and are mentioned in the bibliography. Primary source documents were my main research tool however because of the small amount available the sources are supplemented by interviews.

Interviews

I interviewed representatives from the four interest groups ⁷¹ and all the negotiating parties. A handful of others were chosen because of their keen interest and knowledge of the Land Claim and Yukon Politics. This diverse group included people from the media, private and public professions and other interest groups in the Territory such

⁷¹ I was not able to interview the President of the Fish and Game Society due to his departure from Whitehorse, however my source material and others in the group who are privy to his stance were able to assist me.

as the Conservation Society and the Yukon Chamber of Commerce. Appendix B contains a list of interviewees.⁷²

Interviews were necessary because of the recent time frame of the study. They provided information and opinions that were not yet recorded in documents. The interviewees also supplemented and helped with interpreting the documents. Interviews especially provided insight into such things as how often did so-and-so take place and the personalities of the individuals. Finally the interviews provided atmosphere, colour and experience that one cannot gain from being in the library. Atmosphere was especially crucial for this project, one can not fully grasp the political uniqueness of the Yukon without going there.

One main problem was the possibility that I could not communicate well or at all with some of the people. I gave critical attention to this problem because some of my most crucial interviews were with Yukon Indians. The solution is oral or written translation, but this can prove to be cumbersome, costly, inefficient and time consuming. As it turned out, every Native Indian I interviewed spoke English. However, I soon found out they sometimes interpreted questions and communicated ideas and concepts in a very

⁷² For each interview I took prepared interview questions and spaces for answers. I did not use a tape recorder, I found that it made the interviewees uncomfortable and in addition I stayed long enough in Whitehorse that in the case of clarification or more information I could simply call again.

different way from myself. For instance I quickly learned that patience and respect were more appropriate tools for interviewing than prodding and probing. Therefore, I tried to approach these interviews with their culture in mind.

CONCLUSION

The thesis will, with the help of various models, shed light on interest group intermediation in the Yukon Land Claim and the Yukon in general. We will hopefully determine if the Yukon exhibits: a) the spontaneous, voluntary, overlapping, chaotic and competitive properties of pluralism; b) the societal divisions and thus the elite accommodation of consociationalism; c) the rigid, mandatory and "system" dominated qualities of state corporatism; d) the formal, institutionalized yet "sub-system" tendencies of societal corporatism. Chapter Three will introduce the interest groups in greater detail and provide an approximate one year synopsis for each.

CHAPTER THREE:

OBSERVATIONS OF INTEREST GROUP INTERMEDIATION

INTRODUCTION

This Chapter provides a brief description of each interest group involved in the study. In addition it presents an interpretive chronology of intermediation between each group and the governments involved from approximately January 1 1988 to May 1 1989. This chronology will present the more important events which shaped the relationship that will be summarized at the end. The observations are based on an analysis of the public statements and documents as well as some confidential and personal interviews and documents.

THE YUKON OUTFITTERS ASSOCIATION

The Yukon Outfitters are a very small association consisting of all twenty one Outfitters in the territory. An Outfitter is a private contractor who provides guided and licensed hunting. Each Outfitter has a specific traditional⁷³ territory within the Yukon's geographical boundary. The

⁷³ This traditional territory, which is less than a century, old should not be mistaken with the Indians traditional territory which covers most of the territory and dates to a time long before the presence of non-Indians.

organization's main objectives are to promote the interests of the outfitters in specific and hunting in general.⁷⁴ The organization has a volunteer executive which hold regular meetings. They only have the resources to hire a part-time executive secretary.⁷⁵

The Outfitters did not have any substantial dialogue with the Negotiators or any other level of government until late 1988. This is because most Outfitters spend much of the spring, summer and fall catering to their clients. Their work involves a great deal of isolation and little contact for most of them with the government hub of Whitehorse. In addition, they do not have the resources to maintain a permanent office or hired staff. Both the Outfitters and the governments were complacent for the first few months of 1988 because the Yukon and Federal Governments guaranteed that compensation would be forthcoming to the Outfitters. Earlier, the governments had negotiated a settlement that stipulated "in the event the land claim hindered the Outfitters occupation and livelihood" they would receive compensation. However, they would have to wait until the Frame Work Agreement was publicly presented and more

⁷⁴ Interview with Dave Young, President of the Yukon Outfitters, June 28, 1989.

⁷⁵ Edna Hardie is the wife of Outfitter Ron Hardie. Mrs. Hardie is almost as much of director as she is a secretary for the Outfitters. The compensation she gets for her time is minimal and it is highly unlikely that if the Outfitters had to seek outside administrative help they could do so at the same cost.

importantly the First Nation Agreements were finalized to determine what type of compensation this would be. At this time the Outfitters were told that they would have a chance to present their arguments when the First Nations and the Governments started negotiating the final land selections.

Based on their inability to act and the promise that they were represented and compensation would be forthcoming, the Outfitters as a body did not become significantly involved until the Frame Work Agreement was presented to the public. The only action by an outfitter during this time was an individual protest by Ron Hardie. Mr. Hardie wanted section 3 (3) of the Territorial Lands Act , R.S., c. T-6 (March 1979) deleted from the Act. Hardie wrote to the Honourable Bill McKnight, then Minister of Indian Affairs and Northern Development, and sent copies to the appropriate Federal, YTG, Indian and Interest group offices. He stated that ... "the environmental assessment and review process can be, and is being, bypassed by the mining community".⁷⁶ He illustrated that an infrastructure to protect the environment exists even though it can be sidestepped by miners because Section 3 (3) exempts miners from the government control when on Yukon claims. Shortly afterwards the Yukon Fish and Game Society and the Yukon Outfitters endorsed Hardie's letter.

⁷⁶ Ron Hardie, in a letter sent to Bill McKnight dated November 2, 1988.

No action was taken mainly because the Land Claim, at this time, had priority over any other issue. However, when finalized the land claim may provide, through the Development Assessment Board, the means to address effectively grievances such as the one made by Hardie.

Hugh Monaghan's, Director of Fish and Game in the Department of Renewable Resources, communique to Terry Wilkinson, President of the Outfitters, in February marked the first serious contact between a representative of the government and the interest group. Monaghan was informing the Outfitters that Renewable Resource data on game harvesting, much of it gained via the Outfitters, would be used in the First Nation negotiations in order to establish necessary harvesting levels. Knowing this was a controversial subject for the Outfitters, Renewable Resources was essentially "tipping off" the Outfitters, so they would not hear about it through hearsay or after the fact. Monaghan invited the Outfitters to convey any concerns they had to the department. Renewable Resources in turn would pass their concerns on to the YTG representatives who were their representatives at the negotiating table.

Shortly after, a meeting was arranged between Monaghan, Barry Stuart, the Chief Negotiator for YTG, and the Outfitter's executive to clarify the substance of the preceding letter. At this meeting the Outfitters explained that they were very leery about harvesting levels being made

public and how outfitting would be handled on settlement lands. They were also very concerned about the bands being able to charge Outfitters access to settlement lands. The implications could possibly divide the Outfitters and disturb the traditional geographic zones maintained by each. The Outfitters were so disturbed by this possibility that at their next general meeting they unanimously passed a motion that proclaimed if charging became a reality "no outfitter would bid within another's historic hunting concession."⁷⁷ At the conclusion of the meeting Wilkinson thanked Monaghan and Stuart for their information and input. For now the relationship was cooperative.

In March the Outfitters remained sceptical of the Secretariat. The Outfitters, represented by Edna Hardie indicated that they wanted more details about the YTG's decision to release data on harvesting in Game Management Sub-Zones. She stated that up until now the Outfitters had provided required information on species taken and their location with the assurance that it be kept as confidential as possible.⁷⁸ Hardie requested Stuart to clarify with Renewable Resources ... "exactly how much is really needed to arrive at sensible harvest allocations."⁷⁹ In addition, she

⁷⁷ Terry Wilkinson communique to Hugh Monaghan, Feb. 1989.

⁷⁸ Edna Hardie, communique to Barry Stuart March 16, 1989.

⁷⁹ *ibid.*

wanted them to limit or if possible avoid information being released to the public.

Chris Knight, Regional Negotiator, responded on behalf of Stuart. He stated that the points Hardie and the Outfitters raised are well taken. None the less, Knight explained the quality of the land claim rests on the LCS receiving all crucial information. But he reassured the Outfitters that "the Negotiators did not have plans for any organized public release of information and they were particularly sensitive to site specific locations. Knight requested a meeting to eliminate any additional concerns they had on the subject. The outfitters were obviously still very disgruntled. It seems they were disappointed with the level of government response, which in their judgement showed the territorial government's *laissez faire* attitude toward the situation.⁸⁰ Instead of agreeing to meet with Knight or Stuart they hired a lawyer.

The Outfitters hired Mr. Grant MacDonald. Q.C. who instructed the Honourable Art Webster, Minister of Renewable Resources, that his client was so concerned about keeping harvesting data confidential that if it is not his firm would:

commence litigation against the Government of the Yukon to seek a declaration that the Government is obliged to maintain the information in confidence and seek an injunction to

⁸⁰ Interview with Dave Young June, 28 1989.

restrain the Government from releasing the information as part of the negotiation process.⁸¹

Copies of the letter was also sent to The Honourable Mr. Pierre Cadieux, Minister of Indian Affairs and Northern Development, Barry Stuart, Mike Whittington and Edna Hardie. MacDonald chose to address the letter to the Minister of the Department of Renewable Resources. The Outfitter's, as a client group, fall under the jurisdiction of Renewable Resources and it was this department which obtained and utilized their information. Therefore MacDonald obviously hoped Renewable Resources would take immediate and favourable action. However it was Stuart and the Secretariat who addressed the Outfitters concerns, solidifying the Secretariat as the dominant YTG agency on matters concerning the claim. On receiving the letter the Secretariat quickly spearheaded a policy position and arranged for a meeting with the Outfitters for April 12.

The YTG Negotiators had a number of reasons to avoid an injunction. First, it would draw attention to the existence of the numbers and whereabouts of game, which would inevitably lead to greater access to game and diminished stocks. Second, it could stir public pressure for the release of other information resulting in an additional access to information proceeding. Third, the Yukon and

⁸¹ R. Grant Macdonald informing Art Webster of the Outfitters stance April 10, 1989.

Federal Government did not want to effect adversely the Outfitters because the result could cause an excessive compensation settlement. In the end Stuart personally assured the Outfitters the same level of confidentiality as the Department of Renewable Resources provided. Essentially this was the same as Knight had promised. However, this time the YTG Chief Negotiator said he and the Minister of Renewable Resources and the Federal Government were cognizant of their serious intentions. More dialogue between the Outfitter's lawyer and Stuart ensued. However, it mainly dealt with access to category A and B lands which only needed clarification, not negotiation.

To summarize, the Outfitter's associated mainly with the Territorial government. This is predominantly because Fish and Game are under Territorial jurisdiction. However it is interesting to note that in a time of crisis the Outfitters also turned to the Federal government. This may imply that the Federal government is still, ultimately, perceived as the higher authority in the Yukon, even in areas which are no longer within its jurisdiction. It is also interesting to note that the Native Indians, a legitimate party to these negotiations were not formally addressed by the Outfitters. Not maintaining some type of link with them will be detrimental to the Outfitters because there is no doubt that sometime in the future they will have to deal directly with the Indians.

The temperament of the relations generally went from cordial to adversarial. There is no sign of a "buddy-buddy" clientelistic relationship between the negotiators and the Outfitters. In the past a close working relationship existed between Renewable Resources and the Outfitters strictly for wildlife matters. However, this liaison was comparatively less utilized for the claim. It seems the Secretariat wanted to keep close personal contact with all the groups involved. The Territorial government had a policy plan organized and people designated to deal with the Outfitters. They wanted to meet the legitimate concerns of the Outfitters as best they could. None the less they also knew the Outfitters were expendable compared to the Indians.

The Outfitters definitely saw themselves as a fringe group fighting to convey their concerns. However they were a very tight cohesive group which are very committed to their cause. The success they did have was because their livelihood was a stake.

THE YUKON FISH AND GAME ASSOCIATION

The Yukon Fish and Game Association (YFGA) is a fairly large association boasting over 1200 members. They have a voluntary executive which hold regular meetings, but they do not maintain a permanent staff. They are based mainly in Whitehorse and between their abundant members they are

usually well aware of most policy matters concerning hunting and other outdoor activities. The main objective of the organization is to represent the interests of the Yukon angler, sport hunter, hiker and general outdoors person.⁸² It can safely be said that the YFGA membership mainly consists of individuals of the first two interests. Even though The Yukon Conservation Society may be a more typical group to represent the hiker and general outdoors person, the YFGA is also known to cater to all sorts of outdoor enthusiasts and it adamantly promotes the preservation of wildlife and the management and enforcement of harvesting levels.

The YFGA displayed some interaction with every negotiating party. In at least one YFGA general meeting all three parties were present to brief the association and to answer questions. However the YFGA associated most frequently with the YTG Land Claims Secretariat. As mentioned, this is because Fish and Game bylaws are under Territorial jurisdiction. However the Indians to this time still maintain "aboriginal" rights to the land and therefore it can be said that wildlife issues, to some degree, are also

⁸² Communique to Tony Penikett from Larry Leigh dated October 6, 1989.

their jurisdiction. Even so, there was minimal contact with CYI officials or Indians in general.⁸³

Barry Stuart became the Secretariat's designated contact person. Stuart is commonly known as an outdoor enthusiast who is very partial to wildlife issues. This, combined with his knowledge of the claim, made him the obvious choice as their liaison. In addition, the YFGA was a significant enough interest group, with its membership size and its definite utilization of the land, to receive the Chief Negotiator's attention.

On January 12, 1988 a general meeting of the YFGA was held with representatives from every negotiating party present. The audience consisted mainly of members but was interspersed with some CYI officials and Renewable Resource staff. Larry Leigh, President of YFGA, was the chairperson and moderator for the evening. After the initial brief, many members were surprised to hear that the overall land quantum would be small. Most had misperceived opinions that the quantum would take up over 25% of the Yukon. There is no doubt that this misperception can be partly attributed to the confidential manner with which the claim was being negotiated. The members reiterated this. They were also disgruntled that the claim had gone on so long and expressed some doubt whether it would ever be settled.

⁸³ This was confirmed in interviews with Albert Peter, June, 6 1989, and Barry Stuart July, 25 1989.

Besides the rhetorical questions, there were some specific and in depth questions raised. These included : Will both parties be privy to the same harvesting regulations? Will third parties be protected? Who will be on the Fish and Game Management Board and is there a spot for YFGA? In the end some misperceptions about the claim were cleared up. However many members felt they were "talked down to" by the negotiators. The negotiators walked away knowing that they had overestimated their communication abilities and realized a more structured and informative approach was necessary.⁸⁴

Following the January 12 meeting the YFGA executive met with Stuart and Senior Renewable Resource Officials. Stuart agreed to keep the YFGA up to date on the Fish and Game Sub-Agreement. The YFGA agreed it would keep open channels with Stuart and inform him of any concerns they might have about the Claim. At this time another informal meeting was arranged for March.⁸⁵ However, this cordial dialogue was soon to cease after the YFGA viewed the first of twelve interim selection maps. Stuart indicated that it was the YTG's position that both sides of rivers or major roads would not be included as part of Settlement Land. However the Teslin

⁸⁴ Information obtained from briefing notes on the meeting and an interview with Chuck Tobin, June,9 1989, who attended the meeting.

⁸⁵ Yukon Fish and Game Association communique to Barry Stuart and Tony Penikett dated March 4 1988.

Band proposal clearly defied this position in many areas.⁸⁶ Leigh communicated that he was very disillusioned with the information and input the YFGA had received from Stuart and the YTG. That same day Stuart jarringly replied that Leigh could avoid such "erroneous assumptions" if he would do as they had early agreed and: maintain direct contact, pursue reasoned not emotional dialogue and keep each other abreast of problems to prevent unnecessary conflict before resorting to public confrontations.⁸⁷

The YFGA, Stuart and Renewable Resource Officials met once again in April and for the time being emotions subsided. In May, Leigh expressed to Stuart that the Executive wished to meet with him once more to answer questions about category A and B lands. After this meeting a relative lull in contact ensued over the summer. However, it was obvious that the YFGA was stewing about other maps released during that time.

In October, Leigh wrote to Government Leader Penikett expressing his concerns. He acknowledged that these were interim selections by the Bands. However, he felt very uncomfortable that all of them went against the "supposed"

⁸⁶ The Teslin Band's initial land selection March 1989.

⁸⁷ Stuart in the last suggestion was referring to the simultaneous timing of Chuck Tobin's article in the Whitehorse Star dated April 18, 1989 which in part expressed YFGA disappointed with the Teslin selection.

YTG position. The YFGA was afraid these would turn into "final" land selections. Leigh explicitly stated that YFGA"interests are being given lip service only and a deal at any cost is the goal." By appealing to Penikett the YFGA, like the Outfitters, felt dialogue with a higher level of government would get results.

After Stuart was asked by Penikett to meet with the YFGA in response to their concerns,⁸⁸ Penikett wrote a reply to Leigh. Penikett could not comprehend how YFGA "interests [were] not being considered to the extent promised." He noted that; Stuart had met with their executive on at least four occasions for substantial discussions, that YTG had provided copies of agreements to YFGA on a confidential basis. Senior representatives of the Department of Renewable Resources also made themselves available to brief the organization on land claim matters. Penikett also made it very clear that the YTG could not conduct the claim on their own and that the continued input by the YFGA was crucial to achieve a fair and balanced settlement for all Yukon people.

Penikett's efforts didn't seem to ease the tensions. The relationship was steaming once again shortly after the Framework Agreement was presented to the public. Leigh was quoted in an interview as saying that the proposed Wildlife

⁸⁸ Interview with Stuart, July, 25 1989.

Management Board "was a crock".⁸⁹ However, after consulting with Stuart, Leigh's worries subsided somewhat. Leigh acknowledged that if interest groups showed initiative there would be room for them to participate on the board. Leigh stated publicly that the wildlife management system as outlined in the Agreement will work well;

With input from the general public and interest groups, the (wildlife management) boards will see what the Yukon wants and can provide it.⁹⁰

There was also a monetary incentive for the YFGA to endorse the Agreement. The Agreement provides for a trust to which each of the negotiating parties will contribute one million dollars over four years. Interest accrued from the trust will be used to restore and enhance Yukon fish and wildlife.

By February 1989 the YFGA had been brought on side and was feeling quite positive about the agreement. The Territorial election called for February 21 provided one last platform for their concerns. Prior to the election the group published an open letter of questions addressed to each major political party. However the letter seemed to be mainly focused toward the governing party. Many of the questions were very specific and could only be answered effectively by the governing party which helped to create the agreement.

⁸⁹ Rhoda Metcalfe, Wildlife management plans can work well, group says, Whitehorse Star, Dec.15, 1988.

⁹⁰ *ibid.*

Questions such as: How will the overlapping claims from other regions be handled? How will the numbers be established for the basic needs level for every band in the territory? Will a biologist be involved in the decisions?⁹¹ Each party replied to the open letter of questions. As expected the NDP provided an especially detailed answer. There is no way to substantiate which response the YFGA preferred. However, the NDP won the election.

To summarize, the YFGA associated mainly with Yukon Territory negotiators, namely Barry Stuart. The Indians and Federal government were largely left out of the picture, predominantly because wildlife is a territorial jurisdiction, but also because the Indians were often perceived as the opposition and the federal government was seen as ignorant and too far away⁹² to ~~inter~~mediation through this period was unstable. The association between Stuart and the YFGA ranged from cordial to nasty. Although the two were not exactly "in bed together" both pushed for constant dialogue. Stuart made time to be available upon request. He and Renewable Resources also supplied the group with privileged Sub-Agreement information. The group itself was constantly vying for more information and clarification. In fact they were pushing for everything short of sitting at the

⁹¹ Whitehorse Star, Feb.3, 1989.

⁹² Interviews with Chuck Tobin June,9 1989, Mike Phillips June 4,1989 and Dave Young June 28,1989.

negotiating table. In the end, the group was generally encouraged by the Agreement and especially the possibility of providing representatives on the proposed Wildlife Management Board.

THE ASSOCIATION OF YUKON COMMUNITIES

The Association of Yukon Communities (AYC) was founded in March of 1974 under the name of the Association of Yukon Municipalities. They were incorporated under the Societies Act in 1975 as the Association of Yukon Communities. The name change was created to include Local Improvement Districts who at the time did not have full municipal status. The AYC is collectively the voice of Yukon Communities and its membership consists of the Hamlet of Elsa, the villages of Carmacks, Haines Junction, Mayo and Teslin, the towns of Dawson City, Faro and Watson Lake, and the city of Whitehorse. The elected municipal Mayors and Councillors of each of these communities are its members. The AYC is affiliated with the Federation of Canadian Municipalities.

The AYC holds an Annual Meeting in January and a General Meeting in September. A Board of Directors Meeting (ie. Mayors Meeting) is held at the call of the Executive and Board of Directors. General Meetings are rotated among member communities and Board Meetings are normally held in Whitehorse. The Office of the AYC is located in the City of

Whitehorse Municipal Services Building. The Office is permanently staffed by the Executive Director and a Staff Secretary.

The principal functions of the AYC are: to further the establishment of responsible government at the community level; to provide a united approach on issues affecting local governance; to advance the ambitions and goals of its member communities by developing a shared common vision of the future; to serve effectively as the spokesman and to represent members in matters affecting them and the welfare of their communities; and to provide programs and services of common interest and benefit to its members. The AYC provides General Insurance Programs and Inter-municipal Business Licenses for Yukon Communities. The AYC also provides Group Insurance Benefit Programs and training workshops and seminars for Municipal Employees and Elected Officials. In addition the AYC office is a source of information and assistance in matters relating to the administration and operation of municipal governments.

The AYC became actively involved in the Land Claim from the onset of this study. The group is perceived to be very influential because its members are elected municipal mayors and councillors. In addition, as mentioned above, they have a permanent office with a Director and part time secretary. They have a monetary advantage over most groups because their operational funds are made available through the

* early
80s?

municipalities and the YTG. Initially their liaison to the claim was the Ministry of Community and Transportation Services (CTS). However in time, like most groups, they dealt more frequently with the Land Claim Secretariat. Their main contact person in the Secretariat was Chris Knight. This was natural given that Knight was formally the Major Projects Coordinator with Community and Transportation Services and was now "on loan" to the Secretariat as a Regional Negotiator.

Prior to the AYC's annual meeting held in January 1988, the YTG and AYC had initial discussions pertaining to the AYC's role in the Land Claims process. At the January meeting, in his address to the AYC, the Honourable Piers McDonald, Minister of CTS, indicated that the YTG may be able to assist the association in its effort to become more involved in the Claim. In February, Whitehorse Mayor Don Branigan, newly elected President of AYC, asked the Minister to consider funding for a consultant to keep the association and member communities better informed and advised.⁹³ The Minister said he would make the recommendation for funding to his Cabinet colleagues. However it would not likely be available until the new fiscal year, beginning in April 1988.

In mid-February AYC proceeded to hire a consultant on

⁹³ Association of Yukon Communities, "Position Paper on the Role of the AYC in the Land Claims Negotiation Process" (Whitehorse, September 1988).

Get!

forthcoming. David Leverton was retained by the AYC as its consultant. Leverton, AYC Director Rudy Courture and Bill Hickman made up the committee which represented the AYC. They met with Stuart and Knight to set up ground rules of participation for their involvement. Consultations between the representatives and the YTG negotiators where held on a regular basis on various aspects of the Sub-agreements directly affecting the municipalities. The representatives kept the various communities informed but it was a constant challenge for them to maintain confidentiality while consulting.⁹⁴ To make the communities more informed YTG and AYC representatives coordinated two information workshops involving both members and some unorganized communities.

Later that spring it was established that funding for Leverton would be paid on a 50/50 basis by the AYC and YTG. In September Minister McDonald informed Mayor Branigan that a \$10,000 cap would be established for YTG contributions to the consultant for this fiscal year.⁹⁵ This same month, Courture discussed with Knight the AYC's desire to "establish a more formalized arrangement detailing between the YTG and

⁹⁴ *ibid*

⁹⁵ Piers McDonald, communique to Rudy Courture, September 25, 1988.

the AYC involvement in Band Final Agreement Negotiations..."⁹⁶

At the AYC's fall general meeting many members supported increased AYC participation in the Band negotiations. Along with increased involvement with YTG the delegates voiced support for cooperation between Municipal and Band Councils. In particular guest Albert Peter, Chief of the Na Cho Ny'a'k people in Mayo, and Mayo's Mayor Joyce Ronaghan informed delegates of their cooperative efforts. "Chief Peter and Mayor Ronaghan talked about the formal process the two communities had developed for land use and development in Mayo."⁹⁷

After the Framework Agreement went public the AYC arranged for a meeting with Penikett and the Negotiators to clarify some concerns they had about the claim. The AYC had some misgivings after having reviewed the entire Agreement. They were especially concerned about their future role in the process. Prior to the arranged meeting they presented YTG with a list of seven questions. YTG went into the meeting with the intention of getting the floor as soon as possible.

They then planned to give a brief history of the claim thus far, stressing the involvement of the municipalities and then directly addressing a couple of the AYC's points. The meeting was not very productive because it did not follow

⁹⁶ Chris Knight, communique to Rudy Courture, Sept. 30, 1988.

⁹⁷ David Croft, Yukon News, October 5 1988.

either side's preferred course of action. Mayor Branigan for example had the opinion that YTG was out of order in taking over the meeting;

We were kind of taken by surprise because the government, I feel, felt it was confrontational. They came in and kind of jerked the microphone out of our hands and took control and showed us where it was all at. ⁹⁸

Fortunately for the negotiators the confrontational mode caused by the meeting eased in January. Penikett, Stuart and Knight met with some of the AYC executive on January 5, 1989.

At this meeting it was decided that written answers to the questions would be made available before a subsequent meeting to be held on January 28, 1989. In addition, YTG indicated that it was prepared to sign the formalized agreement that had been in the works, now refereed to as the Memorandum of Understanding Between AYC and YTG. Cooperative negotiating workshops for local representatives and ones involving both local representatives and the First Nations were scheduled for February. Their purpose was to explore delivery models for local government services and questions about community planning such as zoning and by-law enforcement.

To summarize, the AYC seemed to have considerable clout because it was comprised of municipally elected officials. This gives it credibility with the public and utilization of public monies for a support staff. From the beginning AYC

⁹⁸. Yukon News, Mayor angry with Negotiators, Dec.14,1988.

degree & type of involvement

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stroved to be actively and formally involved in the claim process. The group associated with the government in a variety of ways, ranging from a committee of representatives having day to day discussions with the Land Claims Secretariat to occasional meetings with CTS, Government Leader Penikett and some of the First Nations. However, at times they were not a very cohesive group. There was always the sensitive problem for the designated committee of releasing confidential information to the AYC executive and membership. This caused some rifts, in particular some terse comments by Mayor Branigan. On the whole though the AYC was a very potent group. However, their success was not entirely their doing. *→ who initiated participation?*

The YTG wanted the AYC to be involved, to a degree, in the process. It was necessary for the municipalities to be aware of the responsibilities they would receive at the conclusion of the claim. A final agreement would see many of the operations that are presently held by the Department of CTS devolved to the First Nations and the Communities. It is imperative that AYC be involved now, so the transition and later the maintenance of such responsibilities would be done with the cooperative abilities of both the Communities and First Nations.

THE YUKON CHAMBER OF MINES

Mining is the Yukon's primary industry, contributing \$175 million to the economy in 1987, second only to the government.⁹⁹ The Yukon Chamber of Mines was formed in 1953 to promote, assist and protect the mining industry in the Yukon. The Chamber consists of 170 individuals and companies. They represent every sector of the mining community from the independent prospector to the large corporation. There is no disputing the prominence of the Chamber. For many, however, particularly the CYI, the mining community is perceived to be an opponent to the claim. The Chamber maintains that they only wish a quick end to the claim so they may have stable government policies to abide by.¹⁰⁰

The Chamber boasts large offices on Main Street Whitehorse, a large executive and a part-time administrative secretary. However the voluntary executive still has primary obligations to their own respective occupations and this limits them having consistent communication with government. Nonetheless the Chamber has diligently kept abreast of the claim. For example it was quick to respond to the Coolican Report in 1986. The group indicated for the sake of the

⁹⁹ Department of Indian and Northern Affairs, Report on Mines and Mineral Activities (Ottawa: Department of Indian Affairs, 1987)

¹⁰⁰ Interview, Al Doherty, June 5, 1989.

Yukon's economy many of the recommendations should not be implemented in a new round of negotiations, especially permitting resource revenue sharing and subsurface rights to be a part of a settlement package. The Chamber was worried that such actions would complicate management of such resources and ultimately "balkanize the Territory and reduce even further the amount of land available for public mineral access."¹⁰¹

The Chamber's relationship with the government was particularly rocky in the spring of 1988. In a very curt letter Ron Granger, President of the Chamber of Mines, informed Government Leader Penikett that the Chamber had unanimously passed a motion calling for a referendum "on the subject of the terms" of the Framework Agreement before it or any subsequent document was signed by YTG. In addition Granger spearheaded a public move by a group called the Libertarian Party. The group obtained a number of signatures on a petition calling for a referendum on the Agreement. However lobbying for the referendum quickly subsided and eventually faded away all together. The governing New Democratic Party argued it had the confidence of the people through the last election, and they expressed that it would be tested once again in the next election by all Yukoner's. Granger and his organization were seen by many, and by its

¹⁰¹ Yukon Chamber of Mines, "Land Claims Policy Paper" (Whitehorse, 1987).

quick death it seems most, as an anti-NDP campaign rather than a group questioning the people's support for the present claim. Therefore it lost credibility which caused its demise.

Mining in the Yukon falls under the jurisdiction of the Federal Government as subsurface ownership is the property of the Crown in Right of Canada. Therefore their main liaison was the Federal Negotiators. The designated federal liaison was Associate Negotiator Tim Koepke. Before becoming a full-time Federal Negotiator Koepke briefly consulted for YTG as a negotiator. During and before this time he was a partner in Underhill and Underhill, a prominent engineering and land surveying company in the Yukon which consulted heavily for the mining industry. Koepke has lived in the Yukon for 20 years and is well known by many locals. His input has been seen as one of the reasons for the present success of the claim. Being a familiar face at open forums and meetings he has instilled more trust in the Federal Government.¹⁰² However, even though Koepke is a prominent professional in the industry and a long standing active member in the Chamber, he was hard pressed to communicate let alone ease the concerns of the Chamber.

¹⁰² This came up in a number of interviews two, of which were with Dave Young June 28, 1989 and Chuck Tobin June 9, 1989.

Koepke has endeavoured to maintain a working liaison with the Chamber. He explained that on six separate occasions in 1988 he contacted the Chamber to request a briefing time and to invite the Chamber executive or members to visit the Federal Land Claims offices at any time for detailed meetings.¹⁰³ However the invitations were not accepted. In September 1988, Koepke attended a Chamber general meeting and was very disturbed by the "ignorant" statements made by some of the Chamber members, many of which, he argued, could have been avoided by briefings. The executive on the other hand felt it was unfair to have inside information that was not privy to all Yukoners. The flaw in this statement is that some of the Sub-agreements would only affect the Mining Community on a daily basis, such as the proposal of a Surface Rights Board. Since the Chamber thought of itself as a prominent interest group in the Yukon it would have been wise to advance its position any way it could. Instead, the Chamber acted as a free spirited group, choosing to voice its opinions without consultation.

The Chamber definitely had something to say after the Agreement went public in November. In a briefing paper for its members entitled Notes on the Framework Agreement for the Yukon Indian Land Claim, the Chamber had illustrated its concerns about the proposed boards. The Chamber questioned

¹⁰³ Interview with Tim Koepke May 29, 1989.

an Agreement which "gives the Yukon First Nations guaranteed representation on most boards regardless of whether the proposed development is on or off settlement lands".¹⁰⁴ The specific boards they questioned were: the Surface Rights Board, the Development Assessment Review Board, the Land Use Planning Commission, the Fish and Wildlife Management Board and the Yukon Heritage board. They argued "that the creation of such boards and commissions may cause increased difficulty accessing exploration and more time and money for property development."¹⁰⁵ Koepke on the other hand insists that boards such as the Surface Rights Board are created "to process things not slow them up."¹⁰⁶ Koepke acknowledges that there is going to be controversy however he thinks its going to produce a "new marriage". He argues that when the individual First Nation Agreements are finalized the amount of privately-held land will increase. Because of this he suggests we will ultimately see Indian people and non-indians discussing mining.

Some mining and exploration companies have already been dealing with the Indians. Archer and Cathro's Managing Geologist for the Yukon, Mike Phillips, has been

¹⁰⁴ The Yukon Chamber of Mines, "Notes on the Frame Work Agreement for the Yukon Land Claim" (December 1988).

¹⁰⁵ *ibid.*

¹⁰⁶ Interview with Koepke by the Whitehorse Star, March 21, 1989.

communicating with Indian Bands for a couple of years.¹⁰⁷ He explained that all the Band Council expects is an honest relationship. In 1988 he travelled out to an exploration site near Ross River where he spent the afternoon explaining a project and showing the Chief and Council the intended site.¹⁰⁸ In addition he and the mine's representatives agreed that the Band would be kept up to date on all developments and would have first crack at some of the jobs if the site proved economic. Phillips explained that he did not have any problems with the establishment of boards if they are swift in their judgments and privy to the unique conditions for mining in the Yukon.¹⁰⁹ The Yukon's very short, permafrost free, exploration season is just one of the challenges exploration companies face. Phillips sternly stated that the industry can not afford slow judgments.

The Chamber is discovering that the Land Claim may be a small worry compared to the general trend towards preserving the environment. Doherty, the present Chamber President, explained that miners are more concerned with the single use advocates - those who support creating wilderness preserves

¹⁰⁷ Interview, Mike Phillips May 20, 1989.

¹⁰⁸ *ibid.*

¹⁰⁹ For example the necessity of sometimes having multiple access roads to an explorations site. In the winter a road may be short and easily accessed over the frozen ground. However in the summer the conditions change and an alternate access might be necessary.

or protected areas - than the proposed land claim settlement.¹¹⁰

At least there is the possibility of negotiating with the First Nations, but there are no such possibilities when an area is environmentally protected. Doherty acknowledged that there is a great deal of concern about the increased pressure by the public for more regulation and mine abandonment funding. He informed his membership, after attending the annual Prospectors and Developers Association of Canada's Conference, that the mining community will have to push hard for public support for multiple use areas.¹¹¹ This will mean concentrating on keeping abreast of the concerns of the community at large. Doherty cited a recent public opinion poll conducted by the British Columbia Mining Association as a step in the right direction.¹¹²

By the spring of 1989 the uneasy relationship between the negotiators and the Chamber seemed to subside. This is attributed, in part, to the more cooperative role Doherty brought to the relationship. Presently the only major grievance the mining group have left with the claim is the possible added bureaucracy the boards will bring. However, there is evidence which indicates that even this grievance

¹¹⁰ Interview with Al Doherty by the Whitehorse Star, March 17, 1989.

¹¹¹ *ibid.*

¹¹² *ibid.*

would disappear if the Chamber were guaranteed official status on such boards. In 1988, under the Yukon Mineral Development Agreement, various committees were set up by the two funding governments, YTG and Ottawa, to administer the agreement. The two committees with clout, the Policy Committee and the Management Committee have representatives from each of the funding governments and the CYI. The Chamber duly pointed out that there was no consultation from them on the make up of the agreement, nor do they have official status on the committees; they have observer status on the Management Committee. It is their position that the committees would be more effective if they, "the client group", were guaranteed official status.¹¹³ Following this behaviour, it seems likely that the Chamber would be receptive to "effective representation" on some of the proposed boards.

To summarize, the Chamber is a dominant interest group in the Yukon mainly due to the industry's economic contributions to the territory. However their past dominance is not as apparent in the Land Claim process. The Chamber has kept itself distant from the process. It did not converse on a regular basis with any of the negotiating parties. This was mainly because of their noble but possibly unwise decision not to receive inside information and because

¹¹³ Yukon Chamber of Mines, Summary of the Yukon Mining Industry. (undated)

politically they were not on cordial terms with the NDP government and their "over-bureaucratized" methods of governing. However their stance appears to be contradictory to their other dealings with both the federal and territorial governments. In other circumstances they have insisted that they are a "client group" of the federal and territorial departments in charge of mineral resources and that they should have official representation on government policy boards.

The Chamber and mining in general are being criticized on many fronts. They have to contend with criticisms from the Indians, the preservationists and the general public. This has caused the chamber to revert to an isolationist policy. They have decided that they alone, without consultation, will judge what is good for the mining industry. However the new executive, under President Al Doherty, is proving more co-operative and is seeking preliminary consultation with all negotiating parties.

The federal government actively sought input from the Chamber. However even Associate Chief Negotiator Tim Koepke, a long time member of the chamber and a respected survey engineer in the mining industry, could not establish meaningful dialogue with the Chamber. The mining industry have the clout to bring its grievance directly to the Government Leader of the Yukon and the Minister of Indian and Northern Affairs. However, their concerns usually could have

been clarified and solved better by the negotiators because they were privy to the local situation and were consulted when such concerns to elected officials were made anyway.

CONCLUSION

The above has sketched the contacts each interest group had with the negotiating parties during the land claim process. Each group had its own unique difficulties while associating with the various governments. Categorizing their relationships to existing models of interest group/government relationships is not easy. However in the next chapter this is what will be attempted. These relationships will be compared with the theoretical characteristics that were discussed in chapter Two.

CHAPTER FOUR:
AN ASSESSMENT OF THE
VARIOUS INTERMEDIATION MODELS

INTRODUCTION

In Chapter One we identified the unique transitional nature of the Yukon and the land claims process. In Chapter Two four models of interest group intermediation were outlined and discussed. This chapter will analyze each interest group and its relationship with the negotiating governments according to the characteristics of the models. This will hopefully help us characterize the intermediation that exists for each relationship and for the land claims process in general.

THE LAND CLAIM AND PLURALISM

Before turning to our analysis of pluralism and the Land Claim the characteristics of pluralism will be outlined once more. Hypothetically if pluralistic relationships occurred in the Yukon we would observe the following:

- 1.) We would discover overlapping memberships and more importantly multiple interests. Individuals

would distribute their support over several groups and be aware of many interests outside of their chosen group. This would cause many to be aware of any one group's tendencies towards a monopoly and thus enable them to counter such behaviour.

2.) We would find a multiplicity of access points to government decision making. Access would not be hierarchically arranged therefore we would find criss-crossing relationships that change in strength and direction with alterations in the power and standing of interests.

3.) Memberships to groups would be voluntary and self-determined. The groups would not in any way be subsidized or controlled by the negotiating governments.

4.) The groups themselves would not be hierarchically arranged. The negotiating governments would not impose any type of order on the priority of group involvement. This would be checked, as stated earlier, by having various equal access points.

This thesis attempts to establish whether there are any pluralistic properties in the group government association in the Yukon. Characteristics two, three and four can be analyzed in this manner. However, the ability to test for

overlapping memberships in groups is not provided for in this thesis. It was not manageable to conduct a survey poll to test for multiple memberships.

If a relation is predominantly pluralistic there will be a multiplicity of access points to government decision making. As a result we will most likely observe that there are many loci of power within government. In this particular situation a group such as the Outfitters will utilize the multiple access points to get their concerns across. The land claim, on the surface, appear to have many loci for government decision making. First, there are three negotiating parties with leaders who have the ability to convey directly their concerns at the negotiating table. Second, each leader has a chief negotiator with negotiating teams who work day in and day out on land claim matters. Third, there are line agencies which have a direct stake in the claim.

In spite of this, YTG seems to be the only access point for the Outfitters and in the end only their Chief negotiator with advice from the Department of Renewable Resources dealt with the Outfitters on a regular basis.¹¹⁴ Outfitters' concerns were mainly dealt with by YTG because Renewable Resources are now under territorial jurisdiction. Most of the interest groups' concerns fell on Barry Stuarts shoulders for a number of reasons. First, it can be argued

¹¹⁴ Interview with Dave Young June 28, 1989.

that he was the only one privy to ongoing items at the negotiating table and Renewable Resources matters. Therefore he was the natural choice. In addition the more YTG represented local interest groups, the more legitimacy they would have with Yukoners and the Federal Government.¹¹⁵ Finally, as will be discussed at greater length with the corporatist models, the federal and territorial governments deliberately wanted one designated person, chosen between the two of them, to associate with an individual interest group.¹¹⁶ This allowed for efficient and confidential communication between those at the negotiating table and segments of the public.

As for the Yukon Indians, they were seldom if ever included in discussions. As already documented, the Yukon Indians presently have considerable influence with wildlife matters because they possess "aboriginal title" which gives them year round subsistence hunting rights. In the future they will be the Yukon's largest individual land owner. As the representative body of the Yukon Indians the Council for Yukon Indians (CYI) has a legitimate voice in wildlife matters, but the Outfitters chose not to associate with them. On the other hand the CYI and the First Nations did not make

¹¹⁵ Interview with Barry Stuart July 25, 1989.

¹¹⁶ Interview with Arnold Hedstrom July 25, 1989.

a concentrated effort to approach the Outfitters. In fact in some communities Native Indians vocally predicted the claim would cause bankruptcy for many Outfitters.¹¹⁷ When approached about this, the CYI indicated they did not have any deep-rooted disdain for the Outfitters and recognized their lack of communication with "non-Indian" interest groups. However they argued very convincingly that they did not have the responsibility nor the resources for approaching interest groups. Negotiating the claim was hard enough. The Outfitters became very frustrated with YTG and at one point it could have been beneficial for them to approach CYI. In the future it would be advisable for the Outfitters to approach the CYI and respective First Nations because if the claim succeeds and the Outfitters wish to make up for the lost revenue, their cooperation will be inevitable.

The federal government also has a legitimate stake in wildlife matters. The Crown has the rights to most of the land and resources in the Yukon. They are responsible for hectares of Park area and legally still have responsibility for Indians in the Yukon. As mentioned in chapter Three the Outfitters briefly communicated with the federal government. However, in the end it did not amount to much because it was YTG who stepped in and dealt with their concerns. Prior to the Claim the Outfitters habitually dealt with YTG, and this familiarity

¹¹⁷ Interview with Dave Young June 28, 1989.

seems to have carried over to the Claim. Finally, the Federal Government is perceived as too distant and too ignorant to care about Yukon wildlife matters. All of these reasons contributed to the group's association with only one government and really only one person.

For the most part the Outfitters were not directly controlled by any of the negotiating governments. The Outfitters were free to choose who they wanted as leader and which issues they wanted to convey publicly. However the department of Renewable Resources regulated their licenses to conduct outfitting and were privy to their sacred game information. As previously explained the secrecy of this information is crucial to the livelihood of the Outfitter. The fact that this information is in the governments' hands could prove detrimental to the Outfitters.¹¹⁸ It is not likely that YTG would take such actions because it could also prove costly for them, but when push comes to shove the stakes are much higher for the Outfitters.

The fourth characteristic states that the groups are not hierarchically arranged in any way by the negotiating parties. In contrast to the above statement, YTG and the Federal Government cooperatively developed a strategy of interest group involvement. This was not only designed to counter interest group assertiveness but also to keep the more

¹¹⁸ Interview with Dave Young June 28, 1989.

important groups abreast of new developments and keep the negotiators abreast of new information. Before any contact was made, the negotiating parties had an idea of who were the most important organizations and these groups received special attention.¹¹⁹ The Outfitters were among this privileged group.¹²⁰ However, by 1988 the negotiating governments believed, for the time being, that they had dealt with the Outfitters concerns as much as possible. At least until more specific concerns such as compensation could be dealt with during First Nation Negotiations.¹²¹

Therefore, the Outfitters initially did not receive as high a priority status as some groups in the inner circle such as the YFGA and AYC in 1988. However, when the Outfitters perceived that their secret game locations were at stake they took matters into their own hands and hired a lawyer to communicate their concerns. This action did manage to get the YTG to focus on their queries for a time, illustrating that the government could not unilaterally decide which groups had priority. Additionally it points out that there is a competitive element to interest group access in the claim process. However, this does not mean we have an ideal

¹¹⁹ Interview with Arnold Hedstrom July 25, 1989 and Barry Stuart July 25, 1989.

¹²⁰ Interview with Barry Stuart July 25, 1989.

¹²¹ Interview with Tim Koepke May 29, 1989.

pluralistic relationship. YTG definitely derived some of their own ideas about what the Outfitters role should be and tried to impose them on the process.

The possibilities of access are approximately the same for the YFGA as they were for the Outfitters. There are multiple access points each with an ability to influence Land Claim policy. However, they were not all equal. Similar to the Outfitters, access to decision making for the YFGA all focused on one government and essentially one person. On different occasions YFGA communicated with officials in the Department of Renewable Resources, and with Government Leader Penikett and Federal and CYI officials. However communication with CYI officials was only done in the presence of YTG negotiators. If YFGA wanted to get something said or accomplished they either had to go to Stuart, or inevitably deal with him. Therefore, even though many access points seemed available, they communicated mostly with Stuart.

The membership is voluntary and for the most part the group has control of its own agenda and policy directives. However they chose to change their tune on the proposed Game Management Board, by giving fifty percent of its seats to Indians, when a three million dollar trust fund was suggested primarily for the purposes of preserving and replenishing existing game stocks. Secondly, they changed their position when they discovered they could gain more power in the policy arena by having their members occupy seats on a Game

Management Board. A system bolstered with government incentives and controlled policy Boards can not be interpreted to be totally open, independent and pluralistic.

The YFGA did not have to seek access competitively with the negotiating parties. As stated earlier YTG in conjunction with the federal government created a list of most important interest groups and this included the YFGA. When YFGA sought access, they usually received it. Information also flowed the other way and at times the YTG asked for permission to brief the YFGA. Even though the YFGA received access, this did not always mean their concerns were being addressed. The YFGA did not always feel their demands were being met or even heard. In these cases the group mainly turned to the media by either presenting an open letter or arranging for an interview.¹²² However, on the whole these situations were caused more by misunderstanding than through a lack of access. The crux of the situation is that the YFGA did not have to compete or out play any other group to be heard. They could simply call the Chief Negotiator and he would arrange to meet with them. The distinguishing factor is that the Chief Negotiator would also call to ask to meet the YFGA executive.

It must be clearly noted that this does not mean access was grossly unequal. Groups such as the YFGA were given priority attention because they were utilized by the

¹²² For example The Yukon Fish and Game Association's Open Letter in the Whitehorse Star, Feb. 3, 1989.

Secretariat for their own purposes. All groups were contacted at least once, and if any one of them showed interest they could speak directly to the Chief Negotiator or for that matter Premier Penikett.¹²³ With its small population and intimate surroundings the Yukon bureaucracy has less hoops to jump through than larger federal or provincial bureaucracies. Admittedly getting your opinion across is another matter, but very few groups can claim that if they showed at least a token amount of desire they could express their views to the top territorial office in the land.

The AYC almost exclusively associated with the YTG Land Claim Secretariat during the land claim process. Their usual liaisons, officials from the Department of Community and Transportation Services, were often informed but seldom actively involved in land claims issues.¹²⁴ Unless regional negotiator Chris Knight, on loan from CTS, could be considered their representative. He may have brought over some expertise on municipal matters from the CTS, but he was not an independent source separate from the Secretariat. He did not report to the Minister or Deputy Minister of CTS, rather he and Stuart were under the direction of Government Leader

¹²³ This view was expressed in most interviews including interviews with Al Doherty, Chuck Tobin and Tim Koepke.

¹²⁴ Interview with Rudy Courture June 1, 1989.

Penikett. Therefore it seems quite apparent that AYC did not have a multiplicity of access points.

At the end of this study individual First Nations and municipalities, such as the Mayo Band and Town of Mayo, were consulting with one another. The Mayor of Mayo, who was also a member of the AYC, was asked by all negotiating parties to sit as an observer and consultant in the Mayo Band Negotiations. This is not standard for all First Nation Negotiations because the First Nations have to confirm the involvement of the municipalities. For some First Nations this just means one more opposition party at the table.¹²⁵ However if Mayors are utilized, it could mean more access for AYC members and maybe less centrally focused participation in the claim.

The association's agenda and membership are not controlled directly by YTG. However YTG is responsible, in most of the smaller communities, for many of the functions that are fulfilled in southern municipalities by municipal governments.¹²⁶ This causes an overlapping of responsibilities which means the two have to work closely with each other on most matters. This close association has carried over to the land claim process. As described in Chapter Three the AYC

¹²⁵ This fear of being overcrowded at the negotiating table by some bands was explained by Albert Peter, former Chief of Mayo and Special Assistant to CYI, June 6, 1989.

¹²⁶ Interview with Rudy Courture June 1, 1989.

received funding for a consultant and entered a formal agreement for participation with the process. The AYC are subsidized and legally bound to the YTG and therefore certain public actions, such as divulging sensitive information, were subject to YTG approval. The AYC gained more information and greater influence but they sacrificed some of their ability to act independently.

If this were a pluralistic relationship the groups would have been the only ones competing to gain access and receive information. This was not the case, as the government also had its own directive to seek information from the group. For example, through the AYC the negotiators gained information about the municipalities opinions on land quantum.¹²⁷ Some groups, like the AYC were more important not only because they had to be appeased but because they had crucial information. There is no doubt that the AYC, in its own right, would have been able to compete and gain access to the claim process. However the AYC was also very important to the YTG.

When they did communicate with government, the Chamber of Mines utilized multiple access points. They usually sent many copies of their letters or reports to various points in each negotiating government, excluding the CYI and First Nations. They addressed the majority of their concerns to the federal government because mining is predominantly under

¹²⁷ Interview with Barry Stuart, July 25, 1989.

federal jurisdiction. However they did not share a close continuous liaison with the federal government like the other groups did with YTG. Trying to maintain an independent stance directly resulted in them associating very little with anyone.

The Chamber membership was voluntary and self-determined. They were not subsidized by government and they often stated they were against any type of preferred access to the claim.¹²⁸ Thus they were not tightly controlled or constrained by the process. They argued that all the information should be made public so that everyone would have a chance to challenge the directives and policies put forth. However, as mentioned in Chapter Three, this stance is inconsistent. They had been pushing hard for more involvement and official status on various committees under the Canada-Yukon Mineral Development Agreement. It could be argued that this is a different situation from the claim because the agreement is specific to the mining industry. However, so are a number of concerns under the proposed land claim agreement. Therefore it was perceived by some that they were not trying to be equitable but were rather stubborn and would prefer not to deal with a process that was heavily instigated by a "socialist" government.¹²⁹

¹²⁸ Interview with Al Doherty June 5, 1989.

In a pluralistic situation groups will vie with each other to influence the government. This is not completely the case with this relationship. In fact, at times, the government seemed to be lobbying the support of the group. The Federal and Yukon governments were very aware of the rather negative stance the Chamber had with claim and at the same time how heavily the territory's economy relies on a healthy mining industry. Therefore they made the Chamber a priority and actively sought their involvement. However politics and misunderstandings kept the governments and the Chamber divided.

Conclusion

If we follow Schmitter's description of pluralism in Chapter Two we can deduce that pluralism in its purest form does not exist for these four groups. The degree of pluralistic properties vary in each of the relationships from group to group. All memberships to the groups seem to be voluntary and their leadership selection appears self-determined. However the government, to some degree, has control over each group's ability to gain access by hierarchically ordering the groups. Each respective non-Indian government was also very diligent in channelling most of the interest group involvement to one agency. In addition at least one group was subsidized by the government and

legally bound to the claim process. Also, the governments actively solicited the support and input of groups. This directly counters the competitive and self-determining philosophy of pluralism.

THE LAND CLAIM AND CONSOCIATIONALISM

Presthus's study ¹³⁰ concerned itself with the entire federal system in Canada whereas this study is looking at a specific government/interest group relationship. Even though the characteristics will not all directly relate to this study, some of them, identified in Chapter Two, can be used and adapted to identify whether or not a consociational relationship exists for this case. To refresh ourselves these characteristics are:

- 1.) We would find accommodation among interest group leaders or executive, elected officials and some senior bureaucrats, especially the negotiators.
- 2.) These elites would make all the decisions. Because the situation is so complex and they are superior in knowledge and the ability to compromise they would decide with minimal input from the general public.

¹³⁰ Presthus, Elite Accommodation...

3.) These elites would be bound together by mutual interaction, a common social and economic background, and shared norms. One will also find several of the elites shifting from public to private sector positions.

4.) Changes in public policy will be incremental - not revolutionary - and movement of non-elites will be slow and continuous to maintain stability.

It has been established that the Outfitters predominantly associated with the YTG Land Claims Secretariat. For consociationalism to exist there has to be an cooperative and accommodating relationship among the elites or leaders of the interest groups and the governments. The leaders of the interest groups and the governments should be able to cut through such things as ethnic differences because of their superior abilities to understand the issues and cooperate. This cooperation is usually a result of the elites having common socio-economic backgrounds such as higher education, professional backgrounds, common leisure outlets and basically high standards of living. This commonality would also cause many of them to associate outside their formal surroundings. For example most of them may belong to the same golf club.

First of all, there is no evidence (which I can find) to support that they mutually interacted with each other outside of formal discussions. Common social backgrounds are

rare in the Yukon, the Yukon Indians for one are not included in most of what non-Indians do and vice versa. The whole basis for the Land Claim and formal representation structures is because Indians are seldom included in the same day to day discussion of municipal and territorial politics as non-Indians who on the average enjoy a far superior economic life style. In addition most of the non-Indian community come from very diverse backgrounds, from every area of Canada. The only thing the non-Indian people have in common with each other is that they are in the Yukon because it is a great place to get their first job, or it is remote, unpopulated and a haven of untouched beauty. The Outfitters and the Negotiators probably share one of these characteristics in common. However, so do the rest of the population.

Barry Stuart was selected to be the government's liaison with the Outfitters because he was "familiar" with their way of life. However, his association was unilaterally decided between the Federal and Territorial negotiators. He was not sought by the Outfitters to be their liaison nor was he selected because they associated in the same circles. Stuart was foremost a member of the bar and a Justice of the Courts, not a full-time guide for U.S. and European hunters.

Consociational relationships assume there will be harmony and accommodation within the relationship. At times constructive meetings were held and at the outset of their discussions outbursts were kept to a minimum. However, at

other times the two sides were not speaking.¹³¹ Animosity peaked when the Outfitters hired a lawyer and threatened an injunction. This does not appear to be the elite accommodation which Presthus had in mind.

A consociational relationship also suggests that the two sides would strive for incremental, as compared to revolutionary, change to policy. The whole idea of an Indian land settlement and the political changes it proposes are anything but incremental. Basically the negotiating governments are proposing radical change, whereas the Outfitters would naturally prefer no change or change which would have minimal impact on their industry. It can be deduced that the land claim is not a mutual agreed upon policy, nor is it one that promotes incremental changes to the existing arrangement. Rather it is an exhibition of government having to deal with a road block to their policy plans.

The YFGA mainly associated with the YTG Land Claims Secretariat. There is little indicating that the basis of their relationship was consociational. If this was a consociational relationship we would find it very cooperative and compromising. One can safely say that this is not how one would describe this relationship. This was not a "buddy-buddy" relationship. The dialogue between Leigh and Stuart

¹³¹ Interview with Dave Young June 28, 1989.

was very heated at times. The dialogue was not especially productive either, at times there were major set backs. Leigh went as far to say that " the YTG was not properly representing the YFGA" and " the proposed boards are a crock".¹³² The YFGA also chose to appeal to the public in an open letter to the Whitehorse Star. This type of communication is very uncommon to elite relationships. The relationship was often uneasy, which at times created misunderstanding and misgivings. In the end accommodation was reached and the YFGA endorsed the Framework Agreement. However, it was not due to the two sides being familiar enough with each other to sit down and discuss their differences.

Both sides supported radical rather than incremental change to the administration of wildlife in the territory. The Land Claims Secretariat, along with the other negotiating parties, proposed a wildlife management board which promoted equal laws for both Indians and non-Indians on non-settlement lands. The YFGA was less enthusiastic towards the wildlife board but very supportive to equal hunting and harvesting regulations. Such plans will totally restructure wildlife policy and the status of Indians in the territory. These are very bold proposals which are not conducive to a consociational arrangement.

¹³² Whitehorse star interview with Leigh December 15, 1988.

The AYC associated regularly with the Land Claim Secretariat. The committee set up of Rudy Courture, David Leverton and Bill Hickman especially had a great deal in common with the members of the Secretariat. Leverton is a Lawyer and Courture a long time advisor to municipalities. Both hold similar positions and perform similar functions to those of Stuart and Knight. Courture and Leverton associated on a much more frequent basis with Stuart and Knight than any other group. Leverton was hired strictly for the purpose of negotiating with the Secretariat and the municipalities. The AYC was the only group capable of hiring a consultant which is one indication that they had more time and obviously more resources available to them than most other groups. Even though they had superior monetary and staff resources, there is no doubt that their professional backgrounds with the Secretariat also contributed to their success.

They were also able to maintain a professional and productive working relationship. Both sides were familiar with the language and procedures that went into a legal framework agreement. Their ability to carry on cooperative discussions were much greater than for most other groups.¹³³ This was most noticeable in their more frequent personal discussions. Unlike other groups, such as the Outfitters and YFGA, the AYC committee did not resort to adversarial tactics

¹³³ These views were extracted from interviews held with both Rudy Courture and Barry Stuart.

such as threatened litigation and open letters. At a general meeting set up between the AYC membership and the negotiating teams, dissenting outbursts occurred, especially by Don Branigan. However this was not the tone for the majority of the discussions. In addition Branigan may have been lashing out because of his own inability to affect the Claim. He was not apart of the formal discussions between the AYC delegates and therefore was not privy to their inside information. As mentioned earlier, Courture, Hickman and Leverton had input into the process but they could not relay their success or failure to the body they represented due to the secret nature of the claim. Branigan's outburst was primarily perceived to be against the claim being secret to the public at large, an accusation which definitely has some merit and support from others (the Chamber of Mines). ¹³⁴ He was very aware that his group was being formally represented by a representative committee in negotiations and most members were involved in informative workshops.

From the evidence provided it is apparent that some degree of elite accommodation was taking place between the AYC and the Land Claims Secretariat. However this elite association did not advance incremental change, because the proposed changes in public policy were anything but

¹³⁴ Interview with Barry Stuart and information gained from whitehorse Star article by Chuck Tobin, "Mayor applauded over claim concerns" May 11, 1989.

incremental. As mentioned, the land claim is a very progressive step for the Yukon. The changes it will cause will be very dramatic for the Communities and the members of the AYC. The conclusion of the claim will most likely see fast paced devolution of community services to the Communities and the First Nations. The YTG will help ease this transition as much as possible. However the reality of the situation is that in a few short years the communities, especially the smaller ones, will play much greater roles in the lives of their residents.

The Chamber communicated with a number of government departments and personnel on the Land Claim process. They most frequently communicated with the federal government. However as mentioned in Chapter Three they really didn't carry on "frequent" discussions with anyone. Some members associated with their geological counterparts in government and the official opposition of the legislature, the Progressive Conservative Party.¹³⁵ However they were not enthusiastic about the "new" Land Claim process which they felt was in large part instigated by the ruling NDP government. When the Conservative party was in charge of claim negotiations subsurface rights and broad ranged self governing powers were not at stake. The Chamber has blamed the Federal government for supporting such policies, which

¹³⁵ Interview with Al Doherty June 5, 1989.

were originally suggested in the Coolican Report, and the NDP for not challenging them and properly representing the Chamber and other non-Indian local interests.

It is very evident that the Chamber's association with the negotiating parties was not consociational. Very little face to face contact took place. Their prime means of communication was through summary reports and position statements to their members.¹³⁶ Copies were provided later to the federal and Yukon governments. The only direct communication to YTG was to inform Government Leader Penikett that the Chamber unanimously wanted the Government to conduct a public referendum on the terms of the Framework Agreement.¹³⁷ Accommodation can not take place unless the two parties agree to meet, let alone have the ability to compromise.

The mining industry is facing monumental changes. The claim will create a new and powerful land holder, amendments to the present Quartz and Placer Mining Act, and a new administrative regime which the industry will have to abide by and become involved in. Even though there is an argument to be made against the status quo, promoting fast-paced change for such a risky and volatile industry will undoubtedly create animosities. In addition this controversial change in public

¹³⁶ *ibid.*

¹³⁷ Copy of the letter obtained through the Chamber of Mines, June 1989.

policy makes it very difficult for any form of accommodation to take place. However the claim, and the promises it provides to the Indians, has reached a point of no return. If it is to work, the mining industry will have to cooperate with the process, and the respective governments will have to find ways to make the changes less disruptive.

Conclusion

Consociationalism does not exist, for most groups, to the degree that Presthus or Lijphart envisioned. The determining factor for consociationalism is elite accommodation. It assumes elites, meaning interest group leaders, politicians and senior bureaucrats, representing their respective constituents and having the ability to meet and solve their communities differences in a rational and conciliatory manner. This is not possible in the Yukon for the main reason that traditionally one of the major constituencies in the Yukon, the Yukon Indian, is not a part of these "elite discussions". Additionally, the dialogue between interest groups and government observed in this study were for the most part not very cooperative and conciliatory.

Two other characteristics, that the elites will have common social and economic backgrounds and that change in a consociational setting will be incremental were also not found to be true. The only group who had representative elites that

shared the same professional background as the Yukon and Federal Negotiators was the AYC.

THE LAND CLAIM AND STATE CORPORATISM

Recall that for state corporatism to hypothetically exist the following should occur:

1.) A formally structured interest representation system, initiated, maybe created, and controlled by the negotiating governments.

2.) Groups arranged in a definite hierarchical manner.

3.) Groups at the top of this hierarchy performing and implementing government policy.

4.) Evidence of the governments ability to administer rewards or punishments on groups which are either abiding or disagreeing with the government policy.

A formally structured interest representation system exists for the Claim process. The YTG and Federal Government created their own interest group liaison system which assigned negotiators to particular groups. However the negotiators did not strictly enforce such liaisons. In other words, although they recommended it, they did not overtly threaten the

interest groups to converse solely with them.¹³⁸ Part of their reasoning for such a system was because they wanted to keep a tight lid on information disseminating from the negotiating table.¹³⁹ In addition, having direct channels to the interest groups made their job more expedient and efficient.

The necessity for the claim to be conducted in relative secrecy handicapped the interest groups. Up-to-date information was only available to the negotiators. The line agencies and even some of the elected members of the legislature would only be included on a need to know basis. Therefore the government, ie. the negotiators, would dictate what type of information would be made available to the groups. However YTG negotiators did not have blanket control over all groups as was shown with the Outfitters. As discussed earlier, the Outfitters used the press and possible court injunctions to force their hand. Because of the nature of the claim, within the bureaucracy, Stuart and the Secretariat were the Outfitter's only source for information and influence. This enabled the government to, in part, control the organization.

The groups were definitely arranged hierarchically by the YTG and Federal Government. Almost every organization was contacted by these governments, but only a handful where

¹³⁸ Interview with Dave Young June 28, 1989.

¹³⁹ Interview with Barry Stuart July 25, 1989.

given privileged attention. Even so this hierarchy was not strictly enforced. Just because the negotiators deemed them important did not necessarily mean the group wished to cooperate. In addition a group, such as the Outfitters could force the government to take greater notice of them. But as the Outfitters found out, there is always a price to pay for forcing such demands. For the Outfitters the price might have been high. Such action cost them the literal price of a lawyer and the price of drawing public awareness to their game locations. This last action countered the very reason for applying such means and could have cost the Outfitters their livelihoods.

The Outfitters performed functions, such as providing information on harvesting levels and game location for Renewable Resources. The group also administered the conventional boundaries which each Outfitter obeyed.¹⁴⁰ However, they did not have official authority to police violations nor did they significantly represent the general public. In a State corporatist system, interest groups perform government policies usually for one of two reasons. First, the group is basically a private sector shell which the government uses as a vehicle to promote their policy. Second, the group legitimately exists on its own but is bound to the state by the threat or use of force. If exposing

¹⁴⁰ Interview with Dave Young June 28, 1989.

confidential and invaluable game location is seen as a threat then the Outfitters arguably fall within the second category.

The functions they did fulfil for the government possibly made them subservient to government pressure. As indicated, YTG was privy to the sacred game locations of the Outfitters through the powers vested in Renewable Resource by-laws. The Outfitters did not agree with the government using "their" information in the land claim negotiations. They were definitely against the general public getting hold of such information and were also afraid of the Native Indians getting it. Emotions were running high, the Outfitters were especially worried that if the Indians received this information they would use it as basis for some of their final land selections.¹⁴¹ However in the end these worries appeared unfounded, the government specifically stated that information on the harvesting levels was all that was necessary. They promised that site locations would not be a part of their discussions. However the Outfitters are still leery about the confidentiality of this information and the possibility of it being used against them in the future.¹⁴²

It has been established that the federal and territorial governments created a formal interest representation structure. However, it does not seem as rigid as the ones

¹⁴¹ *ibid.*

¹⁴² *ibid.*

normally associated with state corporatism. The YFGA are a testimony to this. The YFGA associated with Stuart and the Land Claims Secretariat, but when they were displeased with the Secretariat they appealed to other levels of government and the press. Even though they eventually had to solve their differences with Stuart, they at least communicated their dissatisfaction publicly and inter-governmentally. Such actions would not be possible or tolerated in a state-corporatist system.

The interest groups are arranged hierarchically, but again this is not a rigid placement. Mobility exists depending on the group's desire to influence government. There were strong indications that most groups who showed interest would receive attention from the negotiators.¹⁴³ The YFGA was among the handful of groups who were perceived to be most important. However they were not strictly controlled by the Secretariat. The YFGA approached the Secretariat often, mainly through Stuart. However when aggravated they contacted others without regard to the structured liaisons the federal and territorial governments created.

The YFGA gave legitimacy to government actions but did not perform or implement government policy. The organization

¹⁴³ Barry Stuart pointed to the Yukon Status of Women Council and others, who did not have a vested interest in the land claim but had concerns about the social impact of the claim, as fringe groups who he or other members of LCS spoke to on a number of occasions.

was primarily used as a sounding board for wildlife issues.¹⁴⁴ The Secretariat conferred with the YFGA to garner their input about such things as the wildlife management board and land selections. But the YFGA did not actively solicit public support for the government policies or administer any of the negotiations on the behalf of the Secretariat. We can conclude that the YFGA was utilized by the Secretariat but they were not under their direct control.

State-corporatism would assume that the government had such control of the YFGA that they could force them through with either incentives or punishments to adhere to government policy. Usually such a relationship assumes a parent-sibling relation. If the sibling doesn't respond the parent scolds, if the sibling responds the parent rewards. The three negotiating governments promised a three million dollar endowment fund for wildlife purposes. This was a very strong incentive for the YFGA to support the proposed Frame Work Agreement. However the relationship was not structured so as the YFGA would support it and then receive a promised incentive. Rather the relationship was a conciliatory one where the established fund was a negotiated concession not a reward.¹⁴⁵ From this evidence it can be assumed that this

¹⁴⁴ Interview with Barry Stuart July 25, 1989.

¹⁴⁵ Interview with Mike Whittington July 24, 1989.

relationship was not a tightly state controlled relationship but rather more a state directed one.

The AYC was involved in the most structured government relationship of any interest group. The Secretariat controlled what and when issues were to be discussed. However, the system was not solely initiated or created by the Secretariat. The group initiated the discussions for a formal arrangement and both themselves and YTG cooperatively created a Memorandum of Understanding for AYC involvement. For the most part though, the tempo of the discussions was determined by the Secretariat. The Secretariat was the AYC's only avenue to the negotiating table, therefore the AYC was subservient to the Secretariat.

The groups were arranged by the Secretariat and Federal Land Claim Office in a hierarchical manner and the AYC was one of the peak organizations. The AYC was not directly performing or implementing government policy. Even though there is speculation that many of the municipalities were being or were about to be groomed to take over some of the government's present responsibilities¹⁴⁶ and therefore were very much under the influence of YTG, the AYC showed that they are a very independent and strong-willed group. They did not take government positions on face value nor would they support and administer policies unconditionally. The AYC definitely

¹⁴⁶ Interview with Barry Stuart July 25, 1989.

had an agenda of its own.

The Secretariat had the upper hand on the AYC in one respect. The AYC was granted input on the condition that the information would be kept confidential. If information were leaked on areas concerning the communities, to the press or the public, the government's finger would most likely point to the AYC.¹⁴⁷ The AYC were given responsibility for input but not for output of their grievances. The only pressure that could be administered was basically from their representative committee of three. If they did appeal to the public before the Framework Agreement was finalized, and this jeopardized the claim, they most likely could have been the scapegoat for at least two of the negotiating parties. The AYC had inside information, but once they received it, their hands were tied.

Earlier it was stated that the federal government established formal relations with the Chamber and that Tim Koepke was their main liaison. This structure was definitely initiated and supported by the federal and territorial governments. But the Chamber was not in agreement with such an arrangement. In response to characteristics one and two it can be said that the government had set up a formal representation system with the intention that the Chamber would be one of the most important groups. However, it did not materialize due to the Chamber's lack of cooperation.

¹⁴⁷ Interview with Rudy Courture June 1, 1989.

Needless to say the Chamber was also not very receptive to the notion of performing government policies in regard to the claim. The Chamber is very content to abide by the rather liberal regulations outlined in the Quartz and Mining Act, and are very unreceptive to the negotiating parties' plans to change the status quo. At most, they would prefer to see a quick end to the claim at the expense of a larger cash settlement with a minimal land settlement.¹⁴⁸ Suffice to say that the Chamber was not even utilized as a sounding board for proposed government policies on the claim except after the fact.

The governments' ability to administer rewards or punishments to the mining industry is minimal at the moment. The governments have managed to ignore the Chamber prediction that the industry will crumble as a result of the claim. However, this is not to say that mining is being swept aside. For the moment the government seems content with the present situation. They will continue negotiating the claim but at the same time balance the concerns of their single most important industry. Now that the government is committed to the claim and an end is in sight they know that their best bet is to settle without provoking the mining industry and then try to make up for lost ground afterwards. The general public's relatively sudden environmental outcry is also

¹⁴⁸ Interview with Al Doherty June 5, 1989.

playing into the hands of the government. In the long run, this may temper the Chamber's demands and expectations. The Chamber may give into demands for more government involvement in mining, for guaranteed participation to policy boards and committees, and more potential land access.

Conclusion

State corporatism does not seem to be the model that best suits interest group intermediation of the selected groups. The Yukon and Federal governments have created a formal interest representation system. However, it seems to lack the rigid hierarchical form and evidence of the governments' ability to reward and punish the interest groups at will, without in some way suffering themselves.

THE LAND CLAIM AND SOCIETAL CORPORATISM

Hypothetically if the Claim acted in a societal corporatist manner the following would occur.

- 1.) A formally structured representation system voluntarily implemented by the negotiating governments and the interest groups involved is present.

2.) The formal structures would be implemented not by dictatorial powers stemming from the governments but as a result of societal changes which have made the land claims process complex and existing communication unmanageable.

3.) A definite group hierarchy is in place, however one that is less rigid than the state corporatist system. Groups not at the top can penetrate the formally arranged system if they are aggressive and have the will to do so.

The first characteristic for societal corporatism states that a formal representation system exists, but it is voluntary. This seems to be the case for most group/government relationships for the claim process. The governments created a formal representation system for efficiency and secrecy. They visualized direct contact with the interest groups so that groups would not receive second hand information from uniformed line agencies. In addition some information which was meant for interest groups was not meant or needed the sometimes lengthy input from line agencies.

Ideally both the territorial and federal governments would have preferred the Outfitters to deal strictly with the Secretariat. However the Outfitters had the option of utilizing other avenues. For example, they hired a lawyer

who addressed many government agencies about the group's intent to take legal action. The main problem for them was that even though they informed other agencies besides the Secretariat it was the YTG's mandate to have the Secretariat deal with all claim matters.¹⁴⁹ Even so there is no doubt that the Outfitter's course of action caused concern for other agencies, especially Renewable Resources who dealt with the Outfitters on most other matters.¹⁵⁰ Renewable Resources consulted the Secretariat on matters concerning the Outfitters and definitely made it known that they did not want to lose the trust of one of their best information sources.¹⁵¹ Additionally the Outfitters proved that they could, if necessary, appeal to the courts and the public. It can be summarized then that their association was not strictly controlled by the government and was to some extent voluntary. The federal and territorial governments did not unilaterally decide it was in their best interest to implement control over the claim process. Instead it appears that the confidential nature of the claim process made any existing modes of communication unmanageable. The process made formal and

¹⁴⁹ Interview with Barry Stuart July 25, 1989.

¹⁵⁰ Interview with Dave Young June 28, 1989. Mr. Young indicated that Renewable Resources had contacted his group on more than one occasion to offer their support and relay Outfitter concerns to the Secretariat.

¹⁵¹ *ibid.*

confidential modes of communication necessary. The federal and territorial negotiators needed one to one relationships with the larger and more important interest groups so as not to jeopardise negotiations but at the same time be in tune with the concerns of the non-Indian community.

Evidence shows that communication links were not entirely oriented from the top down. There was leeway for groups to gain access to the Secretariat, the federal negotiators, other sectors of both governments, the media and the courts. The Outfitters are one example of a group who were not given the same priority as some groups, such as the YFGA and AYC who were more representative of the general public, but nonetheless through more rigorous means were able to gain a considerable amount of attention.

The first characteristic for societal corporatism is by now taken for granted, a formal communications structure that exists between the territorial and federal governments and the interest groups. The second characteristic suggests that this formal relationship is not totally the governments' creation but it has occurred as a result of general changes in the society itself. This is also true to a large degree for the YFGA's relationship with the Secretariat. The government has endeavoured to negotiate the legitimate claims of the Yukon Indians for the past 17 years. Like any negotiations, proposals and counter proposals are made, and this is done in confidence so as not to divulge each party's bargaining stance.

Because of the overwhelming presence of the claim on all aspects of the Yukon, any other communication links that did exist before the claim have had to be replaced with these more formal and more confidential ones. As a result interest groups have been utilized as sounding boards for government policy and the public is left out of the picture until proposals have been accepted by all governing parties.

The YFGA was one of the government's most crucial sounding boards. Wildlife issues are at the core of the claim and if the YFGA could agree with the terms of the agreement pertaining to wildlife, the Secretariat was confident it would be accepted by the community at large.¹⁵² Not only did the YFGA represent hunters and Outdoor enthusiasts, but their size and dominant position as the territory's voice for non-Indian and non-government wildlife issues meant that they legitimately represented the general public. For this reason the YFGA was definitely treated as a peak organization by the Secretariat and the \$ 3 million endowment was seen as the final persuasive factor in gaining their support.

As repeatedly mentioned, what makes this relationship a social corporatist versus a state corporatist one is the ability of groups to bolt from the formal network provided. If aggravated a group can seek alternative access or sources of influence. The YFGA did this when they directly addressed

¹⁵² Interview with Mike Whittington July 24, 1989.

their disappointment to Government Leader Penikett, granted an interview to the Whitehorse Star and wrote an open letter of their concerns to the various major political parities.

The AYC was definitely engaged in a formally structured representation system with YTG. They were the only association who bound themselves voluntarily to the claim process by a MOU with the Territorial Government. The YTG for the first five years were basically perceived as the Federal Government's "tag along" in negotiations. It was described earlier that this changed significantly in 1979 when YTG signed a MOU with the Federal Government which granted them official status in the claim process. The YTG has gained even more power in the last two years now that YTG's Chief Negotiator has been allowed direct input in some policy sessions, along with the federal negotiators, with the Department of Indian and Northern Affairs' senior policy officials in Ottawa.¹⁵³ This policy input has only been allowed because YTG is now perceived as a legitimate and separate voice in negotiations. This all stems from the existence of the 1979 formal arrangements. The AYC seems to be following the same manner for local policy input with the signing of their MOU. It seems to be the inherited norm for MOU's to be signed and committees to be formed.

¹⁵³ *ibid.*

The third characteristic that group hierarchy and a formal structures of association exist, but are not so rigid as to disallow alternative access does not seem to hold true for the AYC. Arguably the AYC received the greatest input and most consideration from the Secretariat. However it was at the cost of not making the arrangement, and most certainly the information, common knowledge. If such information was divulged by the AYC, YTG most certainly would have had the opportunity to make the AYC's involvement well known and plant the failure squarely on their shoulders.¹⁵⁴

The Yukon Chamber of Mines involvement in the claim process thus far has been purely voluntary. The Federal government had a designated liaison and regular briefings and cross-information sessions planned but the Chamber would have no part of such a plan. The Federal or Territorial governments did not have the ultimate means to enforce formal discussions or control over the Chamber.

Societal forces definitely point towards formal representation structures between interest groups and government. Even though the Chamber adamantly denied receiving such specialized status with the claim, they did receive a sneak preview of the Agreement in Principle a few days prior to it going public.¹⁵⁵ In addition the Chamber

¹⁵⁴ Interview with Rudy Courture June 1, 1989.

¹⁵⁵ Interview with Al Doherty June 5, 1989.

firmly demanded that it sit on the policy boards and committees which govern mining policy in the Yukon. Interestingly enough they also called themselves the "client group" for the industry and thus should be included in the formal committees determining such policies. Whether they are aware of it or not the Chamber is becoming a part of the bureaucratized system it perceives itself to criticize.

The last characteristic espousing a hierarchy of interest groups is also very true for the Chambers relationship with both governments. The independent economy in the Yukon that does exist rests a great deal on the mining industry. For this fact alone the Chamber is a dominant interest group. However if traditionally dominant groups such as the Chamber insist they want no part of something as, or more important to the territory such as the Land Claim, the system is liberal enough to allow less dominant groups to fill the void and directly communicate their concerns.

Conclusion

Most of the characteristics of societal corporatism seem to hold true for these four interest groups. A formal interest representation system was set up by the Federal and Territorial governments. However, as shown, there is the possibility for those groups who do not initially enjoy the governments' attention to penetrate the formally arranged

system if they are aggressive and have the will to do so. The negotiating structure that the actual parties are engaged in seems to have influenced the way in which all business is being conducted in the land claims process. Many of the groups are seeking positions of official status on existing and proposed policy boards. These boards are perceived to be the place where your interests can be represented in the Yukon.

GENERAL CONCLUSION

Through the use of models this chapter has shed some light on the ways in which four interest groups associate with public authorities in the Yukon. As expected, some characteristics of each model touch on the unique relationship each group has with the respective governments, excluding the Yukon Indians who because of racial and political tensions, were not able to converse extensively with any of the groups examined. However, societal corporatism seems to be the one interest intermediation model which holds true for most of the groups. The one and half year snapshot of the these groups' relations with the governments has shown that a formal interest representation system was set up by the federal and territorial governments. In addition the negotiating parties have suggested the creation of policy boards for the future consisting of representatives from various sectoral interests in the territory. The following conclusion to the thesis will

speculate on the effects that this type of intermediation structure has on the Yukon land claim process.

CONCLUSION

What has this study shown us? First, it has shown that societal corporatism, more than any other model, depicts the interest group-government relations in the Yukon. Second, even though this model is the best fitting of all investigated, the fit is by no means exact. Evidence of societal corporatism in the land claim process can only be made keeping in mind that the similarities of the model to reality are just that, only similarities. Keeping these points in mind this conclusion will look at the benefits and drawbacks of the present interest relations in the Yukon Land Claim and the effects of the proposed policy boards. It will also identify the necessity for further study in the Yukon.

The relationships between government and interest groups in the Yukon have become quite structured and very similar to a societal corporatist model of intermediation, and after examining the Agreement in Principle (AIP) it seems apparent that they will become more corporatist in the future. First, this is most noticeable by the desire of the territorial and federal governments' to involve interest groups. Together the governments organized an interest group representation system that involved almost every interest group in the territory.

The governments assigned liaisons to the groups they deemed most important. The criteria for selecting whether a group was more important or less important mainly lay with whether the group either had a direct stake in use of the land, such as the Yukon Chamber of Mines, or whether they provided the government with efficient and silent means of sampling popular opinion about the claim, such as the Yukon Fish and Game Association (YFGA) and the Association of Yukon Communities (AYC). There also seems to be an hierarchy within this strata of more important groups. The AYC, a group composed of publicly elected members, the YFGA, one of the Yukon's largest interest groups and the Yukon Chamber of Mines, representatives of the territories single most important industry, seemed to garner more attention than any of the other groups. However the groups with smaller numbers and less resources, such as the Association of Yukon Outfitters, could penetrate this circle by aggressively pursuing their concerns.

Second, it was found that this type of system was spurred on by the secretive way in which the claim negotiations are conducted. The governments are in a very precarious position of representing the non-Indian people but unable to discuss it openly with them. The government was in fear that open discussions would either jeopardize their relations with the Indian community or reveal their negotiating strategies to the Indians. Therefore, both the federal and territorial

governments found themselves seeking legitimacy for their policies with only a few key interest groups. In fact, it was found that the government was at times more eager to involve the group than the group was willing to participate (as was shown with the Chamber of Mines).

Third, the formalizing of a groups representation in the Land Claims process was most apparent in the AYC and YTG's signing of a Memorandum of Understanding (MOU) between the two parties which outlined the extent to which the AYC would be involved in the claim process. This MOU included the subsidising of a consultant and the participation of a AYC committee in concerns that affected the communities.

Fourth, the Land Claims negotiations produced an A.I.P. which established within it a mandate for the formation of policy advisory boards for policy areas which directly concern Native Indians such as land development and wildlife issues. These policy boards consist of Indian and Non-Indian members. The advice of these members is taken into direct consideration by the Minister of the department to which they are appointed. In addition, local district committees of the same nature will be established in all First Nation constituencies to provide policy for that constituency. If these structures become a reality they will have a profound impact on the territory.

Some academics are convinced that full-fledged corporatism cannot exist in Canada. According to Pross "there is a tendency in Canada towards state structuring of relations

with interest groups, and that some elements of the bureaucracy would prefer that structuring to take the hierarchical and representative form embodied in corporatism".¹⁵⁶ However, he concludes that a "tendency is not a trend".¹⁵⁷ This tendency, he suggests, is not close to being strong enough to erase Canada's predominantly individualist ideology. He provides a list of reasons why corporatism can not and will not grab hold in the federal state. First, he indicates that our political structures promote a decentralized state. Different levels of jurisdiction guarantee that different institutions decide policy in Canada. To summarize he states that as long as we have provinces, most matters cannot be corporately arranged by the federal government. Second, he argues that interest representation also reflects this reality. Local interests are often more powerful than centralized ones. In fact, many are structured as decentralized federations and indeed some are only organized at the provincial level. Third, he argues that the corporatist forums that do exist lack authority. "Views are exchanged, understanding is extended, and co-operation is achieved, but agreements are not reached. Consultation and

¹⁵⁶ Pross, Group Politics and Public Policy.... p.225.

¹⁵⁷ *ibid.*

collaboration are as close as Canadian groups have come to corporatism." ¹⁵⁸

Pross's arguments are very convincing when they are applied to the federal state. However, they do not stand up as well when applied to the Yukon land claim. At a glance the territory seems more institutionally decentralized than the federal state. Although in the strictest sense the Yukon territory and Yukon Indians do not have jurisdictional authority (they are both creatures of the federal government), in reality they have very powerful spheres of influence. Therefore it seems that no one institution should be able to structure interests. However, it has been shown that the federal and territorial governments worked extremely well together in the land claims negotiations and together were able to structure a strategy to utilize the more important interest groups for their purposes. The interest groups found it virtually impossible to play one level of government off against the other. Ironically, the Yukon Indians were never utilized, mostly because the interest groups were not aware of how to approach them, let alone how to ask them to cooperate.

Pross's second argument concerning group decentralization also does not reflect the same reality in the Yukon land claim. Interest groups in the Yukon can not afford to be

¹⁵⁸ *ibid.* p.226.

decentralized vis-a-vis the communities as interest groups in Canada are vis-a-vis the provinces. The single most important reason for this is that there is simply not enough people to go around. Most interest groups during the claim could not afford fulltime staff to keep abreast of issues. Therefore the greater the numbers the more effective they will be. Most groups have been slow to respond to this way of thinking. However, the Association of Yukon Communities is a good example of a powerful co-operative group and the Conservation Society, the Outfitters and the Yukon Fish and Game Association have shown that as an unit they are more effective in countering the mining industry.

Finally, the exercises of interest group and government consultation in the Yukon land claim go beyond "just consultation". Authoritative agreements such as the AYC and YTG Memorandum of Understanding are evidence on a smaller level and the institutionalized boards that the Land Claim Framework Agreement proposes are evidence on a territorial level. / Not only will the ^{UFA} Framework Agreement create forums for Yukon Indians to participate in policy making, but these same forums are designed to bring interest groups together to work in cooperation with one another, and with Indians, to create policy. This study shows that government and group relations in the Yukon land claim are mainly societal corporatist in nature, but we cannot generalize this to other issues.

The ultimate question is whether societal corporatism will be beneficial? How will a more formal system affect the Yukon land claim? To provide insight into this question we will turn to Hugh Thorburn's opinions on the benefits and drawbacks of formalizing sectoral representation. In his book, Interest Groups in the Canadian Federal System, Thorburn explains that in Canada:

...the institutional structures currently in place tend to favour the intergovernmental or federal dynamic, as institutions are elaborated to facilitate this process. On the other hand, the government-interest group relationship is a more unstructured one, which is carried on in the shadows of informal contact between government and interest group leaders.¹⁵⁹

According to Thorburn the only way to strengthen consultative mechanisms in federal-provincial-interest group relations throughout Canada is to establish better and more concrete relations between government and interest groups. Thorburn identifies the basic problem with present government/interest group relations as being too little consultation. In order to solve this he feels that..."a more systematic and institutionalized mechanism of consultation, in which all groups know how they can make their inputs, and are assured a measure of fairness in competition with other groups"¹⁶⁰... is needed. To meet this he suggests "a study of consultation

¹⁵⁹ Thorburn, Interest Groups in the Canadian Federal System ..., p. 20.

¹⁶⁰ *ibid.* p.131.

mechanisms should be done for both levels of government with a view to putting in place a system that would be perceived as adequate and fair."¹⁶¹ He adds that to achieve this, consideration might be given to a number of things.

First, he suggests the installation of a more regularized procedure of legislative committees which provides more power for public decision makers and are more open in order to better allow interest groups awareness of each other and of government. Second, he proposes a more frequent and systematic use of other forms of open forums such as task forces, royal commissions and cabinet committees. He states that: "the point would be to put into effect a general institutionalized, formal mechanism for consultation, in which each group would know its rights and the position of other interveners."¹⁶² Thorburn cautions that formalism, such as lengthy submissions by legal council should be avoided to prevent only the wealthy and technically informed from gaining access to government. Third, he suggests that interest groups be represented through formalized advisory boards. The value of this is that many interests would be represented in the presence of elected government officials and/or policy advisors in an open and fair forum. This type of representation would lead to "reasonable accommodations

¹⁶¹ *ibid.* p.131.

¹⁶² *ibid.*,p.131.

between different points of view and should make it possible for interest groups to make certain that the government is not deceived by biased or one-sided representations from particular groups."¹⁶³ Thorburn's ultimate goal is to create a system which promotes "openness and publicity."

Using these points as a test for assessing a system of interest representation one would have to say that the present land claim falls short of open and fair intermediation. As we have seen, the claim process provides for no consultation between Indians and interest groups. As well there is a subjective effort by the federal and territorial negotiators to utilize interest groups of their choice, with limited possibilities for less resourceful groups. In all fairness it should be noted that there is little evidence to show that the negotiators overtly tried to limit any party's access. Openness was encouraged by federal and territorial negotiators through an open door policy at the negotiating offices, and media and major interest group updates. However, because of the "negotiating style" in which the claim was conducted, the negotiators could not let all bargaining points be open for discussion and therefore they resorted to soliciting information actively from major interest groups. Additionally, the claim process did not provide for intra-group forums. The negotiators made significant efforts to be in contact with

¹⁶³ *ibid.*, p.131.

interest groups on a one-to-one basis, but there were no productive round table or open forums between groups.

On the other hand, the political system the A.I.P. foretells is perhaps more open and fair. It too looks to a formalized system like the one the claim process created. However, it takes into direct consideration some of Thorburn's positive points. For example, in the future the Agreement promises to create territorial advisory boards in some policy areas such as Wildlife and Land Use and Development with 50% Indian participation. In addition other advisory boards in areas such as education will guarantee 25% Indian participation. If they are allowed to be true community advisory boards, not only will they allow for proper public debate, but for the first time they will also foster dialogue between Indian and non-Indian peoples in a number of policy areas. This is something that until this point in time has not been significantly achieved in the Yukon.

However, there are drawbacks. If these boards become stifled by legal submissions by more resourceful groups or are overrun by bureaucrats,¹⁶⁴ the general public, Indian and non-Indian alike, will be discouraged and will not participate. Such a situation will be especially difficult with the Indian people who proportionality have far fewer numbers with a functional understanding of bureaucratic ways.

¹⁶⁴ Interview with Willard Phelps June 8, 1989.

At the moment they rely on a few key people to represent their views in the land claims forum. A Final Agreement will create a host of boards at the Territorial and District levels. If the boards are not amenable to the Indian people they will simply not be attended.

Finally, to appreciate fully any area of study additional work has too be done. There are many other areas that invite further study into the Yukon and Native Indian Land Claims. First, the media and the public's perception of the media is one area that has received little attention in the Yukon. Second, the presence of two large ethnic cultures in the Yukon have had a profound effect on party politics and political institutions in the Yukon. Analysis in these areas would be very useful, especially since the land claim will create a new and interesting bridge between the Indian and non-Indian peoples.

Third, because of the unique ethnic mix, small population size and northern location in the Yukon, one can question whether the Yukon's responsible government powers which are now evolving but are not entrenched, should mirror those of other provinces. For example, it can be argued that the Yukon is part of the international northern community of nations as much as it is a part of Canada. Therefore, should it receive more leeway in international relationships with other northern communities such as Greenland, Alaska and Siberia? Fourth, further study into Yukon Indian politics and its internal

organization would make for a very interesting study. Now that a Final Land Claim Settlement is in sight this type of study would be very valuable for the Yukon Indians who will now hopefully have the resources to focus their energies on their internal socio-economic problems.

Finally, this interest group analysis indicates that further interest group study might be useful. This by no means is an exhaustive study of interest intermediation models, the societal corporatism model best describes the situation of the four models which were tested, however it might be fair to say that because of the unique nature of the Yukon that no existing model best describes the Yukon land claim. Maybe new models should be created to analyze the land claim process and other aspects of the Yukon's political system.

Ultimately this study has shown that interest group/government relations in the Yukon land claim process are different. This is mainly due to the nature of the claim process. We can not tell for certain from this thesis whether its evidence will hold true for the rest of the Yukon or for the future, however, we do know that the Yukon encompasses a large geographical area yet has an extremely small population. Its whole environment lies north of the 60th parallel which creates a unique social and economic atmosphere for its people. Its territorial government possesses many of the responsibilities of a provincial government yet it still remains legally a creature of the federal government. Over one

quarter of its population is Native Indian, who only now have started to gain a political voice in the territory. Finally, as a result of the Indian people trying to settle their rightful concerns the land claim has become the single most important political issue in the territory for the past 17 years. In light of these factors, it is quite possible that because relations between interest groups and the governments of the Yukon territory are different from those of interest groups and governments in Canada, so are other features of the Yukon's political system.

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APPENDIX A

The Yukon Land Claim Framework Agreement:

A Summary of the Sub-Agreements¹⁶⁵Sub-Agreement 1

This sub-agreement sets the ground rules for the entire Yukon land claim settlement. It defines terms, says how the settlement relates to other laws and describes the duties of governments and Indian bands. It explains that: Yukon Indians people are still Canadian citizens and have all the benefits and responsibilities that other Canadians have; Yukon Indian people will keep their legal status as Canadian Indians and will have the right to benefit from future changes in the Canadian Constitution that apply to aboriginal people; Each Indian band will give up its claim to all land that is not included as settlement land in its local final agreement; Laws passed by the federal, territorial and municipal governments apply to settlement land except where the land claim settlement itself states otherwise; This land claim settlement doesn't settle any claims that Yukon Indian people

¹⁶⁵ Content of for this Appendix is almost exclusively extracted from the Yukon Territorial Governments Summary of the Agreement dated November 1988 and the Yukon Indian Land Claim Framework Agreement dated February 1989.

have in British Columbia or the Northwest Territories; Any rights claimed in the Yukon by Indian people from the N.W.T. and B.C. should be settled before band final agreements are concluded; Any boundaries that overlap between bands' traditional lands must be resolved before band final agreements are concluded; Traditional lands are the areas where a band historically lived, hunted, fished, or trapped.

Sub-Agreement 2

This sub-agreement outlines who qualifies as a Yukon Indian and who will receive benefits from the Yukon land claim settlement. These people are called beneficiaries. A person is eligible to be a beneficiary of the settlement if he or she has 25% or more Indian ancestry and has lived in the Yukon before 1940, or can demonstrate to the enrolment commission that they are of Indian ancestry. People who are directly descended from, or adopted by, someone who is eligible, are also eligible.

Sub-Agreement 3

This sub-agreement allows Yukon Indian bands to retain existing reserves as part of the land claim settlement.

Sub-Agreement 4

This sub-agreement defines how settlement land will be owned and managed. It explains: Settlement land will be owned by each Yukon band; There will be two categories of Indian settlement land: "A" and "B", bands will have surface and subsurface title to "A" lands and they will have surface title only to "B" lands; Yukon Indians will deep aboriginal title on Category "A" and "B" settlement land; All existing third party interests (such as titled property, leases, licences and mining claims) are protected.

Sub-Agreement 5

This sub-agreement defines the rights of the public and government to have access to Indian lands.

Sub-Agreement 6

This sub-agreement establishes the special procedures for expropriating settlement land for public purposes.

Sub-Agreement 7

This sub-agreement establishes a process to resolve access issues on privately held land in the Yukon including

settlement land. A new public Surface Rights Board will be created as a result of this agreement. It stipulates that half of the appointees of the board shall be nominees of Yukon Indian Bands.

Sub-Agreement 8

This sub-agreement establishes the amount of settlement land, the division between category "A" and "B" land and the principles governing the selection of the settlement. Total land will include 16,000 square miles (8.6% of the Yukon). It will be divided into 10,000 sq. miles of "A" land and 6,000 sq. miles of "B" land.

Sub-Agreement 9

The purpose of this sub-agreement is to create a single land use planing process to co-ordinate all planning for the use of land outside the communities. Indian representation on commissions will reflect the amount of local Indian population. At least one third of the membership must be Indian.

Sub-Agreement 10

This sub-agreement creates a process for reviewing the effect of a development project on the environment, economy and society. The government will appoint a board that will conduct the assessments. For projects on settlement lands Indians will make up two-thirds of the board. For those on non-settlement land, Indians will make up one-third of the board.

Sub-Agreement 11

This sub-agreement protects heritage resources, such as historic sites, objects and documents, which are important to Yukon people.

Sub-Agreement 12

This is a technical sub-agreement on how the settlement land will be surveyed.

Sub-Agreement 13

This sub-agreement provides for the management ,conservation and use of wildlife and fish in the Yukon. A Fish and Wildlife Management Board will be established. The board will

have equal representation from government and Indian bands. The board will recommend policies for the management of wildlife and fish and their habitat and will set territorial harvest limits for all species. This sub-agreement also establishes Local Renewable Resource Councils, one for each community will add a local voice to fish and wildlife management. Each local council will have equal number of members named by the local band and the Yukon Government.

Sub-Agreement 14

This sub-agreement provides for the management of all Yukon forests and fighting forest fires on all Yukon land.

Sub-Agreement 15

This sub-agreement provides the main economic base needed by Yukon Indian people. Yukon bands will be paid \$232 million 1988 dollars through instalments over 15 year period. Over that period the bands must pay back the money advanced to them to negotiate their claim and for the Elder's Benefit program, which amounts to almost \$35 million dollars to date.

Sub-Agreement 16

This sub-agreement defines what taxes Indian people and Indian corporations will have to pay. The Frame Work Agreement removes the tax exemptions Indian people had under Section 87 of the Indian Act. Yukon Indian bands may negotiate to provide their own municipal services and they can use their own system of taxation to fund such services on settlement land. The federal government will assist with property taxes for 10 years. It will cover 100% in the first year and 10% less each year until the 10th year. The compensation for removing all tax exemptions will be \$26 million.

Sub-Agreement 17

This sub-agreement creates economic development opportunities for Indian people so they can begin to participate more fully in the Yukon economy.

Sub-Agreement 18

This sub-agreement establishes the basis for sharing the Yukon's portion of resource royalties. Net revenues received by the Yukon government from any future resource royalties will be shared in the following manner, 50% of the first \$2

million, and 10% of the additional royalties, will be paid to Yukon bands annually.

Sub-Agreement 19

This sub-agreement defines the principles and scope of community negotiations which will put Indian self-government in place. Each band will have the opportunity to take on more local responsibility. The sub-agreement lists social, justice, health, economic and other local matters that are open for negotiation. Some federal programs provided to Indian people may be devolved directly to Indian self-government. The bands and various levels of government can get together at regional, district or community level to develop common administrative structures.

Sub-Agreement 20

This sub-agreement describes how transboundary claims will be settled. Transboundary claims are land claims which cross Yukon borders.

Sub-Agreement 21

This sub agreement describes how the land claim settlement will be carried out by the governments and the bands. A

working group consisting of all three parties will be established as soon as Frame Work Agreement is ratified.

Sub-Agreement 22

This sub-agreement recognizes the need to provide training for Indian people to benefit from the settlement and to properly carry out their new responsibilities.

Sub-Agreement 23

This sub-agreement explains how problems with the final settlement agreement will be handled. The dispute resolution process relies initially on mediation. If mediation fails, the parties to the dispute can use an arbitrator or, in some cases, the courts.

APPENDIX B

Interviews and Interview Questions

Rudy Courture, Director AYC	June 1, 1989
Al Doherty, President Yukon Chamber of Mines	June 5, 1989
John Firby, Ministry of Education YTG	June 7, 1989
Chuck Halliday, resident	June 6, 1989
Arnold Hedstrom, Communications Consultant YTG	July 25, 1989
John Hoyt, Ministry of Social Services YTG	June 9, 1989
Tim Koepke, Associate Chief Negotiator DIAND	June 1, 1989
Art Pearson, Former Commissioner of the Yukon	June 15, 1989
Albert Peter, Land Claims Consultant CYI	June 6, 1989
Willard Phelps, Leader of the Yukon PC party, Leader of the Opposition.	June 8, 1989
Mike Phillips, resident	June 4, 1989
Jim Smith, Former Commissioner of the Yukon	June 7, 1989
Barry Staurt, Chief Negotiator YTG	July 25, 1989
Chuck Tobin, Whitehorse Star Reporter	June 9, 1989
Bob Van Dijken, Yukon Conservation Society	June 13, 1989
Dave Young, President Yukon Outfitters	June 15, 1989
Mike Whittington, Chief Negotiator DIAND	July 24, 1989

INTERVIEW QUESTIONS

- 1.) How did you come to be involved in the organization?
- 2.) What are the objectives of the organization?
- 3.) Who makes up the organization and is there a permanent staff?
- 4.) What do you judge to be the main strengths and weakness of the group?
- 5.) What is the groups general view of the Indian Land Claim? Negative or Positive?
- 6.) Does the group have specific objectives towards the Indian Land Claim?
- 7.) What are the main community influences on the organization?
- 8.) In general which government do you approach most often? Is it different for the Land Claim?
- 9.) What specific involvement does the group have in the Land Claim process? If any?
- 10.) What do you think accounts for the groups success or failure in the Land Claim process?

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Title of Thesis/Dissertation: INTEREST GROUP/GOVERNMENT

INTERMEDIATION IN THE YUKON INDIAN LAND CLAIM

Author


(Signature)

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Sept. 26, 1990
(Date)