

# The Yukon's Constitutional Foundations

Volume II



## A Compendium of Documents Relating to the Constitutional Development of the Yukon Territory



Kirk Cameron  
Graham Gomme



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# **THE YUKON'S CONSTITUTIONAL FOUNDATIONS**

## **Volume II**

### **A Compendium of Documents Relating to the Constitutional Development of the Yukon Territory**

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**In memory of Harry Johannes who, over four  
decades in the Yukon, contributed much to its development.**

**He held an undying capacity for hard work  
which he gave unsparingly to his passion,  
the Yukon.**

**These texts have been provided free to the people of the Yukon. However, in recognition of a highly important developing institution in the Territory, we would ask that contributions be made to the Yukon College Scholarship Fund from which a scholarship will be awarded periodically to a Yukoner who wishes to pursue studies in the political and constitutional development of the Yukon Territory.**

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## **FOREWARD**

In his preface to this two-volume set Kirk Cameron mentions that its production was inspired by the comments of Yukoners who desired a general reference source describing and providing the text of the many documents that make up the constitutional framework of the Yukon.

The efforts of Mr. Cameron and his colleagues, Steven Smyth and Graham Gomme, to meet this demand have produced a work that will be of great assistance to all those interested in Yukon constitutional matters. Educators, scholars, politicians, lawyers as well as the general citizenry will all appreciate the existence of this easily accessible compendium of constitutional documents and the chronology of events. There is little doubt that it will stand as an essential reference source for anyone with an interest in the Yukon's constitutional past, present, or future.

The authors and compilers of this work will undoubtedly be their own greatest critics; they will be the first to wish that it could be more complete, to wonder whether they have made the right judgments about what to include and what to exclude, and to question the descriptive notes and analytical portions of the text. Some of those worries may prove to be justified but they cannot overshadow the end result which deserves recognition as providing a great service to us all. For this, Messrs. Cameron, Smyth and Gomme are to be congratulated and thanked.

Patrick L. Michael  
Clerk of the Yukon  
Legislative Assembly

February 12, 1991

## PREFACE

During the summer of 1989, I met Graham Gomme who at that time was undertaking research for the completion of his Master's thesis on the Yukon Land Claims settlement. During our discussions, Graham mentioned that a number of Yukoners whom he had interviewed during the preparation of his thesis had expressed frustration in not having a reference containing the documents which have influenced the present constitutional character of the Yukon Territory.

I, too, have had a long standing interest in the constitutional and political evolution of the Territory. Graham and I decided to pool our resources and work on a manuscript that would provide the Yukon with this kind of reference.

Later that year, I was approached by another long-time resident of the Yukon, Steven Smyth. He expressed his own interest in the writing of a book on the history of the Yukon's constitutional development. During our conversation we decided we would bring together the document Graham and I were working on with the history provided through Steven's efforts. It is as a consequence of these discussions that the initial design was drawn among the three of us for this two volume set.

Shortly after the original concept for the compendium was developed, I had the good fortune of meeting with the Yukon's Senator, the Honourable Paul Lucier, and during very pleasant and lively debate over a wide range of national and Yukon issues, I happened to mention the project which we were planning. As a consequence of those discussions, the Senator offered his support in the development of the texts you are now reading. With this assistance we have been able to interview many who have had an important role in the development of the Yukon, both from within the Yukon and from the corridors of power in the House of Commons and the Senate of Canada.

We greatly appreciate Senator Lucier's contribution, and wish to acknowledge with thanks his unwavering commitment to our project. If these books are in any small way of assistance in the public debate over the constitutional future of the Yukon, Senator Lucier is to be thanked for his support.

We are in the most fortunate position to produce a number of copies to meet our primary goal, to stimulate debate among Yukoners on the important question of the Yukon's constitutional development; these we are providing without charge to the people of the Yukon.

What do we hope to achieve? Our objective is to increase public awareness in the Yukon respecting the constitutional relationship between the Yukon and "the outside", the society and governing institutions of the rest of Canada.



To meet this objective, the first volume is dedicated to giving the reader a history of the evolution of government in the Yukon. The economic and political events which shaped the road toward responsible government in the territory will be traced, including events which have led to setbacks in the Yukon's constitutional evolution. In volume 1 events are highlighted in bold print which relate to documents found in volume 2, and a code is included in order to allow readers to quickly identify related events. A bibliography is included to assist those who wish to delve further into this fascinating area of Canadian constitutional history.

The second volume will provide the reader with the texts of documents which have had an impact on the evolution of the territory. It will include: what many believe to be the Yukon's constitution, the *Yukon Act*, and subsequent amendments to that federal statute; other pertinent constitutional and federal legislation such as parts of the *Constitution Act, 1867* and *Constitution Act, 1982*; significant letters of instruction from the Ministers of Indian Affairs and Northern Development to the Yukon's Commissioners; constitutionally relevant agreements between the federal and territorial governments; documents which have shaped the relationship of the Yukon's First Nations to the Yukon and Canadian governments; and a range of other documents of importance to this topic.

In the introduction to the second volume, the thoughts of people who have contributed to shaping the development of the Yukon are also provided. Together, their thoughts make interesting reading, and provide a wealth of information on how the Yukon's destiny is perceived by decision-makers and opinion leaders.

The introduction to volume 2 also offers a provocative essay by the authors arguing one viewpoint on the Yukon's present constitutional status in Canada, and how recent events in the Canadian constitutional debate have rendered more difficult the Yukon's interest in moving forward along its constitutional evolutionary course.

This compendium does not profess to contain every document which has had an impact on the political and constitutional development of the Yukon -- that would require a far more expansive undertaking. The compendium provides those documents, or significant parts of documents, which the authors believe have had a substantial influence on the Territory's evolution.

The rule of thumb used by the authors to determine which documents should be included in volume 2 is whether the document or sections thereof has resulted in a different relationship for the Yukon in the Canadian constitutional framework. For example, the *Constitution Act, 1982* is a document which has an impact on all Canadians, whether they live in Pelly Crossing or Quebec City. However, certain sections are either dedicated solely to the Yukon and the Northwest Territories such as s. 51(2) or by implication have a greater impact on the territories, such as ss. 42(1)(e)(f) which allow for the extension of Provincial boundaries into the territories and creation of new provinces respectively. Therefore, these and like sections have been included in the compendium in that they reflect a unique status for the Yukon in Canada.

The Throne Speech opening the First Session of the 27th Yukon Legislative Assembly announced that one of the Yukon Government's priorities for the term would be to pursue public debate on the issue of the Yukon's Constitutional future. It is the opinion of the authors that these two books will assist Yukoners in this important debate, a debate which we believe will continue for many months to come.

The authors would like to express their appreciation to all those who contributed to the development of these volumes. The Clerk of the Yukon Legislative Assembly, Patrick Michael, and the former Yukon Deputy Finance Minister, Frank Fingland kindly gave us their perspectives on the development of the Yukon, and also contributed greatly by reviewing drafts of our work.

Our appreciation is extended to those who gave of their time to be interviewed for the book. These include former Yukon Commissioners James Smith, Ione Christensen, and special friend, Doug Bell.

Yukon political leaders, Premier Tony Penikett, and the Leader of the Official Opposition, Willard Phelps generously gave of their time to be interviewed.

Other key input from Yukon residents included conversations with Albert Peter, Dan Odin and John Lawson, whose various focusses assisted us in understanding current developments in the Yukon.

The former long-time Member of Parliament for the Yukon, and past Deputy Prime Minister of Canada, the Honourable Erik Nielsen gave us his perspective on "inside Ottawa" and how the workings of politicians and bureaucrats have had an impact on the Yukon's development.

Invaluable input came from a number of Canadians who either now or in the past have contributed to the evolution of northern Canada. Rick Van Loon, Jack Stagg, Carol Baker and Alastair Campbell are officials in the Department of Indian and Northern Affairs. They were most supportive both in providing materials needed for the compendium and in giving us a perspective of northern development from the halls of the federal civil service. Gordon Robertson, a former Clerk of the Privy Council, a former Deputy Minister of Indian and Northern Affairs, and an author on the issue of northern constitutional and political development also gave us his views on the Yukon's history and his perceptions on where the territory is heading.

Insight was also received from Senator Michael Pitfield. His key role in the 1970s and 1980s in the Prime Minister's Office during the federal-provincial Conferences on the patriation of the Canadian Constitution gave him a strong appreciation for the Prime Minister's and Provinces' divergent visions of Canada and the place of the North in those key national debates.

Academic interpretations of Canada's constitutional environment were provided by Professor Ron Cheffins, and more general perspectives on economics and politics in Canada by Professor Jim McRae, both of whom are on faculty at the University of Victoria. Input from Queen's University Professor, Christopher Crowder was

also helpful in placing the specific issues of the Yukon's constitutional development in the context of the British Parliamentary tradition.

There are a number of other provincial and territorial civil servants to be thanked who provided their perspectives on the development of the north, but who have asked not to be identified.

Very special thanks must go to Nancy Cameron for her patience in editing parts of volume 2, to Shane Janzen who gave generously of his time in providing us with a strong historical understanding of the constitutional development of Canada, and to Doug Spray, a former Deputy Minister in the Yukon Government, who helped through many a hearty discussion to shape the thinking which resulted in this text.

Peter, Ann, Dave and Marilyn Prudden must also be thanked for their kindness in opening their homes to me during the final stages of preparing these books for publication.

A number of the aforementioned as well as other Yukoners and Canadians have provided their written views which are included in the second part of the Introduction to volume 2. We wish to express our gratitude to these people.

There are hundreds of other contributors to the shaping of this document, those Yukoners who, over the past many years, have given to Graham, Steven and me a sense of the identity of the Yukon as a distinct, special place in Canada. This Yukon spirit was the motivation behind our taking on this task, and to all of those who we have had the privilege of meeting, we say thank you.

Kirk Cameron  
January, 1991



## INTRODUCTION

### **A Perspective on the Constitutional Status of the Yukon - Opening the Debate**

Throughout 1990 there were considerable discussions and activities surrounding reform of Canada's Constitution. The Meech Lake Constitutional Accord dominated the headlines across Canada early in the year. In September the Prime Minister took the unprecedented step of invoking a little known section of the Constitution to add eight Senators to the Upper Chamber in an attempt to ensure passage of the Goods and Services Tax. He also announced that he would undertake a nation-wide initiative to hold extensive public debate on the constitutional future of Canada. To capture this debate, the Prime Minister commissioned the Citizens' Forum on Canada's Future which is to present its report on Canada Day, 1991.

Many Canadians believe the nation is at an important juncture in its history. The foundations of the Canadian governing structure are being seriously questioned, and many wonder if Canada will survive the storm of debate building in this post-Meech era. These troubling trends were dramatically illustrated in the days leading up to and following the June 23rd, 1990 deadline for ratification of the Meech Lake Constitutional Accord by all provinces and the federal government. At that time the media was reporting a strengthening of separatist sentiment in Quebec, as well as comments by Western Premiers that it might be the appropriate time to consider a western arrangement to take the four provinces out of Confederation. At least one of the Premiers of the Atlantic Provinces mused over the option of a tie -- perhaps economic, perhaps constitutional -- with the United States.

In addition to these challenges, the issues of self-government and comprehensive claims for Canada's aboriginal peoples add a further dimension to the complex question of Canada's constitutional future. This period in history could represent a significant turning point in relations between the native and non-native people of this country.

It is clear from this range of issues respecting the nation's constitution that the next few years will be of immense importance in defining the future of Canada.

Where does the Yukon fit in this national debate? Will the territory be an equal participant in the debate and ultimate decision-making over the future of Canada? If the precedent set by the Yukon's exclusion from past First Ministers' Conferences is any indication, the answer is no. As in the past when First

Ministers have met to decide on the nation's Constitution, Yukon representatives will not be given the opportunity to take part in deciding the territory's role in the Canadian federation. If this assumption is correct, the refusal to allow the Yukon to participate fully in this decision-making constitutes a denial of equality to those living in the territory. Therefore, it is of paramount importance that Yukoners consider the important question of what future constitutional arrangements they want to have within Confederation in order to reach their full potential both as Yukoners and Canadians.

This introduction is intended to provide the historical background for consideration of these important matters. To begin with, it will define the term "constitution" to set the context for discussion. The introduction will then detail historical evidence which reflects the differences between the constitutional status of the Yukon and the provinces. Constitutional set-backs faced by the Yukon during its history will be identified, and interpretations provided as to how these set-backs have had and will have an impact on the territory's constitutional development. The introduction will give a perspective on historical circumstances and events both within the Yukon and on the national stage which have affected the Yukon's potential to enter the "Canadian constitutional fold" as a full partner - as a province. It will also indicate the difficulties and constitutional insecurities which face the Yukon as a territory under present constitutional arrangements. In addition, this chapter will identify those benefits enjoyed by the Yukon as a result of its territorial status, and the important part land claims for the Yukon's First Nations will play in the shaping of the territory's future.

\* \* \* \* \*

It is important first of all to define terms. What is a "constitution" and why do Canadians spend so much time in debate over it?

The best definition of "constitution" for the purposes of this chapter is as follows:

A constitution must first provide for the creation of the basic organs and institutions of public authority. Second, it must define the powers possessed by each of the public institutions and in some respects define the relationships between these various institutions. Third, a constitution must provide for the processes by which law is created, and at the same time provide for the limitations on the power exercised by the officials of public institutions. Thus a constitution assigns legal responsibility, defines the limits of authority, and establishes the processes which must be followed before this authority can be exercised. Furthermore, a constitutional document must provide for a method of change, both of political leadership and of the basic constitutional framework, the latter by way of amendment to the constitution.

(see Cheffins and Johnson, *The Revised Canadian Constitution, Politics as Law*, 1986, p. 3.)

In Canada there are two levels of constitutionally defined government: federal and provincial. Legislative authority is vested in either one or the other level of government as defined through the *Constitution Act, 1867* and the *Constitution Act, 1982*. Since 1867 the relationship between these two levels of government has undergone a number of significant trials, both political and legal, to determine the extent of the powers of the two levels. It is clear that the two levels of government are viewed as distinct, constitutionally recognized "players" in the Canadian governing system. They are able to exercise authority in their respective areas of jurisdiction with this authority secured by a constitution which cannot be unilaterally changed by either level of government.

With the patriation of the Canadian Constitution in 1982, and the introduction of the amending formula within the Constitution, authority now rests with both levels of government to bring about change to the relationship of the governing institutions in Canada and their respective powers. The amending formula has thus, in theory, met the requirement to "provide a method for change" as noted by Cheffins and Johnson. As seen from the debate over the Meech Lake Constitutional Accord, the value of the amending formula can be viewed in a number of ways. It can be seen as a privilege enjoyed by a democratic society whereby the interests of the provinces and of the federal system are reflected in constitutional change. Alternatively it is viewed by many as a curse given the level of "horse-trading" and sacrifices necessary to bring about changes agreed to by the parties with their divergent interests. Finally, still others have looked upon it negatively in that it creates a state of executive federalism in which public participation is largely excluded.

In any event, the governing structure in Canada, as defined and protected through the constitutional base, is comprized of two levels of government, federal and provincial.

\* \* \* \* \*

There are significant differences between the constitutional status of the Yukon and the provinces. Although it can be argued that the Yukon Territory has achieved most of the elements of a provincial model of government, in that it has jurisdiction over most of the provincial-type responsibilities that are enjoyed by the provinces, its constitutional status is substantially different. (Those areas of responsibility not now under territorial jurisdiction or not managed by the territory are the subject of negotiation between the federal and territorial governments. The intention is that either jurisdiction or service delivery or both will be turned over to the territorial government once agreement is reached on funding for those services.)

For those who have studied the history of the evolution of the Yukon Government, these attributes of provincial status, the transfers of responsibilities to the territory, are of little comfort in leading one to believe that the Yukon Government's role is secure constitutionally. Nor is it a foregone conclusion that the Yukon will be given provincial status as the outcome of its assuming provincial-type responsibilities.

Where is the evidence supporting these concerns? The answer is in the history of the Yukon's political and constitutional development. A review of this history reveals that the Yukon, on a number of occasions, has faced real constitutional set-backs which have impaired its progress toward provincial-style government and formal provincial status.

The first significant set-back occurred with the creation of the Yukon Territory in 1898. Prior to this, the North-west Territories, of which the Yukon was a District, had its own Lieutenant-Governor representing the Crown (there is some argument that the Lieutenant-Governor represented the federal government, not the Crown, but this was clarified in the court decision respecting the Maritime Bank case, 1892), and a legal framework which allowed for the transition of an appointed Council to one with elected officers. Essentially, with the existence of the Office of Lieutenant-Governor and a statute which allowed for the evolution of representative government, the stage was set for the eventual creation of new provinces carved from territorial lands. Manitoba in 1870 and Alberta and Saskatchewan in 1905 took their places as Canadian provinces. However, the fate for the lands "north of 60" was to be different.

In 1898 the new federal legislation for the Yukon established a new relationship for this jurisdiction. In the words of one historian, this new legislation resulted in their reversion "to the pre-1875 territorial constitution - the most primitive form which had ever existed in the Northwest." (see Thomas, *The Struggle for Responsible Government in the North-West Territories, 1870-97*, 1978, p. 267). The Crown's representative, the Lieutenant-Governor, was replaced by a colonial-style Commissioner, and legislative and executive authority were given to an appointed Council in the Yukon.

If there had ever been a federal intention to allow territories to evolve rationally toward provincial status (and this is arguable), the new 1898 legislation conveyed a new message which departed from this thinking. The Yukon from that point forward was to be considered as a different order of government in Canada, clearly subordinate to the federal government and a reserve for some future use yet to be defined.

The Yukon suffered a second constitutional set-back in 1918. This time changes took place at the heart of representative government in the territory, the elected Territorial Council.

Early in the 1900s an elected Territorial Council had been established as a result of pressure from residents of the territory who had come to the Yukon because of the Klondike gold rush. The Council provided advice to the territory's "Governor", the Commissioner, on matters pertaining to good government within the region. The Commissioner was closely tied to the Council in respect to the development of territorial ordinances (laws). However, the executive authority, the ability to direct the affairs of the administration, rested with the Commissioner and appointed officials to whom he delegated responsibilities. In the first decade of the new century, the Council's size was increased by way of



federal amendments to the *Yukon Act*. At the same time, though executive powers were not transferred to the elected representatives of the Yukon Council, serious debate took place in the territory on the transfer of executive control from the Commissioner to the elected members. This process, the establishment of responsible government, was seen by Yukoners as consistent with natural political evolution in the Canadian tradition with its provincial model. By 1911, however, the population of the Yukon had dropped from the gold rush level of 50,000 at the turn of the century to below 12,000, and by 1917 the population was well below 10,000 and still decreasing. It was evident to Ottawa that the economic explosion associated with gold would not be self-sustaining in the post-gold rush Yukon.

Ironically, despite the rapid development of representative government in the territory and the discussion over responsible government in the first decade of the century, in 1918 steps were taken by the federal government to amend the *Yukon Act*, the intention being to abolish the Territorial Council. If the Council had been abolished, the Yukon would have been no more than an arms-length agency of the federal government with no formalized input from the people of the Yukon in the governing of the territory's affairs. Due to intense pressure from the remaining Yukon population however, along with strong opposition from the Yukon's one Member of Parliament, the decision was made to leave an elected Council in place, but with a reduction in numbers from its 1909 peak of 10 to 3 elected Members.

The reasons for this change of federal attitude toward the maturing of responsible government in the Yukon are many. Post-World War I politics, and inter-governmental disputes between the federal and provincial governments had some impact on this outcome. Clearly, the economic picture in the Yukon had much to do with this new federal policy direction. Suffice it to say that the Yukon suffered a substantial constitutional set-back. Though the Council was not erased entirely, the provision dating back to the 1918 amendment to the *Yukon Act* remained in place until 1952 whereby the Territorial Council could be eradicated by way of a federal Order in Council.

On no occasion during the evolution of provincial governments in Canada had federal decision-making brought about the reduction in the size of a provincial legislature. Arguably no province had experienced such a population decline. At the same time, however, no province faced the indignity of federal legislation whereby the province's legislature could be abolished through a decision made by the federal Cabinet. As a "creature" under the authority of a Parliamentary statute, the *Yukon Act*, the Yukon was clearly vulnerable, unlike the provinces, to its parent's interest.

A third constitutional set-back was experienced by the Yukon in 1982, in this case one shared with the Northwest Territories.

Though the circumstances and political histories are different, the acceptance of new partners in Confederation was the same in that new jurisdictions were accepted by Canada, equal in status, as provinces. At no time did the federal government require assent from any or all of the provinces to allow a new member in the provincial club, nor was there ever any question as to the ultimate goal of the economic and social development of a region: provincial status.

The coming into force of the *Constitution Act, 1982* marks a shift away from this understanding respecting the creation of new provinces, an understanding which had been in place since 1870. Now the agreement of the federal government and 7 of 10 provinces with over 50% of Canada's population is required if there is to be a new member admitted.

The Meech Lake Constitutional Accord represented a potential fourth constitutional set-back for the Yukon. If the Accord had been accepted the amending process introduced in the *Constitution Act, 1982* would have been further tightened by a unanimity requirement for the creation of new provinces. This requirement could still be entrenched through future constitutional amendment. If this comes about, all legislatures in Canada, along with the Parliament of Canada, will have to consent to the acceptance of new provinces. After watching the failure of First Ministers to achieve ratification of the Meech Lake Accord under the present amending formula, it leaves one to doubt that it would ever be possible for the 11 members and their legislatures to agree on an additional provincial member at the table.

\* \* \* \* \*

Despite the historical precedents that have been set by this series of constitutional set-backs, some have argued that the Yukon has nothing to worry about respecting continued evolution up to and including provincial status, that its recent history in the '70s and '80s has shown a consistent evolution toward greater responsibility supported by a series of federal governments and by the people of Canada in general. Those individuals would state that the federal government has shown a commitment to continued support for this political and constitutional evolution. Indeed, among those interviewed for this book the majority felt that the Yukon would achieve provincial status within the first two decades of the next century.

However, there have been a number of key events in the past decade that have created a far more complex environment within which the Yukon will be seeking further constitutional change.

One of these events was the coming into force of the *Constitution Act, 1982*. As noted earlier, this Act has seriously inhibited the Yukon's ability to enter the "provincial club". This is particularly sobering when viewed in light of a 1979 commitment made by the Prime Minister declaring that Yukoners could influence their own fate by deciding the issue of provincial status when they were ready. A few months after this statement was made, Canada elected a new government to Ottawa. With a new government and subsequently a new Constitution Act in 1982, the result was that the rules for the establishment of new provinces had entirely changed. With the new Constitution, 7 provinces have to be supportive of an initiative to create a new provincial partner.

A major complicating factor in the Yukon's search for further constitutional change is the result of the federal government's continued strong interests and direct involvement in northern affairs.

An incident in 1982, in which the Legislative Assembly attempted to enact a territorial Executive Council Act, is indicative of this continued active federal role. The Yukon's Administrator, acting on behalf of the Commissioner, and upon advice from Ottawa, reserved assent to this territorial bill. This use of superseding federal authority to reserve assent to a territorial statute reveals a key difference between the authority of territories and that of the provinces in relation to the federal government. The authority of the Lieutenant-Governors to reserve passage of provincial bills has fallen into disuse. The Commissioner is still prepared to exercise this control on behalf of Canada.

Clearly the relationship between Ottawa and the Provinces and that between Ottawa and the Yukon are very different. Where the Yukon is concerned, the federal government has superseding legal powers, and is prepared to use these powers where it feels it necessary. Unlike the provinces, the legislation that grants authority to the Yukon to exercise executive authority over the territory is an act of the Parliament of Canada. The federal government can and clearly will exercise its power under that legislation as it sees fit.

It can be argued that due to convention (essentially an understanding which is not legislated between governments on their conduct in certain matters), the Yukon's authority cannot be taken away by the federal government. However, the Courts have definitively ruled on this point (1981 Supreme Court decision, *Reference Re Amendment of the Constitution of Canada*). Conventions, the Court stated, are not enforced by the Courts; where there is explicit legislation granting authority, that legislation can be amended whenever deemed appropriate by the government which passed it, and therefore, given the status of the *Yukon Act* as a piece of federal legislation, Parliament may amend that statute as and when it sees fit. This point was most strenuously argued by the constitutional expert, Professor R. I. Cheffins. He stated categorically that due to the statutory supremacy of Ottawa, the Yukon has no more guarantee of legal permanency and survival than a school board or municipal government. The municipal government, the school board and the Yukon Government can have their powers stripped from them or modified by the superior level of government at any time against which there is no legal recourse.

The federal government continues to have a special relationship with the territories. Despite federal support in transferring provincial-type program responsibility to the Yukon and its commitment to strengthening the role of territorial governments, its position remains that it must maintain a strong role in the territory to fulfill its national obligations. This attitude is clearly expressed in the 1988 position paper, "A Northern Political and Economic Framework", which was produced by the Department of Indian Affairs and Northern Development. Despite the paper's confirmation of the federal commitment to the continued growth of territorial responsibility in "provincial-type" areas, it states that "the Government of Canada will always have a special stake in the North because of its geostrategic importance, its aboriginal people, its unique

environment and the important contribution the North may make in the future to national energy security".

This federal position ensures that further movement by the Yukon toward provincial status will be complicated by discussions of the federal government's continued role in these areas of public policy. The result could be a different relationship between the "Province of the Yukon" and the federal government than the traditional provincial model; the new constitution may hold different jurisdictional arrangements between the Yukon and Canada in those areas considered important to the national interest.

It is evident from recent federal legislative actions that within the federal structure there are different opinions as to the constitutional position of the Yukon, and this, too, adds to the complexity of the environment in which constitutional change will occur. An example of these differing opinions was evident in 1987 when the federal government, through the Office of the Commissioner of Official Languages, introduced French Language legislation for the purpose of ensuring full bilingual services in federal government offices. The bill inferred that the Yukon was to be considered an agency of the federal government.

This is highly revealing. It clearly demonstrates that despite the evolution of government in the Yukon where today exists responsible and representative government along the lines of the provincial model, there remains a perception in Ottawa, at least in some key offices, that the Yukon's relationship to Canada is as a subservient agency of the federal government. (As an historical note, through negotiations with the federal government, the Yukon was able to reach an accommodation whereby something less than full bilingualism was accepted as well as agreement to provide for some public services for native people in their aboriginal language.)

The preceding arguments respecting the complicated constitutional and political environment in which the Yukon exists have related primarily to the territory's relationship with the federal government. The latter is, however, not the only government under existing constitutional arrangements which can have a substantial impact on the future of the territory. Ambitions of the provinces, too, could add significant complexity to the environment in which the Yukon hopes to realize its aims.

Throughout the Yukon's history, the British Columbia government has from time to time looked north at the largely untapped resource wealth of the Yukon. The most notable case was in 1937 when Premier Duff Pattullo entered bilateral negotiations with the federal government for the annexation of the Yukon. The territory had no constitutional protection from a land and resource grab from that province. Fortunately for the Yukon, politics surrounding the existence of Catholic schools in the territory forced Premier Pattullo to withdraw from negotiations. This, however, was by no means the only occasion when the Yukon was being considered by expansionist interests in British Columbia.

Interestingly, this potential for provincial expansion northward was not struck from the Constitution in the drafting of the *Constitution Act, 1982*. Through the negotiations which led to the new Constitution, the federal government and provinces could have recognized the distinct regional nature of the territories by

striking reference to the constitutional provision allowing for this extension of provincial boundaries northward. This change was not made. The continued existence of this constitutional provision has done nothing to comfort Yukoners in believing that their interests are being supported at First Ministers' Conferences. If anything, the existence of this provision serves to substantiate the opinion of many northerners that the territories are being kept in reserve for the eventual exploitation by southern governments.

It has been seen, therefore, that with the complexities of the present environment in which the Yukon will be seeking constitutional reforms, it could be far more difficult to bring about substantive change. The mandates of the various offices and departments in the federal government must be considered. The provinces have, since 1982, taken on a more substantive role in the debate on constitutional advancement for the territories, especially where changes to the Constitution Acts are concerned. And at the same time, there are differing interests among the people of the Yukon itself which add to the complexity surrounding constitutional reform. Change will not come easily.

\* \* \* \* \*

Ironically, despite this complex situation in which the territory finds itself, the Yukon is poised on the brink of implementing a new constitutional arrangement in Canada, an institutional framework departing significantly from the "classical" provincial model. This new relationship has to do, to a large degree, with the Final Land Claims Agreement and implementing legislation.

Confederation gives to the provinces a range of social and economic responsibilities. Though there are "grey areas", the provinces generally have responsibility over such classes of subjects as education, health and human resources services, justice (at certain levels in the court system) etc. In the Yukon, under the Land Claims Final Agreement, and in separate Band agreements, authority will be given to First Nations to take a full participatory role in decision-making in these traditionally provincial areas of responsibility, especially in those areas considered a high priority to Indian peoples. Similarly, Indian peoples will be given seats (in some cases up to 50%) on important resource and service decision-making boards (at the time of printing the umbrella Land Claims Agreement had not been ratified).

The legislation to establish these new relationships between First Nations and the territorial government will create a new constitutional dimension for the Yukon. Both federal and territorial legislation will be used to "cement" this encompassing agreement, and as a consequence, a new constitutional dynamic will have been created.

Relating to this point, in an interview Premier Tony Penikett posed the question, why should the Yukon not be able to define governing structures which make sense in the Northern context? For instance, it makes some sense to consider giving authority for wildlife management to municipal authorities, and that for sewer and water systems to the territorial level. Similar points respecting

realignment of responsibilities at various levels of government were raised by Albert Peter, a Yukon Native, who has been heavily involved in the Yukon's Land Claim negotiations.

All in all, the Yukon is on the threshold of creating a new constitutional relationship in the territory between native and non-native residents. This relationship will have a substantial impact on both the people and governing institutions of the Yukon.

A former senior federal public servant and author on the constitutional development of northern Canada, Gordon Robertson, also spoke of northern governments taking on a special role in Canada, in some ways quite different than that of the provinces. He argues that it would be in the national interest for the northern governments to take an active part in external affairs in relation to circumpolar cultural, scientific and management activities.

Many steps are already being taken in these areas. For instance, the Circumpolar Heads of Education Conferences are now an annual event, bringing together education Ministers and Commissioners from around the circumpolar north. The Yukon and the Northwest Territories were founding members of the Conferences. It is possible that these new international arrangements will, at some future point, be given constitutional recognition as a legitimate role for northern jurisdictions to play.

It is possible, with these recent developments, the complexities of government at the national level, the increased involvement of the provinces, the Land Claims resolution, and the new initiatives by the territorial government, that the constitutional arrangements for the Yukon may be significantly different than those written for each of the 10 provinces.

\* \* \* \* \*

Given the breadth of this topic, an Introduction of this nature leads to a number of conclusions.

First, and perhaps most importantly, though it enjoys the privilege, the Yukon has no constitutional right to govern its territorial affairs. Whereas the provinces are equal participants under this nation's Constitution, the Yukon derives its authority (provincial-type responsibilities) from a piece of federal legislation, the *Yukon Act*, and from letters of instruction from a federal Minister of the Crown, the Minister of Indian and Northern Affairs. At any time, perhaps due to an economic or energy crisis, the federal government and Parliament can change those rules. Executive authority to manage schools, fisheries, municipal affairs etc. can be withdrawn from the Yukon's Cabinet and returned to the Yukon's federally appointed Commissioner. The lands that have been transferred to the Yukon, ironically because of the Yukon's legal status as an institution of the Parliament, can be withdrawn, their use to be determined by Ottawa. Representative government, the election of a territorial legislature to determine laws for the Yukon, is equally vulnerable, and as seen in 1918 could be erased with very little effort by the federal government (sadly the 1918 debate took a mere two pages in Hansard before the House of Commons passed the amendment to the *Yukon Act*).

A second conclusion one can draw is that without provincial status for the Yukon, debate over constitutional change in Canada, such as the Meech Lake Accord discussions, will take place without Yukon representation when decisions are being made over the common future of the territory's people. It can be argued that, because the Yukon is not represented, the territory holds the status of a colony within the nation's borders. The constitution is imposed on it by external authorities who have come to conclusions without representation by the Yukon in constitutional decision-making. At this point in Canadian history when the entire constitutional framework for the nation is being examined, the Yukon is particularly vulnerable to substantive changes that may take place. Because it does not have a place at the constitutional table, it is most likely that it will not have a say in defining those changes.

A third conclusion can be drawn. It will be far more difficult for the Yukon to negotiate its way into the constitutional fold. In the past, provinces were created by the federal government, but now, due to the *Constitution Act, 1982*, at least 7 provinces representing more than 50% of the Canadian population will have to support the establishment of a new province. Given the hyper-sensitivity of Canadians to the present constitutional environment, and given the losses in the recent constitutional debate over the Meech Lake Accord, it is unlikely that there will be much enthusiasm for the addition of a new full participant at the table.

On the positive side, one conclusion is that, ironically, this territorial status which to a significant degree leaves the Yukon vulnerable to its federal "masters", is in some ways of substantial benefit to the territory. The Yukon has enjoyed considerable support from Ottawa through special funding arrangements which are not in place for the provinces. If the Yukon were made a province, it is quite clear that, though there may be a phase-in period where existing arrangements remain in place, eventually the territory would be expected to play by the same financial rules as do the provinces (this view was expressed by most of those interviewed for this book). Therefore the levels of service now enjoyed by Yukoners would have to be substantially reduced, or the level of taxation dramatically increased to cover revenue short-fall. (Some have argued, as have the authors, that this financial question is a "red herring" masking the matter of the provincial governments' jealous guarding of "provincial club" membership. Whether this is the case or not, the financial issue is raised repeatedly by the provinces as a key point of contention, and therefore will likely not go away.)

A second positive conclusion resulting from the Yukon having remained a territory up to this point is that it can negotiate terms for provincehood which are sensitive to the circumstances of the 1990s. The Yukon is on the verge of setting its own constitutional arrangement with its aboriginal peoples by concluding Land Claims negotiations. When the time comes for the territory to negotiate its place in the Canadian constitutional fold, it will do so knowing that it can negotiate an arrangement with Canada wherein many of the self-government issues of native people have been addressed. It may be appropriate to establish a triangular constitutional relationship whereby the Yukon Government, Canada, and the Yukon's First Nations cement a more innovative arrangement which accommodates the interests of the three parties. In any event, the Yukon is in a better position to discuss constitutional change in the context of the needs of its aboriginal people.

The Yukon can also negotiate a future that recognizes the regional distinctions and relationships enjoyed as a member of the circumpolar north. New relationships with northern neighbors may trigger the adoption of constitutional arrangements consistent with this circumpolar dimension.

It is hoped that this introduction and the contents of these two volumes will contribute to the Yukon debate respecting its future. Yukoners have before them the most significant of challenges, to chart their course toward permanent status as a member in the Canadian constitutional fold at a time when the nation is equally involved in debate respecting its future.



## INTRODUCTION

### Statements on the Yukon's Constitutional Development

The first part of the Introduction has given one perspective, that of the authors, on the constitutional status of the Yukon Territory. In the next pages, readers will find statements provided by other Yukoners and Canadians who have either watched closely or taken an active part in the debate over the Yukon's place in Canada.

It is hoped that these comments will provide viewpoints which are of value to those interested in this subject.

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*The Honourable Audrey McLaughlin (Member of Parliament,  
Yukon, Leader of the New Democratic Party of Canada)*

December 12, 1990

At present, the Yukon, constitutionally is a colony of the Federal Government.

In practice, however, the Yukon legislature does have many provincial powers and operates more like a provincial government with somewhat fewer powers and much less autonomy.

Yukon Land Claims are very much a part of the future constitutional developments of the Yukon and provide the basis for a model relationship between provincial/territorial governments and First Nations.

The Yukon must, in my view, continue to work on the premise that provincehood is the eventual objective.

While it is increasingly difficult, particularly should unanimity for constitutional change become entrenched, it is nonetheless the legitimate outcome of a democratic, pluralist country.

Canada is an Arctic nation, a fact which has rarely been reflected in nation building. The far North is extremely important geopolitically, all the more reason that the legitimate concerns and views of northerners must be acknowledged by the Constitution of Canada.

The Yukon society, while small in population is sophisticated culturally and politically. We can no longer accept being the stepchild who doesn't get to go to the ball. It is not a matter of what we would take from Canada, but what we can contribute.

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***Senator Paul Lucier (Senator for the Yukon, former Mayor of Whitehorse, Yukon)***

December 3, 1990

I am very pleased to have given assistance to Kirk, Graham and Steven in producing this two volume set on the constitutional development of the Yukon Territory. It is a set which will be of significant long term value to the people of the Yukon in determining their future.

I have been asked to provide my views on the political and constitutional development of the Yukon. I will comment from a perspective that many people do not normally consider when they speak about Constitutions. What I wish to talk about are people.

When I arrived in the Yukon in August of 1949 it was to spend a winter with my brother who was working as a steward on the paddle-wheeler "Klondike", and then move on to other endeavours. Forty-one years later, I remain and always will be a "Yukoner". When I first arrived in Dawson City during that summer of 1949, I felt a part of history that was truly what being a Canadian was all about. To this day, a visit to Dawson stirs those same emotions in my soul.

It is easy to pick up any one of a number of "learned journals" and read sophisticated definitions of Canada's Constitution, the British North America Act, the Constitution Act 1867 and 1982. There are elaborate arguments put forward in the Courts of this country on how to interpret these and similar documents. The whole topic continues to employ many lawyers and academics.

But, I argue Constitutions are worthless if they do not represent the views of people willing to be governed by those words. Constitutions do not belong to lawyers and academics. They belong to people. Constitutions spell out individual rights in society through which we learn to live together. They create the institutions in which we entrust the responsibility for the formation of public policy and government programming. Constitutions are merely vehicles for expressing and defending the collective wishes of the people.

The people of the Yukon are proud to share in the ownership of the Nation's Constitution. We ask for no more than is received by any other Canadian, and will accept no less.

Because of our "Territorial" status our representative institutions are in place under direct control of federal legislation. When we talk about our future and the way in which we want to direct our affairs, we do so knowing that our future plans must receive approval of the Parliament of Canada.

When all is said and done, Ottawa controls the Constitution of the Yukon. It is not in the hands of Yukoners.

The message I hope to convey to fellow Yukoners is that we must view our future in light of this reality. When we deliberate on the Yukon's future, on the constitution that we want for our Territory, we must do so realizing that the consensus arrived at by us may not be easily sold to a Prime Minister, ten Premiers, and several dozen Constitutional lawyers and bureaucrats in Ottawa.

We must, however, continue to insure that any constitutional debate affecting the Yukon will take place in the Yukon with an opportunity for all our people to have full participation. We must be in a position to put forward a united message to Ottawa.

With a strong position to put forward we may have success in cementing a more secure future for the Territory. If we are a house divided without a broad consensus we stand little chance of achieving increased constitutional permanency in this nation. Never again can we accept a "seamless web" Constitution from Ottawa that we were not instrumental in writing as was the case with the Meech Lake Accord.

While not heavily populated, the Yukon is a very beautiful, historic and important part of Canada. I personally am most thankful to have spent my adult life enjoying its people, wilderness and beauty.

I am honoured to have had a small part to play in the production of these two volumes. Again, I thank Kirk, Graham, Steven and everyone who co-operated with them in this very worthwhile endeavour.

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### ***Vic Mitander (Council for Yukon Indians)***

March 8, 1991

The ongoing land claims negotiations are beyond doubt the most constitutionally significant event to occur in the Yukon Territory since 1898. All other processes or events touching upon the constitutional evolution of the Territory are, by comparison, of minor importance.

It is widely accepted that the homelands of the Yukon First Nations were transferred from Britain to Canada in 1870 upon Canada's constitutionally entrenched promise that:

*...upon the transference of the territories in question to the Canadian Government, the claims of the [First Nations] to lands required for purposes of settlement will be considered*

*and settled in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines.*

Thus, the Canadian Government acquired the homelands of a great many First Nations in northwestern Canada, including the Yukon First Nations, upon the constitutionally entrenched promise that it would negotiate a treaty or land claims agreement with the First Nations prior to opening our homelands to settlement by non-natives.

While the Canadian Government complied with its solemn pledge elsewhere throughout Western Canada during the period from 1870 to 1930, as is shown by the post-confederation treaty-making process, its lust for the perceived mineral wealth of our homelands at the time of the Goldrush resulted in a decision not to enter into any treaty with the Yukon First Nations. In the result, Canada has been in breach of its constitutional obligations to the Yukon First Nations since the turn of the century and, since that time, has been continuously granting our lands and resources to non-natives without any lawful authority.

It was only in 1973 that the Canadian Government finally saw the light and realized that a settlement of the Yukon First Nations claim is an essential prerequisite for constitutional development in the Yukon Territory. Since that time we have been engaged in negotiations towards a final settlement of our claims to aboriginal rights, title and other interests in our unsundered homelands.

The settlement of our claims, when it is achieved, will be an extraordinarily significant constitutional event for all Yukoners, native and non-native alike. From the perspective of government, the settlement of our claims will finally remove the cloud that has existed over land titles in this Territory. It will mean that for the first time in more than a century the government will have the lawful authority to make grants of land and issue mining licenses.

For the First Nations a settlement of the claims will represent a clear, constitutionally enforceable statement of the relationship which shall exist into the future between the First Nations and their governments and the institutions that have been established by non-native Yukoners. It will be a social contract between the two major segments of Yukon society and, as such, will serve as the cornerstone for the constitutional development of the Territory.

The settlement of the claims will mark an historic watershed between the era in which the First Nations' most basic human rights were routinely ignored and the new era in which our rights in and to our homelands have been detailed and entrenched in the Constitution of Canada.

For all Yukoners, native and non-native alike, the settlement of the claim will mark the coming of age of the Yukon Territory.

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**Commissioner J. K. McKinnon (Commissioner of the Yukon Territory)**

February 7, 1991

When Graham Gomme wanted to interview me last summer while he was researching this book, it placed me in an impossible dilemma. As a researcher and political scientist in my past life, I know the importance of reporting as clearly and candidly as is possible on the constitutional and political "revolution" that has taken place in the Yukon over the last thirty years.

Until I retire from public office, however, I thought it would be both impossible and inappropriate, for obvious sensitivities, to be completely open and frank with Graham.

I could not see my comments going unrecognized -- even with source anonymity.

Having been privileged to serve four terms of office as a Yukon MLA during the period you are examining, as the first chair of the Financial Advisory Committee -- the pre-cursor of the present Yukon Executive Council, as the first elected Minister of Municipal Affairs and Highways and Public Works in Yukon's history, and as the first Yukon Cabinet Minister to be allowed to sit at the Land Claims negotiating table, I'd be disappointed if the Yukon public didn't instantly identify my style, comments and candor.

I remarked to Erik Nielsen when he was working on his book, "The House is not a Home", that if any of our privileged correspondence over the years on your subject matter found its way into his work, I would probably be the shortest term Commissioner in the history of Yukon. Erik's reply was that he'd stick to the federal side and that the unexpurgated version of that period in Yukon's history would remain for me to tell when it was possible to do so.

[AUTHORS' NOTE: We look forward to Commissioner McKinnon's book when he is able to publish it.]

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**Douglas Bell (former Commissioner of the Yukon Territory)**

March 17, 1991

To become, or not to become a province seems to be a burning question only when there is money to burn. In a word it is a "luxury" item. It occupies necessary resources of government, and people, when the society, and especially government, are at the top of that reality of the northern scene -- the boom-bust cycle. Periods at the bottom of the cycle demand total attention to survival matters, and constitutional niceties are set aside for another day.

When the time is right, and the question does arise, the players and the opinions abound. At times it has seemed to parallel that ancient clerical discussion about the number of angels that could dance on the head of a pin. A

discussion we are told that occupied decades. It seemed for a long time there were those who would like to relegate Yukoners to a similar fate.

After many decades constitutional change began. The beginning of the end of our own form of colonialism. It came, like the Meech Lake Accord, lacking normal courtesies and conventions. It did not involve the people. It involved only the politicians. A political act that held, indicating though not involved, the people agreed.

The arguments continue. Should we, or now, can we, become a province? When? Why? How? I seek another parallel. Perhaps we could be compared to the teenager at the point in life having just graduated. Who makes the judgment that the individual is mature and ready to bear the full burden of self-sufficiency? Time, circumstances, economics, the heart, the soul, all join together to bring about the answer. So, I suggest, it is with the Yukon. We have already taken some steps. We seek more. Who is to say when, if not ourselves? Yes, we will have to consult, and convince others in the nation, but the decision to begin surely rests with us.

When time and circumstances are right, hopefully we shall have people, and leaders who will know, and who will act. The yoke of national colonialism, comfortable and fur-lined though it may be, it is, nonetheless, a yoke. All yokes must be removed sooner or later. Hopefully Canada will grow to become a nation that says, "Let us help you remove the yoke," and not one that keeps replacing the lining so it never chafes. We have sought for some time now, to be part of the whole; others speak of leaving. It leaves one to wonder about our sanity as a nation.

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*Ione Christensen (former Commissioner of the Yukon Territory)*

November 17, 1990

Constitutional Development! True to our Yukon nature the definition of such a process is multitudinal. As my background will attest, I see the process as one which should be carefully planned and developed. Each major gain should be supported by the necessary legal and legislative changes. This gives legal certainty on which to build the next step. While precedent can establish new beach heads, and it is difficult to reverse, such gains are hollow and poor material with which to build strong Constitutional Development. There may be a time when Provincial status would be to the advantage of Yukoners; it is my opinion that time is not now. When the time does come it should only happen at the request of Yukoners and there should be no barriers to prevent it.

The Yukon does not need Provincial status to become more autonomous. We are now seeing devolution of Federal powers to Territorial control. They are difficult to achieve but they must continue. Yukoners, through their elected representatives should influence all events which affect the Territory.

Minerals have been the base of the Yukon economy since the turn of the century and will, I believe, continue to sustain us for some time to come. However, it is the environment, specifically water, which will be the most valuable commodity for both Territories in the next century. With an exploding world population and a global climate under industrial stress, we are privileged to have a relative abundance of clean, free flowing rivers. Our long term planning curve should reflect the need to develop this resource and insure we have the controls needed to protect it in the near future.

Constitutional Development, by all means, but let it be for the right reasons. The emulation of Provincial structures may not meet our needs. We should take pride in our unique position and build with imagination.

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***James Smith (former Commissioner of the Yukon Territory)***

November 16, 1990

In my opinion, the present constitutional status in Yukon lacks two essential ingredients:

1. Legal certainty
2. A parallel economic system

The first can be provided by legislative action in the Parliament of Canada. The second requires effort by the whole Yukon community to construct an economy able to sustain a population to pay the costs incurred by our democratically constituted system.

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***Dr. Rick Van Loon (Senior Assistant Deputy Minister, Northern Affairs Program, Department of Indian and Northern Affairs, Canada)***

February 12, 1991

This is an important period in the development of both the Yukon and the Department of Indian and Northern Affairs. There are four key activities that relate to this stage in the constitutional development of the territory.

The first is the devolution of provincial-type programs from the federal to the Yukon government. Though negotiations are moving slower than the federal government would wish, significant steps have nonetheless been made in devolution over the past five years. It is the Department's view that this will continue as a high priority until the Yukon Government is in a position to administer the range of public services commonly managed by the provinces.

The second activity critical to further constitutional movement of the Yukon is the ratification of the Comprehensive Land Claims Agreement with Yukon aboriginal people. Certainty for all Yukoners, Indian and non-Indian alike, respecting land use and ownership will be an important step forward. So will be the enhanced involvement of Yukon First Nations in the management of land and renewable resources.

A third point of significance is the federal government's target to phase out the Northern Affairs Program within the next six or seven years. This is in recognition of the degree to which the Yukon and Northwest Territories governments have taken over the administration of public services in a manner and to a degree consistent with the Canadian provinces. The federal government will always have special interests in the North in areas such as resource development, the environment and native affairs, but these interests can be managed by a different, less substantive organizational structure in Ottawa than that which presently exists.

The fourth activity important to the long-term constitutional relationship of the Yukon in Canada is the post-Meech Lake National debate on Canada's future. It is impossible to predict how this National debate will unfold, but it is clear that the outcome could have an impact on the creation of new provinces and on what powers rest with the federal and provincial governments.

A number of conclusions can be drawn respecting these activities.

These are highly interdependent matters. The timing and direction of further devolution of programming as well as transfer of land and resources to the Territorial government will be influenced by the settlement of Comprehensive Claims. The timing respecting the phase-out of the Northern Affairs Program will also depend heavily on devolution and Claims. At the same time, it is possible that the result of the national constitutional debate will be a more flexible constitutional framework in Canada which better defines the manner in which provinces can be created; this, too, will influence the timing and manner in which the Yukon pursues its constitution-building.

This last point is clearly speculation, as is my prediction that within the next 20 to 30 years the Yukon will become a province. It is important, however, that this speculation and extensive discussion take place in the Yukon, and that Yukoners establish a position on the timing and direction of future constitutional development for the Territory. With a well defined position the Yukon's efforts to discuss its future with the federal government and the provinces will be enhanced.

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***Frank Fingland (former Deputy Minister of the Yukon Government's Executive Council Office and former Deputy Commissioner of the Yukon Territory)***

November 12, 1990

The struggle for self-government is one of the prevailing themes of Canadian history, and the contemporary Yukon is a microcosm of that tradition. All the ingredients are there: the antithesis of periphery and metropolis, the aspirations for autonomy and equality, the conflict of cultures, and the implications for Canada's relations with the United States. Overshadowing it all in a way that is little understood by many Yukoners is the independence movement in Quebec and the imperative of national unity.

The constitutional amendments of the early eighties and the aftermath of the Meech Lake Accord have given new emphasis to the way these elements of the national psyche continue to shape the Yukon's future. For Aboriginal and non-Aboriginal people alike, the dream of equality as an enlargement of self-government is more elusive than ever. As the documents in this book clearly demonstrate, neither the passage of time nor the prospect of constitutional renewal inspire much confidence for the future.

*I*

## PRE-1898 CONSTITUTIONAL DOCUMENTS

Prior to the creation of the Yukon Territory under Canadian Federal Statute in 1898, the Territory's legal base was bound to Canadian and British Statutes which encompassed much larger geographical areas.

The *Quebec Act, 1774* and *The Constitution Act, 1791* both dealt with the governance of the Province of Quebec. Even though these acts do not make specific reference to other parts of North America, the British assumed that King George III and British law presided over all of North America. (Except, of course, for the thirteen self-proclaimed "free" states south of the Great Lakes.)

In 1840 the United Kingdom passed the *Union Act*, which re-united the provinces of Upper and Lower Canada and established the infrastructure for the governance of Canada. Most of North America, north of the 49th parallel and west of upper Canada, was utilized by British, American, and Russian fur trading companies. For a short while the jurisdiction of some parts of British North America, in particular the Yukon, was uncertain. However, the emergence of the British-owned Hudson's Bay Company as the dominant fur-trading company and a series of British and Canadian statutes, set the groundwork for the Yukon to become a part of Canada.

This Chapter will present the documents, or what are believed to be the more important parts of documents, that make reference to the governance of the region now known as the Yukon prior to its enactment as a territory of Canada in 1898.

The documents are provided in chronological order. A brief introduction is given to each document.

## RUPERT'S LAND ACT, 1868

*The Rupert's Land Act, 1868 (U.K.) transferred the lands, powers and authorities of the Hudson's Bay Company in North America to Her Majesty Queen of England. These lands included what is now known as the Yukon.*

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No. 6

### RUPERT'S LAND ACT, 1868 31-32 Victoria, c. 105 (U.K.)

An Act for enabling Her Majesty to accept a Surrender upon Terms of the Lands, Privileges, and Rights of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and for admitting the same into the Dominion of Canada.

(31st July, 1868)

Whereas by certain letters Patent granted by His late Majesty King Charles the Second in the Twenty-second Year of His Reign certain Persons therein named were incorporated by the Name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and certain lands and Territories, Rights of Government, and other Rights, Privileges, Liberties, Franchises, Powers, and Authorities, were thereby granted or purported to be granted to the said Governor and Company in His Majesty's Dominions in North America:

*Recital of Charter  
of Hudson's Bay  
Company, 22 Cap.  
2*

And whereas by the British North America Act, 1867, it was (amongst other things) enacted that it should be lawful for Her Majesty, by and with the Advice of Her Majesty's most Honorable Privy Council, on Address from the Houses of Parliament of Canada, to admit Rupert's Land and

the North-Western Territory, or either of them, into the Union on such Terms and Conditions as are in the Address expressed and as Her Majesty thinks fit to approve, subject to the provisions of the said Act:

And whereas for the Purpose of carrying into effect the Provisions of the said British North America Act, 1867, and of admitting Rupert's Land into the said Dominion as aforesaid upon such Terms as Her Majesty thinks fit to approve, it is expedient that the said Lands, Territories, Rights, Privileges, Liberties, Franchises, Powers, and Authorities, so far as the same have been lawfully granted to the said Company, should be surrendered to Her Majesty, Her Heirs and Successors, upon such Terms and Conditions as may be agreed upon by and between Her Majesty and the said Governor and Company as hereinafter mentioned:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. This Act may be cited as "Rupert's Land Act, 1868."

*Short Title*

2. For the Purposes of this Act the Term "Rupert's Land" shall include the whole of the Lands and Territories held or claimed to be held by the said Governor and Company.

*Definition of  
"Rupert's Land"*

3. It shall be competent for the said Governor and Company to surrender to Her Majesty, and for Her Majesty by any Instrument under Her Sign Manual and Signet to accept a Surrender of all or any of the Lands, Territories, Rights, Privileges, Liberties, Franchises, Powers, and Authorities whatsoever granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, upon such terms agreed upon by and between Her Majesty and the said Governor and Company; provided, however, that such Surrender shall not be accepted by Her Majesty until the Terms and Conditions upon which Rupert's Land shall be admitted into the said Dominion of Canada shall have been approved of by Her Majesty, and embodied in an Address to Her Majesty from both the Houses of the Parliament of Canada in

*Power to Her  
Majesty to accept  
Surrender of Lands,  
etc., of the  
Company upon  
certain Terms*

pursuance of the One hundred and forty-sixth Section of the British North America Act, 1867; and that the said Surrender and Acceptance thereof shall be null and void unless within a Month from the Date of Such Acceptance Her Majesty does by Order in Council under the Provisions of the said last recited Act admit Rupert's Land into the said Dominion; provided further, that no Charge shall be imposed by such Terms upon the Consolidated Fund of the United Kingdom.

4. Upon the Acceptance by Her Majesty of such Surrender all Rights of Government and Proprietary Rights, and all other Privileges, Liberties, Franchises, Powers, and Authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, and which shall have been so surrendered, shall be absolutely extinguished; provided that nothing herein contained shall prevent the said Governor and Company from continuing to carry on in Rupert's Land or elsewhere Trade and Commerce.

5. It shall be competent to her Majesty by any such Order or Orders in Council as aforesaid, on Address from the Houses of the Parliament of Canada, to declare that Rupert's Land shall, from a Date to be therein mentioned, be admitted into and become Part of the Dominion of Canada; and thereupon it shall be lawful for the Parliament of Canada from the Date aforesaid to make, ordain, and establish within the Land and Territory so admitted as aforesaid all such Laws, Institutions, and Ordinances, and to constitute such Courts and Officers as may be necessary for the Peace, Order, and good Government of Her Majesty's Subjects and others therein: Provided that, until otherwise enacted by the said Parliament of Canada, all the Powers, Authorities, and Jurisdiction of the several Courts of Justice now established in Rupert's Land, and of the several Officers thereof, and of all magistrates and Justices now acting within the said Limits, shall continue in full force and effect therein.

*Extinguishment of  
all Right of the  
Company*

*Power to Her  
Majesty by Order in  
Council to admit  
Rupert's Land into  
and form Part of the  
Dominion of  
Canada*

*Jurisdiction of  
present Courts and  
Officers continued*

## TEMPORARY GOVERNMENT OF RUPERT'S LAND ACT, 1869

*The Temporary Government of Rupert's Land Act, 1869 (Canada) provided for the Government of Canada to make temporary provisions for governance of the region known as Rupert's Land before the lands were officially transferred to Canada. When these lands, which included the Yukon, were to be admitted under the Dominion Act, this temporary Act states that they shall be known as "The North-West Territories".*

*\* NOTE: The Act was re-enacted and continued in force for a further period of time by the Manitoba Act, 1870, 33 Vict., c. 3, (Canada), s. 36 (No. 8 infra).*

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### No. 7 TEMPORARY GOVERNMENT OF RUPERT'S LAND ACT, 1869

32-33 Victoria, c. 3 (Canada)

An Act for the temporary Government of Rupert's Land and the North-Western Territory when united with Canada

(Assented to 22nd June, 1869)

Whereas it is probable that Her Majesty the Queen may, pursuant to "The British North America Act, 1867," be pleased to admit Rupert's Land and the North-Western Territory into the Union or Dominion of Canada, before the next Session of the Canadian Parliament: And whereas it is expedient to prepare for the transfer of the said Territories from the Local Authorities to the Government of Canada, at the time appointed by the Queen for such admission, and to make some temporary provision for the Civil Government of such Territories until more permanent arrangements can be made by the Government and legislature of Canada; Therefore, her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

*Preamble*

1. The said Territories when admitted as aforesaid, shall be styled and known as "The North-West Territories."

*Name of territories*

2. It shall be lawful for the Governor, by any Order or Orders, to be by him from time to time made, with the advice of the Privy Council, (and subject to such conditions and restrictions as to him shall seem meet) to authorize and empower such Officer as he may from time to time appoint as Lieutenant-Governor of the North-West Territories, to make provision for the administration of Justice therein, and generally to make, ordain, and establish all such Laws, Institutions and Ordinances as may be necessary for the Peace, Order and good Government of Her Majesty's subjects and others therein; provided that all such Orders in Council, and all Laws and Ordinances, so to be made as aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.

*Appointment and functions of Lieutenant Governor*

*Power to Him to make laws Proviso*

3. The Lieutenant-Governor shall administer the Government under instructions from time to time given him by Order in Council.

*Instructions to Lieutenant Governor*

4. The Governor may, with the advice of the Privy Council, constitute and appoint, by Warrant under his Sign Manual, a Council of not exceeding fifteen nor less than seven persons, to aid the Lieutenant-Governor in the administration of affairs, with such powers as may be from time to time conferred upon them by Order of Council.

*Appointment of Council to Lieutenant Governor*

5. All the Laws in force in Rupert's Land and the North-Western Territory, at the time of their admission into the Union, shall so far as they are consistent with "The British North America Act, 1867,"— with the terms and conditions of such admission approved of by the Queen under the 146th section thereof, — and with this Act, — remain in force until altered by the Parliament of Canada, or by the Lieutenant-Governor under the authority of this Act.

*Existing laws to remain in force*

6. All Public Officers and Functionaries holding office in Rupert's Land and the North-Western Territory, at the time of their admission into the Union, excepting the Public Officer or Functionary at the head of the administration of affairs, shall continue to be Public Officers and Functionaries of the North-West Territories with the same duties and powers as before, until otherwise ordered by the Lieutenant-Governor, under the authority of this Act.

*Public officers, &c.,  
to retain office*

7. This Act shall continue in force until the end of the next Session of Parliament.

*Duration of this Act*



## ORDER IN COUNCIL TRANSFERRING RUPERT'S LAND AND THE NORTH-WESTERN TERRITORIES TO CANADA

*This 1870 British Order in Council officially transferred the ownership of Rupert's Land and the North-Western Territories to Canada. The Order in Council also compensates the Hudson's Bay Company. Canada paid 300,000 l. in exchange for the extinguishment of Company lands, rights and privileges in the region.*

*Of particular note is the Schedule to the Order (the address from Parliament to the Queen). This highlighted Canada's interests in respect to the northern regions, and outlined its intention to encourage the development of governing institutions for the north which were to be analogous to those in the Canadian provinces. By way of the Schedule, Canada also committed to compensate Indian tribes for settlement lands in a manner which conformed to established equitable principles.*

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No. 9

### ORDER OF HER MAJESTY IN COUNCIL ADMITTING RUPERT'S LAND AND THE NORTH-WESTERN TERRITORY INTO THE UNION

At the Court at Windsor, the 23rd day of  
June, 1870

PRESENT,

The QUEEN's Most Excellent Majesty

Lord President

Lord Privy Seal

Lord Chamberlain

Mr. Gladstone

Whereas by the "British North America Act, 1867," it was (amongst other things) enacted that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-Western Territory, or either of them, into the Union on such terms and conditions in each case as

should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act. And it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland:

And whereas by an Address from the Houses of the Parliament of Canada, of which Address a copy is contained in the Schedule to this Order annexed, marked A, Her Majesty was prayed, by and with the advice of Her Most Honourable Privy Council, to unite Rupert's Land and the North-Western Territories with the Dominion of Canada, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government upon the terms and conditions therein stated:

And whereas by the "Rupert's Land Act, 1868," it was (amongst other things) enacted that it should be competent for the Governor and Company of Adventurers of England trading into Hudson's Bay (hereinafter called the Company) to surrender to Her Majesty, and for Her Majesty by any Instrument under Her Sign manual and Signet to accept a surrender of all or any of the lands, territories, rights, privileges, liberties, franchises, powers, and authorities whatsoever granted or purported to be granted by certain Letters Patent therein recited to the said Company within Rupert's Land upon such terms and conditions as should be agreed upon by and between Her Majesty and the said Company within Rupert's Land upon such terms and conditions as should be agreed upon by and between Her Majesty and the said Company; provided, however, that such surrender should not be accepted by Her Majesty until the terms and conditions upon which Rupert's Land should be admitted into the said Dominion of Canada should have been approved of by Her Majesty and embodied in an Address to Her Majesty from both the Houses of the Parliament of Canada, in pursuance of the 146th Section of the "British North America Act, 1867:"

And it was by the same Act further enacted that it should be competent to Her Majesty, by Order or Orders in Council, on Addresses from the Houses of the Parliament of Canada, to declare that Rupert's Land should, from a date to be therein mentioned, be admitted into and become part of the Dominion of Canada:

And whereas a second Address from both the Houses of the Parliament of Canada has been received by Her Majesty praying that Her Majesty will be pleased, under the provisions of the hereinbefore recited Acts, to unite Rupert's Land on the terms and conditions expressed in certain Resolutions therein referred to and approved of by Her Majesty, of which said Resolutions and Address copies are contained in the Schedule to this Order annexed, marked B, and also to unite the North-Western Territory with the Dominion of Canada, as prayed for by and on the terms and conditions contained in the hereinbefore first recited Address, and also approved of by Her Majesty:

And whereas a draft surrender has been submitted to the Governor-General of Canada containing stipulations to the following effect, viz:—

1. The sum of 300,000 l. (being the sum hereinafter mentioned) shall be paid by the Canadian Government into the Bank of England to the credit of the Company within six calendar months after acceptance of the surrender aforesaid, with interest on the said sum at the rate of 5 per cent per annum, computed from the date of such acceptance until the time of such payment.

2. The size of the blocks which the Company are to select adjoining each of their posts in the Red River limits, shall be as follows:—

Upper Fort Garry and town of Winnipeg, including the inclosed park around shop and ground at the entrance to the town	<i>Acres</i> 500
Lower Fort Garry (including the farm the Company now have under cultivation)	500
White Horse Plain	500

3. The deduction to be made as hereinafter-mentioned from the price of the materials of the Electric Telegraph, in respect of deterioration thereof, is to be certified within three calendar months from such acceptance as aforesaid by the agents of the Company in charge of the depots where the materials are stored. And the said price is to be paid by the Canadian Government into the Bank of England to the credit of the Company within six calendar months of such acceptance, with interest at the rate of 5 per cent per annum on the amount of such price computed from the date of such acceptance until the time of payment.

And whereas the said draft was on the fifth day of July, one thousand eight hundred and sixty-nine, approved by the said Governor-General in accordance with a Report from the Committee of the Queen's Privy Council for Canada; but it was not expedient that the said stipulations, not being contained in the aforesaid second Address, should be included in the surrender by the said Company to Her Majesty of their rights aforesaid or in this Order in Council.

And whereas the said Company did by deed under the seal of the said Company, and bearing date the nineteenth day of November, one thousand eight hundred and sixty-nine, of which deed a copy is contained in the Schedule to this Order annexed, marked C, surrender to Her Majesty all the rights of government, and other rights, privileges, liberties, franchises, powers and authorities granted, or purported to be granted, to the said Company by the said Letters Patent therein and hereinbefore referred to, and also all similar rights which may have been exercised or assumed by the said Company in any parts of British North America not forming part of Rupert's Land, or of Canada or of British Columbia, and all

the lands and territories (except and subject as in the terms and conditions therein mentioned) granted, or purported to be granted to the said Company by the said Letters Patent:

And whereas such surrender has been duly accepted by Her Majesty, by an instrument under her Sign Manual and Signet, bearing date at Windsor the Twenty-second day of June, one thousand eight hundred and seventy.

It is hereby ordered and declared by Her Majesty, by and with the advice of the Privy Council, in Pursuance and exercise of the powers vested in Her Majesty by the said Acts of Parliament, that from and after the fifteenth day of July, one thousand eight hundred and seventy, the said North-Western Territory shall be admitted into and become part of the Dominion of Canada upon the terms and conditions set forth in the first hereinbefore recited Address, and that the Parliament of Canada shall from the day aforesaid have full power and authority to legislate for the future welfare and good government of the said Territory. And it is further ordered that, without prejudice to any obligations arising from the aforesaid approved Report, Rupert's Land shall from and after the said date be admitted into and become part of the Dominion of Canada upon the following terms and conditions, being the terms and conditions still remaining to be performed of those embodied in the said second Address of the Parliament of Canada, and approved of by Her Majesty as aforesaid:—

1. Canada is to pay to the Company 300,000 l. when Rupert's Land is transferred to the Dominion of Canada.
2. The Company are to retain the posts they actually occupy in the North Western Territory, and may, within twelve months of the surrender, select a block of land adjoining each of its posts within any part of British North America not comprised in Canada and British Columbia, in conformity, except as regards the Red River Territory, with a list made out by the Company and communicated to the Canadian Ministers, being the list in the Schedule of the aforesaid Deed of Surrender. The actual survey is to be proceeded with, with all convenient speed.
3. The size of each block is not to exceed (10) acres round Upper Fort Garry, (300) acres round Lower Fort Garry; in the rest of the Red River Territory a number of acres to be settled at once between the Governor in Council and the Company, but so that the aggregate extend of the blocks is not to exceed 50,000 acres.
4. So far as the configuration of the country admits, the blocks shall front the river or road, by which means of access are provided, and shall be approximately in the shape of parallelograms, of which the frontage shall not be more than half the depth.
5. The Company may, for fifty years after the surrender, claim in any township or district within the Fertile Belt, in which land is set out for settlement, grants of land not exceeding one-twentieth part of the land so set out. The blocks so granted to be determined by lot, and the Company to pay a rateable share of the survey expenses, not exceeding 8 cents Canadian an acre. The Company may defer the exercise of their right of claiming the proportion of each township for not more than ten years after it is set out; but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

6. For the purpose of the last Article, the Fertile Belt is to be bounded as follows:—On the south by the United States' boundary; on the west by the Rocky Mountains; on the north by the northern branch of the Saskatchewan; on the east by lake Winnipeg, the lake of the Woods, and the waters connecting them.
7. If any township shall be formed abutting on the north bank of the northern branch of the Saskatchewan River, the Company may take their one twentieth of any such township, which for the purpose of this Article shall not extend more than five miles inland from the river, giving to the Canadian Dominion an equal quantity of the portion of lands coming to them of townships established on the southern bank.
8. In laying out any public roads, canals, &c., through any block of land reserved to the Company, the Canadian Government may take, without compensation, such land as is necessary for the purpose, not exceeding one twenty-fifth of the total acreage of the block; but if the Canadian Government require any land which is actually under cultivation, or which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, they shall pay to the Company fair value of the same, and shall make compensation for any injury done to the Company or their servants.
9. It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause shall be appropriated for public purposes.
10. All titles to land up to the eighth day of March, one thousand eight hundred and sixty-nine, conferred by the Company are to be confirmed.
11. The Company is to be at liberty to carry on its trade without hindrance in its corporate capacity, and no exceptional tax is to be placed on the Company's land, trade, or servants, nor any import duty on goods introduced by them previous to the surrender.
12. Canada is to take over the materials of the electric telegraph at cost price—such price including transport, but not including interest for money, and subject to a deduction for ascertained deterioration.
13. The Company's claim to land under agreements of Messrs. Vankoughnet and Hopkins is to be withdrawn.
14. Any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government; and the Company shall be relieved of all responsibility in respect of them.
15. The Governor in Council is authorized and empowered to arrange any details that may be necessary to carry out the above terms and conditions.

And the Right Honourable Earl Granville, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(Signed) EDMUND HARRISON.

## SCHEDULE (A)

Address to Her Majesty the Queen from the Senate and House of Commons  
of the Dominion of Canada

To the Queen's Most Excellent Majesty

Most Gracious Sovereign,

We, your Majesty's most dutiful and loyal subjects, the Senate and Commons of the Dominion of Canada, in Parliament assembled, humbly approach your Majesty for the purpose of representing:---

That it would promote the prosperity of the Canadian people, and conduce to the advantage of the whole Empire, if the Dominion of Canada, constituted under the provisions of the British North America Act of 1867 (Constitution Act, 1867), were extended westward to the shores of the Pacific Ocean.

That the colonization of the fertile lands of the Saskatchewan, the Assiniboine, and the Red River districts; the development of the mineral wealth which abounds in the regions of the North-West; and the extension of commercial intercourse through the British possessions in America from the Atlantic to the Pacific, are alike dependent upon the establishment of a stable Government for the maintenance of law and order in the North-Western Territories.

That the welfare of a sparse and widely-scattered population of British subjects of European origin, already inhabiting these remote and unorganized territories, would be materially enhanced by the formation therein of political institutions bearing analogy, as far as circumstances will admit, to those which exist in the several provinces of this Dominion.

The 146th section of the British North America Act of 1867 (Constitution Act, 1867) provides for the admission of Rupert's Land and the North-Western Territory, or either of them, into union with Canada, upon the terms and conditions to be expressed in addresses from the Houses of Parliament of this Dominion to your Majesty, and which shall be approved of by your Majesty in Council.

That we do therefore most humbly pray that your Majesty will be graciously pleased, by and with the advice of your Most Honourable Privy Council, to unite Rupert's Land and the North-Western Territory with the Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government; and we most humbly beg to express to your Majesty that we are willing to assume the duties and obligations of government and legislation as regards those territories.

That in the event of your Majesty's Government agreeing to transfer to Canada the jurisdiction and control over the said region, the Government and Parliament of Canada will be ready to provide that the legal rights of any corporation, company, or individual within the same shall be respected, and placed under the protection of Courts of competent jurisdiction.

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And furthermore, that, upon the transference of the territories in question to the Canadian Government, the claims of the Indian tribes to compensation for lands required for purposes of settlement will be considered and settled in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines.

All which we humbly pray your Majesty to take into your Majesty's most gracious and favourable consideration.

## NORTH-WEST TERRITORIES ACT, 1875

*The North-West Territories Act, 1875 consolidated and established laws respecting the governance of the region. The Act dealt with the government and legislation, elections, provisions for real estate, wills, administration of criminal and civil justice, and the prohibition of intoxicants for the region. This Act would be the major constitutional text for the Yukon for the next twenty-three years. Sections one to fourteen, Government and Legislation, and Election of Members of Council or Assembly are included below. Due to limited space in the book, other sections of the Act are not included.*

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STATUTES OF CANADA 1875 VOL. 1  
(Section 1-14 pp. 261-287)

An Act to amend and consolidate the Laws respecting the North-West Territories.

(Assented to 8th April, 1875.)

Whereas it is expedient to amend and consolidate the laws respecting the North-West Territories; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

*Preamble*

### GOVERNMENT AND LEGISLATION.

1. The Territories formerly known as "Rupert's Land" and the North-Western Territory, (with the exception of such portion thereof as forms the Province of Manitoba), shall continue to be styled and known as the North-West Territories; and the word "Territories," in this Act, means the said Territories.

*North-West  
Territories defined.*

2. For the North-West Territories there shall be an officer styled the Lieutenant-Governor, appointed by the Governor-General in Council, by instrument under the great seal of Canada, who shall hold office during the pleasure

*Lieutenant-Governor*



of the Governor-General; and the Lieutenant-Governor shall administer the government under instructions from time to time given him by Order in Council, or by the Secretary of State of Canada:

*His instructions*

2. Every Lieutenant-Governor so appointed shall, before assuming the duties of his office, make or subscribe before the Governor-General or some person duly authorized to administer such oaths, an oath of allegiance or office similar to those prescribed to be taken by a Lieutenant-Governor, under "*The British North America Act, 1867.*"

*Oath of Office*

3. The Governor-General, with the advice of the Queen's Privy Council for Canada, by warrant under his privy seal, may constitute and appoint such and so many persons from time to time, not exceeding in the whole five persons,—of which number the Stipendiary magistrates hereinafter mentioned shall be members *ex officio*,—to be a Council to aid the Lieutenant-Governor in the administration of the North-West Territories, with such powers, not inconsistent with this Act, as may be, from time to time, conferred upon them by the Governor-General in Council; and a majority shall form a *quorum*.

*Council may be appointed.*

*Number, powers and quorum.*

4. The seat of government of the North-West Territories shall be fixed, and may, from time to time, be changed by the Governor-General in Council.

*Seat of Government.*

5. There shall be payable out of the Consolidated Revenue Fund of Canada, the following sums, annually, that is to say:—

*Salaries and allowances.*

To the Lieutenant-Governor, not exceeding	\$7,000
To the Stipendiary Magistrates, each, not exceeding	\$3,000
To two members of Council, each, not exceeding	\$1,000
To the Clerk of the Council, who shall also act as and perform the duties of Secretary to the Lieutenant-Governor, not exceeding	\$1,800

Together with such sums of money as may, from time to time, be fixed by the Governor in Council in respect of travelling allowances for any of the officers above named.

6. All laws and ordinances now in force in the North-West Territories, and not repealed by or inconsistent with this Act, shall remain in force until it is otherwise ordered by the Parliament of Canada, by the Governor in Council, or by the Lieutenant-Governor and Council under the authority of this Act.

*Existing laws  
continued.*

7. The Lieutenant-Governor, by and with the advice and consent of the Council of the North-West Territories, may make, ordain and establish ordinances as to matters coming within the classes of subjects next hereinafter enumerated, that is to say:—

*Lieutenant-Governor  
and Council may  
make ordinances for  
certain purposes.*

- (1) Taxation for local and municipal purposes;
- (2) Property and civil rights in the Territories;
- (3) The administration of justice in the Territories, including maintenance and organization of courts, both of civil and criminal jurisdiction, and including procedure in civil matters in these courts, but the appointment of any judges of the said courts shall be made by the Governor-General in Council;
- (4) Public health;
  - The licensing of inns and places of refreshment;
  - Landmarks and boundaries;
  - Cemeteries;
  - Cruelty to animals;
  - Game and wild animals and the care and protection thereof;
  - Injury to public morals;
  - Nuisances;
  - Police;
  - Roads, highways and bridges;
  - The protection of timber;
  - Gaols and lock-up houses;
- (5) Generally, all matters of a merely local or private nature;
- (6) The imposition of punishment, by fine or penalty or imprisonment, for enforcing any ordinance of the Territories made in relation to any matter coming within classes of subjects herein enumerated:

(7) Provided that no ordinance to be so made by the Lieutenant-Governor with the advice and consent of the Council of the said Territories, shall,— (1) be inconsistent with or alter or repeal any provision of any Act of the Parliament of Canada in Schedule B. of this Act, or of any Act of the Parliament of Canada, which may now, or at any time hereafter, expressly refer to the said Territories, or which or any part thereof may be at any time made by the Governor in Council applicable to or to be in force in the said North-West Territories; or,— (2) impose any fine or penalty exceeding one hundred dollars;

*Proviso restrictions to be observed as to such ordinances.*

(8) And provided that a copy of every such ordinance made by the Lieutenant-Governor and Council shall be mailed for transmission to the Governor-General within ten days after its passing, and may be disallowed by him at any time within two years after its passing; provided also, that all such orders in Council, and all ordinances so to be made as aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.

*Copies to be sent to Governor General.*

*Ordinances may be disallowed.*

*And must be laid before Parliament.*

8. The Governor in Council may, by proclamation, from time to time, direct that any Act of the Parliament of Canada, or any part or parts thereof, or any one or more of the sections of any one or more of any such Acts shall be in force in the North-West Territories generally, or in any part or parts thereof to be mentioned in the said proclamation for such purpose.

*Governor in Council may apply Acts, &c., of Canada to North-West Territories.*

9. Provided further, that when and so often as any electoral district shall be established as hereinafter provided, the Lieutenant-Governor by and with the consent of the Council or Assembly, as the case may be, shall have power to pass ordinances for raising within such district by direct taxation, or on shop, saloon, tavern or any other such licenses, a revenue for local and for municipal purposes of such district, and for the collection and appropriation of the same in the promotion of such purposes respectively.

*Taxes for local purposes in electoral districts when established.*

10. Whenever any electoral district shall be found to contain not less than one thousand inhabitants, the Lieutenant-Governor, by and with the consent of the Council or Assembly, as the case may be, may pass ordinances erecting the same into a municipal corporation or corporations as they may think fit: and thenceforth the power of the Lieutenant-Governor and Council or Assembly as herein conferred in respect of taxation for municipal purposes shall cease; and every such municipal corporation shall thenceforth have the right to pass by-laws for raising within such municipality by taxation a revenue for municipal purposes in such district, and for the collection and appropriation of the same in the promotion thereof; and the Lieutenant-Governor and Council or Assembly, as the case may be, shall pass an ordinance or ordinances prescribing the powers and authorities which may be exercised by any such municipal corporation and the mode and extent of such taxation: Provided that the power herein given to the Lieutenant-Governor and Council or Assembly, as the case may be, of taxation for local purposes of such district shall not be prejudiced by the erection of the same into a municipality or municipalities, but such power shall continue vested in them in respect of local purposes not comprised within such municipal purposes as to which powers may be conferred by any ordinance or ordinances as aforesaid.

11. When, and so soon as any system of taxation shall be adopted in any district or portion of the North-West Territories, the Lieutenant-Governor, by and with the consent of the Council or Assembly, as the case may be, shall pass all necessary ordinances in respect to education; but it shall therein be always provided, that a majority of the rate-payers of any district or portion of the North-West Territories, or any lesser portion or sub-division thereof, by whatever name the same may be known, may establish such schools therein as they may think fit, and make the necessary assessment and collection of rates therein, whether Protestant or Roman Catholic, may establish separate schools therein, and that, in such latter case, the rate-payers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessments of such rates as they may impose upon themselves in respect thereof.

*On what conditions electoral districts may be made municipalities, and with what powers.*

*Proviso as to taxation for local purposes.*

*Ordinances respecting education, -- when they may be passed and what provisions they must contain. Separate schools.*

12. Any copy of any proclamation or order made by the Governor in Council, or ordinance, proclamation or order made by the Lieutenant-Governor and Council or Assembly, as the case may be, of the North-West Territories, printed in the Canada Gazette, or purporting to be printed by the Queen's Printer at Ottawa, or Printer to the Government of Manitoba at Winnipeg, or to the Government of the North-West Territories, shall be *prima facie* evidence of such proclamation or order, and that it is in force.

*Certain copies of laws, &c., to be evidence.*

### ELECTION OF MEMBERS OF COUNCIL OR ASSEMBLY.

13. When and so soon as the Lieutenant-Governor is satisfied by such proof as he may require, that any district or portion of the North-West Territories, not exceeding an area of one thousand square miles, contains a population of not less than one thousand inhabitants of adult age, exclusive of aliens or unenfranchised Indians, the Lieutenant-Governor shall, by proclamation, erect such district or portion into an electoral district, by a name and with boundaries to be respectively declared in the proclamation, and such electoral district shall thenceforth be entitled to elect a member of the Council, or of the Legislative Assembly, as the case may be.

*Formation of Electoral districts.*

2. The Lieutenant-Governor shall there after cause a writ to be issued by the Clerk of the Council in such form and addressed to such Returning Officer as he thinks fit; and until the Lieutenant-Governor and Council of the Province otherwise provides, he shall by proclamation prescribe and declare the mode of providing voters' lists, the oaths to be taken by voters, the powers and duties of Returning and Deputy Returning Officers, the proceedings to be observed at such election, and the period during which such election may be continued, and such other provisions in respect to such election as he may think fit.

*Powers of Lieutenant-Governor thereupon.*

3. The persons qualified to vote at such election shall be the *bonu fide* male residents and householders of adult age, not being aliens, or unenfranchised Indians, within the electoral district, and shall have respectively resided in such electoral district for at least twelve months immediately preceding the issue of the said writ.

*Who may vote.*

4. Any person entitled to vote may be elected. *Or be elected.*
5. When and so soon as the Lieutenant-Governor is satisfied as aforesaid, that any electoral district contains a population of two thousand inhabitants of adult age, exclusive of aliens or unenfranchised Indians, he shall issue his writ for the election of a second member for the electoral district. *Additional member for any district.*
6. When the number of elected members amounts to twenty-one, the Council herein before appointed shall cease and be determined, and the members so elected shall be constituted and designated as the Legislative Assembly of the North-West Territories, and all the powers by this Act vested in the Council shall be thenceforth vested in and exercisable by the said Legislative Assembly. *Legislative Assembly, when to be constituted in lieu of Council.*
7. The number of members so to be elected, as hereinbefore mentioned, shall not exceed twenty-one, at which number the representation shall remain; the members so elected shall hold their seats for a period not exceeding two years. *Number of members and term of service.*

## ORDER IN COUNCIL AFFIRMING CANADIAN OWNERSHIP OF ISLANDS ADJACENT TO NORTH AMERICA

*This 1880 British Order in Council affirms that all Islands and Territories adjacent to North America be annexed and be a part of Canada. This Act is especially important to the Yukon because it is the initial basis on which the Yukon acquired Herschel Island.*

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### REVISED STATUTES OF CANADA 1985 (APPENDICES)

No. 14

#### ADJACENT TERRITORIES ORDER

#### (ORDER OF HER MAJESTY IN COUNCIL ADMITTING ALL BRITISH TERRITORIES AND POSSESSIONS IN NORTH AMERICA AND ISLANDS ADJACENT THERETO INTO THE UNION)

[Note: The present title was substitutes for the original title (in brackets) by the *Constitution Act, 1982 (No. 44 infra).*]

At the Court at Osborne House, Isle of Wight, the 31st day of July, 1880

PRESENT

The QUEEN'S Most Excellent Majesty

Lord President

Lord Steward

Lord Chamberlain

Whereas it is expedient that all British Territories and Possessions in North America, and the Islands adjacent to such Territories and Possessions which are not already included in the Dominion of Canada, should (with the exception of the Colony of Newfoundland and its dependencies) be annexed to and form part of the said Dominion.

And whereas, the Senate and Commons of Canada in Parliament assembled, have, in and by an Address, dated the 3rd day of may, 1878, represented to Her Majesty "That it is desirable that the Parliament of Canada, on the transfer of the before-mentioned Territories being completed, should have authority to legislate for their

future welfare and good government, and the power to make all needful rules and regulations respecting them, the same as in the case of the other territories (of the Dominion); and that the Parliament of Canada expressed its willingness to assume the duties and obligations consequent thereon:"

And whereas, Her Majesty is graciously pleased to accede to the desire expressed in and by the said Address:

Now, therefore, it is hereby ordered and declared by Her Majesty, by and with the advice of Her Most Honourable Privy Council, as follows:—

From and after the first day of September, 1880, all British Territories and Possessions in North America, not already included within the Dominion of Canada, and all Islands adjacent to any of such Territories or Possessions, shall (with the exception of the Colony of Newfoundland and its dependencies) become and be annexed to and form part of the said Dominion of Canada; and become and be subject to the laws for the time being in force in the said Dominion, in so far as such laws may be applicable thereto.

C.L. PEEL.



## ORDER IN COUNCIL DIVIDING THE NORTH WEST TERRITORIES INTO FOUR DISTRICTS, INCLUDING THE YUKON

*In 1895 Canadian Order in Council number 2640 divided the North West Territories into four districts. One of them being the Yukon. The districts were created to organize the unknown region for settlers and for postal services. The following excerpt from the Order in Council identifies the boundaries of the new Yukon district.*

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### ORDERS IN COUNCIL

AT THE GOVERNMENT HOUSE AT OTTAWA.

Wednesday, the 2nd day of October, 1895.

PRESENT:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL

On a Report, dated 26th July, 1895, from the Minister of the Interior, submitting that it is expedient for the convenience of settlers in the unorganized and unnamed districts of the North-west Territories and for postal purposes, that the whole of such territories should be divided into provisional districts, and recommending that four such districts be established, to be named Ungava, Franklin, Mackenzie and Yukon.

4. Yukon.— The District of Yukon, about 225,000 square miles in extent, to be bounded as follows:—

Beginning at the intersection of the 141st Meridian of west longitude from Greenwich with a point on the Coast of the Arctic Sea, which is approximate north latitude  $69^{\circ} 39'$ , and named on the Admiralty charts "Demarcation Point"; thence due south on said Meridian (which is also the boundary line between Canada and Alaska) for a distance of about 650 miles, to a point in latitude about  $60^{\circ} 10'$  north, at which it will intersect the disputed boundary between Canada and the United States, on the North Pacific Coast; thence in an easterly direction, along the said undetermined boundary, for a distance of about 55 miles (in a straight line to its intersection with the 60th parallel of north latitude; thence due east along the parallel of latitude (which is also the north boundary of British Columbia), for a distance of about 550 miles, to the Liard River, in approximate longitude  $123^{\circ} 30'$  west; thence northerly, along the middle line of said river, for a distance of about 10 miles till opposite the highest part of the range of mountains which abuts upon the river near the mouth of Black River; thence to

follow the summit of said range in a north-westerly direction to the southernmost source of the Peel River; thence to follow northward the summit of the main range of mountains which runs approximately parallel to Peel River, on the west, as far as the intersection of the said range with the 136th Meridian; thereafter to run due north to the Arctic Ocean, or to the westernmost channel of the Mackenzie Delta, and along that channel to the Arctic Ocean; thence, north-westerly, following the windings of the Arctic Coast (termination of the mainland of the Continent) including Herschel Island, and all other islands which may be situated within 3 geographical miles, to the place of beginning.

Provided, that in respect to that part of the line between the Liard River and the southernmost source of the Peel River, the summit to be followed, is the watershed summit separating streams entering the Liard River below Black River, or flowing directly into the Mackenzie further north, from streams flowing westward either to the Yukon or to upper branches of the Liard River.

Provided, that in respect to the part of the boundary described as following northward the main range of mountains on the west side of Peel River, the line shall run along the water-shed between streams flowing eastwardly to the Peel River, and those flowing westwardly to branches of the Yukon, Porcupine, &c., except where such water-shed shall be more than 20 miles distant from the main stream of the Peel, when the highest range within that distance shall be the boundary.

## PROCLAMATION CREATING YUKON JUDICIAL DISTRICT

*This Canadian Proclamation of 1897 was announced by E. L. Newcombe, Deputy of the Minister of Justice. The proclamation created a separate Yukon Judicial District. This was as a precursor to the Yukon Act which, in the following year, established the Yukon as a jurisdiction separate from the North West Territories.*

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### THE CANADA GAZETTE—1897 VOL. 2

ABERDEEN.  
(L.S.)  
CANADA.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., &c., &c.

To all to whom these presents shall come or whom the same may be in anywise concern, — GREETING:

#### A PROCLAMATION.

E. L. NEWCOMBE, Deputy of the Minister of Justice, Canada.

Whereas it is in and by the Revised Statutes, chapter 50, and intituled "An Act respecting the North-west Territories" in effect enacted, that the Governor in Council may at any time by Proclamation divide the Territories into Judicial Districts, and give to each such District an appropriate name, and in like manner from time to time, alter the limits and extent of such Districts.

And whereas by an Order of Our Governor in Council, bearing date the 16th day of August A.D. 1897, the establishment of a Judicial District in the said Territories was authorized, to be known as the Yukon Judicial District, and to be bounded as hereinafter mentioned:

Now know ye, that We do hereby and by virtue of the authority vested in Us by the said Act, and the said Order in Council respectively establish and set apart a Judicial District in the North-west Territories to be named and known as the "Yukon Judicial District", the boundaries of such Judicial District to be as follows:—

Beginning at the intersection of the 141st Meridian of West Longitude from Greenwich with a point on the coast of the Arctic Sea, which is approximate North latitude, 69° 39', and named on the Admiralty charts "Demarcation Point;"

thence due south, on said meridian (which is also the boundary line between Canada and Alaska) for a distance of about 650 miles, to a point in latitude about 60° 10' north, at which it will intersect the disputed boundary between Canada and the United States on the North Pacific coast; thence in an easterly direction, along the said undetermined boundary, for a distance of about 55 miles (in a straight line) to its intersection with the 60th parallel of north latitude; thence due east along the parallel of latitude (which is also the north boundary of British Columbia) for a distance of about 550 miles to the Liard River, in approximate longitude 123° 30' west; thence northerly along the middle line of said river, for a distance of about 10 miles till opposite the highest part of the range of mountains which abuts upon the river near the mouth of Black River; thence to follow the summit of said range in a north-westerly direction to the southernmost source of the Peel River; thence to follow northward the summit of the main range of mountains which runs approximately parallel to Peel River, on the west, as far as the intersection of the said range with the 136th meridian; thereafter to run due north to the Arctic Ocean, or to the westernmost channel of the Mackenzie Delta, and along that channel to the Arctic Ocean; thence north-westerly following the windings of the Arctic Coast (termination of the mainland of the Continent), including Herschel Island, and all other islands which may be situated within three (3) geographical miles, to the place of beginning.

Provided, that in respect to that part of the line, between the Liard River and the southern-most source of the Peel River, the summit to be followed is the water-shed summit separating streams entering the Liard River below Black River, or flowing directly into the Mackenzie further north, from streams flowing westward either to the Yukon or to upper branches of the Liard River.

Provided, that in respect to the part of the boundary described as following northward the main range of mountains on the west side of Peel River, the line shall run along the water-shed between streams flowing eastwardly to the Peel River, and those flowing westwardly to branches of the Yukon, Porcupine, etc., except where such water-shed shall be more than 20 miles distant from the main stream of the Peel, when the highest range within that distance shall be the boundary.

Of all which Our loving subjects and all others whom these presents may concern, are hereby required to take notice and to govern themselves accordingly.

In Testimony whereof, We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed. Witness, Our Right Trusty and Right Well-Beloved Cousin and Councillor the Right Honourable Sir John Campbell Hamilton-Gordon, Earl of Aberdeen; Viscount Formartine, Baron Haddo, Methlic, Tarves and Kellie, in the Peerage of Scotland; Viscount Gordon of Aberdeen, County of Aberdeen, in the Peerage of the United Kingdom; Baronet of Nova Scotia, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, etc., etc., Governor General of Canada.

At Our Government House, in Our City of Ottawa, in Our said Dominion, this Sixteenth day of August in the year of Our Lord one thousand eight hundred and ninety-seven, and in the sixty-first year of Our Reign.

By Command,

Joseph Pope,  
Under-Secretary of State.

## 2

## THE YUKON ACT

When Yukoners speak of their constitution, normally most think of the *Yukon Act*. This piece of federal legislation provides for the establishment and administration of government in the Yukon Territory.

The first *Yukon Act* was passed by Parliament in 1898. There have been a number of amendments to this legislation, leading in 1953 to the introduction of a brand new *Yukon Act*. Subsequently, amendments have been made to that Act, the last of which took place in 1988.

It is not possible for this chapter to include all amendments to the two *Yukon Acts*. At the same time, it is important for those interested in the topic to have a reference to key changes to the legislation. As a consequence, this chapter will provide the following documents. The text of the original 1898 *Yukon Act* is included. The last consolidation of all amendments to that 1898 Act which was passed by Parliament in 1952 is here. Though it does not include the text of all amendments between 1898 and 1952, the 1952 Act references when amendments were made to the legislation. The new 1953 *Yukon Act* is included here. The latest consolidation of that Act, 1985, is also provided, this giving references to amendments following the 1953 legislation. Finally, an amendment was made to the *Yukon Act* in 1988, and this amendment is also included.

The issues and problems associated with these statutes and amendments are far too numerous to itemize in this book. These would be the subject of a fascinating, and rather substantial study.

# YUKON ACT, 1898

61 VICTORIA

CHAP. 6.

An Act to provide for the Government of the Yukon District.

[Assented to 13th June, 1898]

Her Majesty, by and with the advice and consent of the Senate and House of Commons Canada, enacts as follows: -

1. This Act may be cited as *The Yukon Territory Act*. *Short title*
  
2. The Yukon Judicial District, as constituted by the proclamation of the Governor in Council bearing date the sixteenth day of August, one thousand eight hundred and ninety-seven, and contained in the schedule to this Act, is hereby constituted and declared to be a separate territory under the name of the Yukon Territory, and the same shall no longer form part of the North-west Territories. *The Yukon Territory defined and constituted.*
  
3. The Governor in Council may, by instrument under the Great Seal, appoint for the Yukon Territory a chief executive officer to be styled and known as the Commissioner of the Yukon Territory. *Commissioner.*
  
4. The Commissioner shall administer the government of the territory under instructions from time to time given him by the Governor in Council or the Minister of the Interior. *Administration of Government.*
  
5. The Governor in Council by warrant under his privy seal may constitute and appoint such and so many persons from time to time not exceeding in the whole six persons, as may be deemed desirable to be a Council to aid the Commissioner in the administration of the *Council.*

territory, and such persons so appointed to the Council shall before entering upon the duties of their offices take and subscribe before the Commissioner such oaths of allegiance and office as the Governor in Council may prescribe.

2. The majority of the Council including the Commissioner shall form a quorum.

*Quorum*

3. Each judge of the court shall be ex officio a member of the Council, but the total number of members of the Council, including the judges, shall not exceed six.

6. The Commissioner in Council shall have the same powers to make ordinances for the government of the territory as are at the date of this Act possessed by the Lieutenant Governor of the North-west Territories, acting by and with the advice and consent of the Legislative Assembly thereof to make ordinances for the government of the North-west Territories, except as such powers may be limited by order of the Governor in Council.

*Power to make ordinance.*

7. A copy of every such ordinance made by the Commissioner in Council shall be despatched by mail to the Governor in Council within ten days after the passing thereof, and shall be laid before both Houses of Parliament as soon as conveniently may be thereafter, and any such ordinance may be disallowed by the Governor in Council at any time within two years after its passage.

*Disallowance by Governor in Council.*

8. Subject to the provisions of this Act, the Governor in Council may make ordinances for the peace, order and good government of the territory and to Her Majesty's subjects and others therein, but no ordinance made by the Governor in Council or the Commissioner shall,

*Governor in Council may make certain ordinances.*

- (a) impose any tax or any duty of customs or any excise or any penalty exceeding one hundred dollars, or
- (b) alter or repeal the punishment provided in any Act of the Parliament of Canada in force in the territory for any offence, or

*Restrictions as to such ordinances.*

- (c) appropriate any public money, lands or property of Canada without authority of Parliament:

Provided that this section shall not apply to any law extending or applying or declared applicable to the territory by any Act of the Parliament of Canada.

*Proviso.*

9. Subject to the provisions of this Act, the laws relating to civil and criminal matters and the ordinances as the same exist in the North-west Territories at the time of the passing of this Act, shall be and remain in force in the said Yukon Territory in so far as the same are applicable thereto until amended or repealed by the Parliament of Canada or by any ordinance of the Governor in Council or the Commissioner in Council made under the provisions of this Act.

*Existing laws to remain in force until altered by the proper legislative authority.*

10. There is hereby constituted and appointed a superior court of record in and for the said territory, which shall be called the Territorial Court.

*Territorial Court constituted*

The said court shall consist of one or more judges, who shall be appointed by the Governor in Council by letters patent under the Great Seal.

*Judges.*

2. Any person may be appointed judge of the court who is or has been a judge of a superior or county court of any province of Canada or of the North-west Territories, or a barrister or advocate of at least ten years' standing at the bar of any such province or of the North-west Territories.

*Their qualifications*

3. A judge of the court shall not hold any other office or emolument under the Government of Canada, or of any province of Canada or of the said territory, but this provision shall not prevent a judge from being eligible for appointment as a member of the Council of the said territory.

*Their disqualifications*

11. The law governing the residence, tenure of office, oath of office, rights and privileges of the judge or judges of the court, and the power, authority and jurisdiction of the court shall be the same, *mutatis mutandis*, as the law governing the residence, tenure of office, oath of office, rights and privileges of the judges, and the power, authority and jurisdiction of the Supreme Court of the North-west Territories, except as the same are expressly varied in this Act.

*Laws as to judges and jurisdiction of the court.*



12. Sittings of the court presided over by a judge or judges shall be held at such times and places as the Governor in Council or the Commissioner in Council shall appoint.

*Sittings of the court.*

13. The Governor in Council may appoint such officers of the court as may be deemed necessary, and may define and specify the duties and emoluments of the officers so appointed.

*Officers of the court.*

14. The judge of the Supreme Court of the North-west Territories assigned to the Yukon Judicial District at the time this Act comes into force, and the officers of that court for the said district, shall be the judge and officers of the Territorial Court until otherwise provided, but the said judge may at his option, at any time within twelve months after this Act comes into force, resume his office as one of the judges of the Supreme Court of the North-west Territories, his transfer to that court being in such case made by Order of the Governor in Council.

*Provisional appointment of judge and officers.*

15. The procedure in criminal cases in the Territorial Court shall, subject to the provisions of any Act of the Parliament of Canada, conform as nearly as possible to the procedure existing in like cases in the North-west Territories at the time of the passing of this Act.

*Procedure in criminal cases.*

16. While in the said Yukon Territory the Commissioner of the territory, each member of the Council thereof, every judge of the court, and every commissioned officer of the North-west Mounted Police, shall ex officio have, possess and exercise all the powers of a justice of the peace, or of two justices of the peace, under any laws or ordinances, civil or criminal, in force in the said territory, and the Governor in Council may, by commission, appoint such other persons justices of the peace or police commissioners, having each the authority of two justices of the peace within the said territory, as may be deemed desirable.

*Justices of the peace.*

17. No person shall be summoned or sworn as a jurymen on any trial in the Territorial Court unless he is a British subject.

*Jurymen to be British subjects.*

18. Every lock-up, guard-room, guard-house or place of confinement provided by or for or under the direction of the North-west Mounted Police Force, or the regular military force, or a municipal body, or by the Commissioner or Commissioner in Council of the territory, shall be a penitentiary, jail, and place of confinement for all persons sentenced to imprisonment in the territory, and the Commissioner of the territory shall direct in which such penitentiary, jail or place of confinement any person sentenced to imprisonment shall be imprisoned.

*Penitentiaries, jails and places of confinement.*

2. The Governor in Council shall have power to make rules and regulations respecting the management, discipline and policy of every penitentiary, jail or place of confinement used as such in the territory.

*Governor in Council to make rules and regulations as to penitentiaries, etc.*

19. All persons possessing the power of two justices of the peace in the territory shall also be coroners in and for the said territory.

*Coroners.*

20. The Governor in Council may appoint such officers as are necessary for the due administration of justice in the territory, may fix the fees or emoluments of such officers and may fix the fees or emoluments of coroners, justices of the peace, jurors, witnesses and other persons attending or performing duties in relation to the administration of criminal justice, and provide the manner in which such fees and emoluments shall be paid.

*Appointment of necessary officers, fixing of fees, etc.*

21. In case of the death of the Commissioner the senior member of the Council shall act as Commissioner until a successor is appointed.

*Provision for case of Commissioner's death.*

## SCHEDULE

## ABERDEEN

[L.S.]

## CANADA

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., &c., &c.

To all to whom these presents shall come or whom the same may in anywise concern,--Greeting:

## A PROCLAMATION

E. L. NEWCOMBE, Deputy of the Minister of Justice, Canada.

WHEREAS it is in and by the Revised Statutes, chapter 50, and intituled "An Act respecting the Northwest Territories" in effect enacted, that the Governor in Council may at any time by Proclamation divide the Territories into judicial districts, and give to each such district an appropriate name, and in like manner from time to time, alter the limits and extent of such districts.

And whereas by an Order of Our Governor in Council, bearing date the 16th day of August A.D. 1897, the establishment of a judicial district in the said Territories was authorized, to be known as the Yukon Judicial District, and to be bounded as hereinafter mentioned:

Now Known Ye, that We do hereby and by virtue of the authority vested in Us by the said Act, and the said Order in Council respectively establish and set apart a judicial district in the North-west Territories to be named and known as the "Yukon Judicial District," the boundaries of such judicial district to be as follows:-

Beginning at the intersection of the 141st meridian of west longitude from Greenwich with a point on the coast of the Arctic Sea, which is approximate north latitude,  $69^{\circ} 39'$ , and named on the Admiralty charts "Demarcation Point;" thence due south, on said meridian (which is also the boundary line between Canada and Alaska) for a distance of about 650 miles, to a point in latitude about  $60^{\circ} 10'$  north, at which it will intersect the disputed boundary between Canada and the United States on the North Pacific coast; thence in an easterly direction, along the said undetermined boundary, for a distance of about 55 miles (in a straight line) to its intersection with the 60th parallel of north latitude; thence due east along the parallel of latitude (which is also the north boundary of British Columbia) for a distance of about 550 miles, to the Liard River, in approximate longitude  $123^{\circ} 30'$  west; thence northerly along the middle line of said river, for a distance of about 10 miles till opposite the highest part of the range of mountains which abuts upon the river near the mouth of Black River; thence to follow the summit of said range in a north-westerly direction to the southernmost source of the Peel River; thence to follow northward the summit of the main range of mountains which runs approximately parallel to Peel River, on the west, as far as the intersection of the said range with the 136th meridian; thereafter to run due north to the Arctic Ocean, or to the westernmost channel of the Mackenzie Delta, and along that channel to the Arctic Ocean; thence north-westerly following the windings of the Arctic Coast (termination of the mainland of the Continent), including Herschel Island, and all other islands which may be situated within three (3) geographical miles, to the place of beginning.

Provided, that in respect to that part of the line, between the Liard River and the southernmost source of the Peel River the summit to be followed is the watershed summit separating streams entering the Liard River below Black River, or flowing directly into the Mackenzie further north, from streams flowing westward either to the Yukon or to upper branches of the Liard River.

Provided, that in respect to the part of the boundary described as following northward the main range of mountains on the west side of Peel River, the line shall run along the water-shed between streams flowing eastwardly to the Peel River, and those flowing westwardly to branches of the Yukon, Porcupine, etc., except where such water-shed shall be more than 20 miles distant from the main stream of the Peel, when the highest range within that distance shall be the boundary.

Of all which Our loving subjects and all others whom these presents may concern, are hereby required to take notice and to govern themselves accordingly.

In Testimony Whereof, We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed. Witness, Our Right Trusty and Right Well-Beloved Cousin and Councillor the Right Honourable Sir JOHN CAMPBELL HAMILTON-GORDON, Earl of Aberdeen; Viscount Formartine, Baron Haddo, Methlic, Tarves and Kellie, in the Peerage of Scotland; Viscount Gordon of Aberdeen Country of Aberdeen, in the Peerage of the United Kingdom; Baronet of Nova Scotia; Knight Grand Cross of Our most Distinguished Order of Saint Michael and Saint George, etc. Governor General of Canada.

At Our Government House, in Our City of Ottawa, in Our said Dominion, this sixteenth day of August, in the year of Our Lord one thousand eight hundred and ninety-seven, and in the sixty-first year of Our Reign.

By Command,

JOSEPH POPE,  
Under-Secretary of State.

# YUKON ACT, REVISED STATUTES OF CANADA, 1952

## CHAP 298.

An Act to provide for the Government of the Yukon Territory.

### *Short Title.*

1. This Act may be cited as the *Yukon Act*. *Short title.*  
R.S., c, 215, s. 1.

### *Interpretation.*

2. In this Act, *Definitions.*
- (a) "Commissioner" means the Commissioner of the Yukon Territory; *"Commissioner."*
- (b) "Commissioner in Council" means the Commissioner by and with the advice and consent of the Council; *"Commissioner in Council."*
- (c) "Council" means the Council of the Yukon Territory; *"Council"*
- (d) "Court" means the Territorial Court for the Yukon Territory. *"Court."*
- (e) "intoxicant" includes opium or any preparation thereof, and any other intoxicating drug, spirit or substance, and whether the same or any of them is liquid or solid; *"Intoxicant."*
- (f) "intoxicating liquor" means and includes all spirits, strong waters, spirituous liquors, wines, fermented or compounded liquors or intoxicating fluids; and *"Intoxicating liquor."*
- (g) "Territory" means the Yukon Territory. *"Territory."*  
R.S., c. 215, s. 2.

3. The territory described in the Schedule shall continue to be a separate territory under the name of the Yukon Territory. R.S., c. 215, s. 3. *Continued a separate territory.*

4. The Governor in Council may appoint for the Territory a chief executive officer to be styled and known, as the Commissioner of the Yukon Territory. 1948, c. 75, s. 1. *Commissioner.*

5. The Commissioner shall administer the government of the Territory under instructions from time to time given him by the Governor in Council or the Minister of Resources and Development. R.S., c. 215, s. 5; 1949 (2nd Sess.), c. 18, s. 9.

*Administration of the Government.*

6. The Governor in Council may from time to time appoint an Administrator to execute the office and functions of the Commissioner during his absence or illness or other inability. 1948, c. 75, s. 2.

*Appointment of Administrator.*

7. The Commissioner and every Administrator appointed under this Act shall, before assuming the duties of his office, take and subscribe before the Governor General, or before some person duly authorized to administer such oaths, an oath of allegiance, and an oath of office similar to those required to be taken by a Lieutenant Governor under the *British North America Act 1867*. R.S., c. 215, s. 7.

*Oaths of Commissioner and Administrator.*

8. The salaries of the Commissioner and of the Administrator shall be fixed by the Governor in Council and is payable out of the Consolidated Revenue Fund of Canada. R.S., c. 215, s. 8.

*Salaries.*

#### *Council.*

9. (1) There shall be a Council of the Yukon Territory, which shall be composed of five members elected to represent the electoral districts to be named and described by the Commissioner in Council.

*Elective Council.*

(2) Any person is eligible for election as a member of the Council who is qualified to vote at an election of such member. R.S., c. 215, s. 9; 1951, c. 23, s. 1.

*Qualification of Councillor.*

10. The members of the Council shall, before entering upon the duties of their office, take and subscribe before the Commissioner such oaths of allegiance and office as the Governor in Council may prescribe. R.S., c. 215, s. 10.

*Oaths of office and allegiance.*

11. The Commissioner in Council may prescribe the qualifications of those entitled to vote at an election of members to the Council, but only those persons are entitled to vote who are natural born or naturalized male or female British subjects of the full age of twenty-one years, and who have resided in the Territory for a period of twelve months prior to the date of the election. R.S., c. 214, s. 11.

*Qualification of elector.*

*Commissioner in Council.*

12. Until the Commissioner in Council otherwise provides, the laws in force in the Territory immediately before the coming into force of this Act relating to the Council and to the election of representative members of the Council, shall, subject to the provisions of this Act, apply to the Council as constituted under this Act and to the election of members of the Council. R.S., c. 215, s. 12.

*Application of certain territorial laws.*

13. Every council shall continue for three years from the date of the return of the writs for the general election, and no longer; but the Commissioner may, at any time, dissolve the Council and cause a new one to be elected. R.S., c. 215, s. 13.

*Duration of Council.*

14. There shall be a session of the Council convened by the Commissioner at least one in ever year after the first session thereof, so that twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session. R.S., c. 215, s. 14.

*Yearly session.*

15. The Council shall sit separately from the Commissioner and shall present bills passed by it to the Commissioner for his assent, and he may approve or disapprove of any of such bills or reserve them for the assent of the Governor in Council. R.S., c. 215, s. 15.

*Sittings separate from Commissioner..*

*Sanction of bills.*

16. A majority of the Council, including the Speaker, constitutes a quorum. R.S., c. 215, s. 16.

*Quorum.*

17. All public moneys and revenue over which the Commissioner in Council has the power of appropriation shall form a fund to be known as the Yukon Consolidated Revenue Fund. R.S., c. 215, s. 17.

*Yukon Consolidated Fund.*

18. Bills for appropriating any part of the public revenue of the Territory, or for imposing any tax or impost, shall originate in the Council. R.S., c. 215, s. 18.

*Money bills.*

19. It shall not be lawful for the Council to adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue of the Territory, or of any tax or impost, to any purpose that has not been first recommended to Council by message of the Commissioner, in the session in which such vote, resolution, address, or bill is proposed. R.S., c. 215, s. 19.

*Recommendation of Commissioner.*

20. (1) The Commissioner in Council may provide for payment out of the Yukon Consolidated Revenue Fund to each member of the Council of

*Sessional indemnity and expenses of councillors.*

- (a) an amount not exceeding one thousand dollars in respect of each session of the Council at which that member is in attendance;
- (b) the actual travelling expenses incurred by that member in travelling from his place of residence to the place where the Council holds its session and returning therefrom, but no such payment shall be made in respect of more than one return trip for each session of the Council; and
- (c) an allowance of living expenses, not exceeding ten dollars for each day in which the Council is in session by the amount that is paid to any member of the Council pursuant to this paragraph shall not exceed two hundred dollars in respect of any one session.

(2) An allowance that is paid to a member of the Council pursuant to paragraph (c) of subsection (1) is not income of that member for the purpose of the *Income War Tax Act*. 1948, c. 75, s. 3.

*Living expense allowance not subject to income.*

21. When any sum of money is granted to Her Majesty by Parliament to defray expenses for any specified public service in the Yukon Territory, the power of appropriation by the Commissioner in Council over that sum is subject to the specified purpose for which it is granted. R.S., c. 215, s. 21.

*Appropriation of moneys granted by Parliament.*



22. (1) The receipt and expenditure of territorial funds and of such portion of any moneys appropriated by Parliament for the Territory as the Commissioner is authorized to expend by and with the advice and consent of the Council or any committee thereof, and the accounts with respect to such receipt and expenditure, are subject to examination and audit by the Auditor General in the same manner and to the same extent as are the receipt and expenditure of public moneys of Canada and the accounts with respect thereto under the *Financial Administration Act*.

*Audit by Auditor General.*

(2) The Auditor General shall, wherever he deems it necessary or desirable, send an officer of his office to the Territory for the purpose of examining and auditing such receipt, expenditure and accounts, and reporting thereon to him.

*A.G. may send officer to Territory.*

(3) The public accounts of the Territory shall include the period from the 1st day of April in one year to the 31st day of March in the next year, both inclusive, which period shall constitute the fiscal year. R.S., c. 215, s. 22.

23. (1) The Governor in Council may appoint a fit and proper person, being a barrister or advocate at the bar of any of the provinces of Canada, to be public administrator and office guardian in and for the Territory, under the name of "Public Administrator", to hold office during pleasure.

*Appointment of public administrator and official guardian.*

(2) The Public Administrator shall perform such duties as are imposed upon him, and be invested with such powers as are bestowed upon him by or under any Act of the Parliament of Canada or any ordinance of the Governor in Council or the Commissioner in Council, and shall be otherwise subject to the provisions of any such Act or ordinance with respect to the said office of public administrator, but no such ordinance of the Commissioner in Council has force or effect except in so far as it is not inconsistent with any ordinance of the Governor in Council or any Act of the Parliament of Canada.

*His duties and powers.*

(3) With respect to such services or duties as he is required to render or perform by order of the Governor in Council or the Commissioner in Council, the Public Administrator shall receive and be paid such fees or other remuneration as is prescribed by the Commissioner in Council.

*Remuneration.*

(4) Before entering upon his duties the Public Administrator shall take such oath of office and furnish such security for the faithful and proper performance of the duties of his office as are from time to time prescribed by the Governor in Council

*Oath of office and security.*

(5) The work and operation of the office of Public Administrator and his dealings and accounts in connection with estates or property coming into his hands by virtue of his office shall be subject to inspection, examination and audit by the Auditor General of Canada or by any officer deputed by him for that purpose. R.S., c. 215, s. 23; 1948, c. 75, s. 4.

*Audit of work of office.*

24. The Auditor General and, while he is engaged in any inspection, examination and audit under the provisions of section 22 and 23, the officer so deputed by him, has, in connection with such inspection, examination and audit all the powers which the Auditor General has under the *Financial Administration Act* in connection with the examination and audit of the receipt and expenditure of public moneys of Canada and the accounts with respect thereto. R.S., c. 215, s. 24.

*Powers of Auditor General.*

25. The Commissioner in Council may make ordinances

*Other ordinances.*

- (a) imposing taxes for any purpose within his jurisdiction;
- (b) respecting the summoning of juries and the enforcement of the attendance of jurors for the trial of civil and criminal cases and respecting the payment of the costs and expenses in connection therewith;
- (c) for the control and regulation of the sale of and traffic in intoxicating liquor in the Territory, subject to the provisions of any ordinance of the Governor in Council and notwithstanding anything to the contrary in any Act of Parliament; and
- (d) for the preservation of game in the Territory. R.S., c. 215, s. 25

*Taxation.*

*Juries.*

*Liquor traffic.*

*Game.*

26. (1) The Commissioner in Council may also, subject to the provisions of this Act, and of any other Act of the Parliament of Canada applying to the Territory, and of any ordinances of the Governor in Council, make ordinances for the government of the Territory in relation to the classes of subjects next hereinafter mentioned, that is to say:

- |  |  |
|--|--|
| (a) the establishment and tenure of the territorial offices and the appointment and payment of territorial officers out of territorial revenues;   | <i>Territorial offices and officers.</i> |
| (b) the establishment, maintenance and management of prisons in and for the Territory, the expense thereof being payable out of territorial revenues;  | <i>Prisons.</i>                          |
| (c) municipal institutions in the Territory;   | <i>Municipal instit.</i>                 |
| (d) shop, saloon, tavern, auctioneer and other licences in order to raise a revenue for territorial and municipal purposes;  | <i>Licences.</i>                         |
| (e) the incorporation of companies with territorial objects, including tramways and street railway companies, but excluding railway companies and steamboat, canal, telegraph and irrigation companies;  | <i>Incorporation of companies.</i>       |
| (f) the solemnization of marriage in the Territory;  | <i>Marriage.</i>                         |
| (g) property and civil rights in the Territory;  | <i>Property and civil rights.</i>        |
| (h) the administration of justice in the Territory, including the constitution, organization and maintenance of territorial courts of civil jurisdiction, including procedure therein, but not including the appointment of judicial officers, or the constitution, organization and maintenance of courts of criminal jurisdiction, or procedure in criminal matters; | <i>Administration of justice.</i>        |
| (i) the defining of the powers, duties and obligations of sheriffs and clerks of the courts and their respective deputies;   | <i>Sheriffs and clerks of court.</i>     |
| (j) the conferring on territorial courts of jurisdiction in matters of alimony;  | <i>Alimony.</i>                          |
| (k) the imposition of punishment by fine, penalty or imprisonment, for enforcing any territorial ordinances;   | <i>Enforcing of ordinances.</i>          |

- (l) the expenditure of territorial funds and such portion of any moneys appropriated by Parliament for the Territory as the Commissioner is authorized to expend by and with the advice of the Council or of any committee thereof;
- (m) the levying of a tax upon furs to be shipped or carried from the Territory to any other part of Canada or any other country; and
- (n) generally, all matter of a merely local or private nature in the Territory.

*Expenditure of territorial funds.*

*Tax on furs exportation.*

*Local and private.*

(2) The provisions of paragraph (m) of subsection (1) shall be deemed to have come into operation on the 19th day of May, 1919, but so that they shall apply and have effect as follows, and not otherwise: they shall apply and have full effect in relation to all matters and things arising after the enactment of the said paragraph and, as well, to prevent the defeat, disturbance, avoidance and reopening of any civil or criminal proceedings, payment, adjustment, settlement or other matter or thing which, before such paragraph was enacted, was fully ended, made or done; and in any civil or criminal proceeding either

*Coming into operation.*

- (a) pending at the time when such paragraph was enacted, or
- (b) instituted after such enactment with relation to any liability incurred or existent before such enactment, and part to such proceeding may plead or defend with effect as if such paragraph had not been enacted.

(3) The Commissioner in Council continues to have all the power and authority to make ordinances that he had at the time of coming into force of this Act, and any power to repeal, re-enact or substitute provisions that, upon the coming into force of this Act, the Commissioner in Council had with respect to the *Northwest Territories Act*, the Revised Statutes of Canada, 1886, chapter 50, and the Acts in amendment thereof as applying to the Territory, is hereby preserved and shall continue with respect to the corresponding provisions of this Act, if any. R.S., c. 215, s. 26; 1940, c. 45, ss. 1, 2.

*General saving of existing powers.*

27. Nothing in section 26 shall be construed to give to the Commissioner in Council any greater powers with respect to the subjects therein mentioned than are given to provincial legislatures under the provisions of section 92 of the *British North America Act 1867*, with respect to the similar subjects therein mentioned. R.S., c. 215, s. 27.

*Powers not to exceed those of provincial legislatures.*

28. The Commissioner in Council shall pass all necessary ordinances in respect to education; but it shall therein always be provided that a majority of the ratepayers of any district or portion of the Territory or of any less portion or subdivision thereof, by whatever name the same is known, may establish such schools therein as they think fit, and make the necessary assessment and collection of rates therefor; and also that the majority of the ratepayers therein, whether Protestant or Roman Catholic, may establish separate schools therein, and in such cases, the ratepayers establishing such Protestant or Roman Catholic separate schools are liable only to assessment of such rates as they impose upon themselves in respect thereof. R.S., c. 215, s. 28.

*Education.*

29. (1) A copy of every ordinance made by the Commissioner in Council shall be despatched by mail to the Secretary of State of Canada within ten days after the passing thereof, and shall be laid before both Houses of Parliament as soon as conveniently may be thereafter.

*Ordinances to be laid before Parliament.*

(2) Any such ordinance may be disallowed by the Governor in Council at any time within two years after its passage. R.S., c. 215, s. 29.

*Disallowance.*

*Ordinances by Governor in Council.*

30. (1) Subject to the provisions of this Act, the Governor in Council may make ordinances for the peace, order and good government of the Territory, and of Her Majesty's subjects and others therein, but no such ordinance shall

*General Powers.*

- (a) impose any penalty exceeding five hundred dollars, for the enforcement of any ordinance;

- (b) alter or repeal the punishment provided in any Act of the Parliament of Canada in force in the Territory for any offence; or
- (c) appropriate any public land or other property of Canada without authority of Parliament, or impose any duty of customs or excise.
- (2) Without limiting the generality of the powers so conferred the Governor in Council may make ordinances
- (a) imposing a tax or royalty, not exceeding five percent thereof, upon gold or silver the output of mines in the Territory, to be levied from and after the date of the ordinance imposing it;
- (b) prescribing and regulating the place and manner of collection of such tax or royalty, and the methods of securing and enforcing the payment thereof;
- (c) providing for the confiscation and forfeiture of gold and silver upon which such tax or royalty has not been duly paid, as well as for the confiscation and forfeiture of any vessel, vehicle, cart or other receptacle containing it, or used or intended to be used for the transportation thereof; and
- (d) giving to any officer of the Crown, in respect of searches, examinations, and other proceedings for the enforcement of the provisions of any such ordinance, all such powers, rights, privileges, and protection as officers of Customs have under the provisions of the *Customs Act*.
- (3) No tax shall be imposed by ordinances except as in this Act provided. R.S., c. 215, s. 30.
31. Every ordinance made under the authority of section 30 remains in force until the day immediately succeeding the day of prorogation of the then next session of Parliament, and no longer, unless during such session of Parliament such ordinance is approved by resolution of both Houses of Parliament. R.S., c. 214, s. 31.
- Specific.*
- Royalties on gold and silver.*
- Collection thereof.*
- Forfeiture for non-payment.*
- Powers of officers.*
- No tax except as authorized.*
- Ordinances must be approved by Parliament.*

32. (1) Every ordinance made by the Governor in Council under the provisions of this Act has force and effect only after it has been published for four successive weeks in the *Canada Gazette*.

*Publication.*

(2) All such ordinances shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof. R.S., c. 215, s. 32.

*Ordinances to be laid before Parliament.*

#### *Laws Applicable to Territory.*

33. Subject to the provisions of this Act, the laws relating to civil and criminal matters and the ordinances in force in the Northwest Territories on the 13th day of June, 1898, shall be and remain in force in the Territory, in so far as the same are applicable thereto, and in so far as the same have not been or are not hereafter repealed, abolished or altered by the Parliament of Canada, or by any ordinance of the Governor in Council or the Commissioner in Council made under the provisions of this Act. R.S., c. 215, s. 33.

*Existing laws continued.*

34. Every Act of the Parliament of Canada, except in so far as otherwise provided in any such Act, and except in so far as the same is, by its terms, applicable only to one or more of the provinces of Canada, or is, for any reason, inapplicable to the Territory, shall, subject to the provisions of this act, apply to and be in force in the Territory. R.S., c. 215, s. 34.

*Application of Acts of Parliament.*

35. The Governor in Council may, by proclamation, from time to time, direct that any Act of the Parliament of Canada, or any part or parts thereof, or any one or more of the sections of any such Act not then in force in the Territory, shall be in force in the Territory generally, or in any part or parts thereof mentioned in such proclamation. R.S., c. 215, s. 35.

*Acts may be made to apply by proclamation.*

#### *Wills*

36. Every person of the full age of twenty-one years may devise, bequeath or dispose of by will, executed in manner hereinafter mentioned, all real and personal property to which he is entitled either at law or in equity at the time of his death,

*Who may make.*

and which, if not so devised, bequeathed or disposed, would devolve upon his heir-at-law, or upon his executor or administrator. R.S., c. 215, s. 36.

37. (1) No will is valid unless it is in writing and signed at the foot or end thereof, by the testator or by some other person in his presence and by his direction; and such signature shall be made or acknowledged by the testator, in the presence of two or more witnesses present at the same time, who shall attest and subscribe the will in the presence of the testator.

*Execution.*

(2) No form of attestation is necessary and no other publication than as aforesaid is required. R.S., c. 215, s. 37.

*Attestation.*

38. Where any person who attests the execution of a will is, at the time of the execution thereof, or at any time afterwards, incompetent to be admitted as a witness to prove the execution thereof, such will is not, on that account, invalid. R.S., c. 215, s. 38.

*Incompetence of witness not to invalidate.*

39. No person is, on account of his being an executor of a will, incompetent to be admitted as a witness to the execution of such will, or as a witness prove the validity or invalidity thereof. R.S., c. 215, s. 39.

*Executor may be witness.*

40. When any person attests the execution of any will, to whom, or to whose wife or husband, any beneficial devise or legacy affecting any real or personal property other than a charge for the payment of a debt is thereby given, such devise or legacy is so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person, wife or husband, null and void, and such person so attesting shall be admitted to prove the execution of such will, or the validity or invalidity of such will, notwithstanding such devise or legacy. R.S., c. 215, s. 40.

*Devise or bequest to attesting witness void.*

41. No will or codicil, or any part thereof, is revoked otherwise than by

*Revocation.*

- (a) marriage;
- (b) another will or codicil executed in manner hereinbefore required;
- (c) some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed; or



- (d) the burning, tearing or otherwise destroying the same, by the testator or by some person in his presence and by his direction, with the intention of revoking the same. R.S., c. 215, s. 41.

42. Every will shall be construed with reference to the real and personal property affected by it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention appears by the will. R.S., c. 215, s. 42.

*Construed as if executed immediately before death.*

43. Where any real property is devised to any person without any words of limitation, such devise shall be construed to pass the fee simple, or other the whole estate or interest that the testator had power to dispose of by will, in such real property, unless a contrary intention appears by the will. R.S., c. 215, s. 43.

*Whole estate in realty to pass unless contrary intention appears.*

44. A holograph will written and signed by the testator himself, though not witnessed, is valid. 1948, c. 75, s. 5.

*Holograph will to be valid.*

#### *Married Women.*

45. (1) All the wages and personal earnings of a married woman, and any acquisitions therefrom, and all proceeds or profits derived from any occupation or trade that she carries on separately from her husband, or from any literary, artistic or scientific skill, and all investments of such wages, earnings, moneys or property are free from the debts or dispositions of the husband, and shall be held and enjoyed by such married woman, and disposed of without her husband's consent, as fully as if she were a feme-sole.

*Earnings, etc.*

(2) No order for protection is necessary in respect of any such earnings or acquisitions.

*No order for protection.*

(3) The possession, whether actual or constructive, of the husband of any personal property of any married woman, does not render the same liable, for his debts. R.S., c. 215, s. 44.

*Possession not to make liable.*

46. A married woman may make deposits of money in her own name in any savings or other bank, and withdraw the same by her own cheque; and her receipt or acquittance is a sufficient discharge to any such bank. R.S., c. 215, s. 45.

*Deposits in bank.*

47. Nothing hereinbefore contained in reference to moneys deposited or investments by any married woman, shall, as against any creditor of the husband, give validity to any deposit or investment of moneys of the husband made in fraud of such creditor; and any moneys so in fraud deposited or invested may be followed as if this Act had not been passed. R.S., c. 215, s. 46.

*Deposits or investments in fraud of creditors of husband not validated.*

48. (1) A husband is not by reason of any marriage liable for the debts of his wife, contracted before marriage, nor for any debts of his wife in respect of any employment or business in which she is engaged on her own behalf, or in respect of any of her own contracts.

*Wife's debts. Husband not liable.*

(2) The wife is liable to be sued for any debts by her contracted before marriage, and any property belonging to her for her separate use is liable to satisfy such debts as if she had continued unmarried. R.S., c. 215, s. 47.

*Wife liable for ante-nuptial debts.*

49. A married woman may maintain an action in her own name for the recovery of any wages, earnings, money, or property, declared by this Act or which is hereafter declared to be her separate property, and has, in her own name, the same remedies, both civil and criminal against all persons whomsoever for the protection and security of such wages, earnings, money and property, and of any chattels or other her separate property, for her own use, as if such wages, earnings, money, chattels, and property belonged to her as an unmarried woman. R.S., c. 215, s. 48.

*May sue in own name.*

50. Any married woman may be sued or proceeded against separately from her husband in respect of any of her separate debts, engagements, contracts or torts, as if she were unmarried. R.S., c. 215, s. 49.

*May be sued separately.*

#### *Territorial Court.*

51. (1) There shall continue to be a superior court of record in and for the Territory, called the Territorial Court, consisting of one or more judges appointed by the Governor in Council by letters patent under the Great Seal.

*Territorial Court continued.*

(2) All references in this Act to the judges of the Territorial Court shall be construed as referring to the judge of the Territorial Court and except as otherwise provided in the case of appeals, the judge of the Territorial Court has all the powers and authority vested in any or all the said judges. R.S., c. 215, s. 50.

*Power of judges of Territorial Court.*

52. Any person may be appointed a judge of the Court who is or has been a judge of a superior or a county court of any province of Canada or of the Northwest Territories or a barrister or advocate of at least ten years' standing at the bar of any such province or of the Northwest Territories, or of the Yukon Territory. R.S., c. 215, c. 51.

*Qualifications.*

53. A judge of the Court shall not hold any other office of emolument under the Government of Canada, or of any province of Canada or of the Territory, except that a judge of the Court is eligible for appointment as a member of the Council of the Territory. R.S., c. 215, s. 52.

*Not to hold other office of emolument.*

54. The law governing the rights, privileges, power authority and jurisdiction of the Court and the judge or judges thereof, shall be the same, *mutatis mutandis*, as the law governing the rights, privileges, power, authority and jurisdiction of the Supreme Court of the Northwest Territories and of the judges of that Court, except as the same are expressly varied by this Act. R.S., c. 215, s. 53.

*Law as to rights etc., of court and judges.*

55. Each judge of the court shall reside at such place in the Territory as the Governor in Council, in the commission to such judge, or by the order in council, directs. R.S., c. 215, s. 54.

*Residence of judges.*

56. The judges of the Court hold office during good behaviour, but are removable by the Governor General, on address of the Senate and House of Commons of Canada. R.S., c. 215, s. 55.

*Tenure of office.*

57. (1) Every judge shall, previously to entering upon the duties of his office as such judge, take an oath in the form following:

*Oath of office.*

I, \_\_\_\_\_, do solemnly and sincerely promise and swear that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as one of the judges of the Territorial Court. So help me God.

(2) Such oath shall be administered by the Commissioner or by a judge of the court. R.S., c. 215, s. 56.

58. The Governor in Council may appoint such officers of the court and such other officers for the due administration of justice in the Territory, as are deemed necessary and may define and specify the duties of such officers, and fix the fees or emoluments of such officers, and of witnesses and other persons attending or performing duties in relation to the administration of criminal justice and provide the manner in which such fees and emoluments shall be paid. R.S., c. 215, s. 57.

*Officers of the court.*

59. The Court shall, within the Territory, and for the administration of the laws for the time being in force within the Territory, possess all such powers and authorities as by the law of England are incident to a superior court of civil and criminal jurisdiction; and shall have, use and exercise all the rights, incidents and privileges of a court of record, and all other rights, incidents and privileges, as fully to all intents and purposes as the same were on the 15th day of July, 1870, used, exercised and enjoyed in England by any superior court of common law, or by the Court of Chancery, or by the Court of Probate. R.S., c. 215, s. 58.

*Powers of court.*

60. The Court has jurisdiction in all and all manner of actions, causes and suits as well criminal as civil, real, personal, and mixed, and shall proceed in such actions, causes and suits by such process and course as are provided by law, and as tend with justice and despatch to determine the same, and shall hear and determine all issues of law and shall also hear, and with or without a jury, as provided by law, determine all issues of fact joined in any such action, cause or suit, and give judgment thereon and award execution thereof, in as full and as ample a manner as might at the said date be done in England in the Court of Queen's Bench, or the Court of Common Bench, or the Court of Chancery, or the Court of Probate, or in matters regarding the public revenue, including the condemnation of contraband or smuggled goods, in the Court of Exchequer. R.S., c. 215, s. 59.

*Jurisdiction.*

61. Sitings of the Court presided over by a judge or judges shall be held at such times and places as the Governor in Council or the Commissioner appoints, and such sittings shall be public. R.S., c. 215, s. 60.

*Sittings of the court.*

62. The Governor in Council may, at any time, by proclamation divide the Territory into judicial districts, and give to each such district an appropriate name, and, in like manner, from time to time, alter the limits and extent of such districts. R.S., c. 215, c. 61.

*Judicial districts may be formed.*

63. Every judge of the Court shall have jurisdiction throughout the Territory, but shall usually exercise the same within the judicial district, if any, to which he is assigned by the Governor in Council, and in all causes, matters and proceedings, other than such as are usually cognizable by a court sitting in banc, and not by a single judge thereof, shall have and exercise all the powers, authorities and jurisdiction of the Court. R.S., c. 215, s. 62.

*Powers of single judge.*

64. Subject to any statute prohibiting or restricting proceedings by way of *certiorari*, a single judge in addition to his other powers, has all the powers of the Court as to proceedings by way of *certiorari* over the proceedings, orders, convictions, and adjudications had, taken and made by justices of the peace, and, in addition thereto, has the power of revising, amending, modifying or otherwise dealing with the same; and writs of *certiorari* may, upon the order of a judge, be issued by the clerk of the court mentioned in such order returnable as therein directed. R.S., c. 215, s. 63.

*Certiorari.*

65. Whenever, under any Act in force in the Territory, any power of authority is to be exercised, or anything is to be done by a judge of a court such power or authority shall, in the Territory, be exercised or such thing shall be done by a judge of the Territorial Court, unless some other provision is made in that behalf by such Act. R.S., c. 215, s. 64.

*Powers of a judge.*

66. Subject to the provisions of any Act or ordinance relating to the Territorial Court, the judges of the said Court may make general rules and orders prescribing and regulating the procedure and practice of the Court in civil matters. R.S., c. 215, s. 65.

*Rules and orders.*

67. In case of illness of the judge of the Court, or if the judge is absent, the Governor in Council may specially appoint any barrister or advocate of at least ten years standing to discharge the duties of the judge during his illness or absence, and the person so appointed during the period aforesaid, has all the powers incident to the office of the judge of the Court. R.S., c. 215, s. 66.

*Illness or absence of judge.*

68. Where the judge of the Court
- (a) is interested in any cause or matter, or is disqualified by kinship to any party, or
  - (b) has professionally engaged in any cause or matter as counsel or solicitor for any part previously to his appointment to the office of judge, and considers himself thereby incapacitated from sitting or adjudicating therein,

*Disqualification of judge.*

the Governor in Council may, upon the written application of the judge, setting out such impediment, appoint any other person having the qualifications hereinbefore mentioned to act as judge *pro hac vice* in relation to any such cause of matter. R.S., c. 214, s. 67.

*Judges pro hac vice.*

69. Every such temporary judge, or judge *pro hac vice* shall be sworn to the faithful performance of the duties of his office. R.S., c. 215, c. 68.

*Oath.*

70. Any judge temporarily appointed to discharge the duties of the judge may, notwithstanding the expiry of the term of his appointment, or the happening of any event upon which his appointment terminated, proceed with and conclude the trial or hearing at that time actually pending before him of any cause, matter or proceedings, and pronounce judgment therein, and may cause, matter or proceeding previously heard by him and then under consideration or reserved; and any such trial, hearing or judgment has the same validity and effect as if heard or pronounced during the said term or previously to the happening of the said event. R.S., c. 215, s. 69.

*May conclude pending proceedings.*

71. (1) The Governor in Council may appoint such number of persons as stipendiary magistrates, from time to time, as may be deemed expedient.

*Appointment of stipendiary magistrates.*

(2) Every stipendiary magistrate so appointed has and may exercise the powers, authorities and functions now vested in the judge of the Court.

*Powers and authorities.*

(3) Every stipendiary magistrate shall previously to entering upon the duties of his office as such stipendiary magistrate take an oath in the form following:

*Oath of office.*

I \_\_\_\_\_ do solemnly and sincerely promise and swear that I will duly and faithfully and to the best of my skill and knowledge execute the powers and trust reposed in me as a stipendiary magistrate. So help me God.

(4) Such oath shall be administered by the Commissioner. 1940-41, c. 30, s. 1; 1948, c. 75, s. 6.

*Commissioner to administer oaths.*

#### *Special Provisions as to Jurisdiction in Civil Matters*

72. (1) Every judge of the Court has jurisdiction, power and authority to hold courts, whether established by ordinance or not, at such times and places as he thinks proper, and at such courts, as sole judge, to hear all claims, disputes and demands whatsoever, except as herein provided, which are brought before him, and to determine any questions arising thereout, as well of fact as of law, in a summary manner; and such courts shall be open public courts.

*Jurisdiction of judge.*

(2) On the application to set a cause down for trial, if the action is for slander, libel, false imprisonment, malicious prosecution, seduction or breach of promise of marriage or if the case arises out of a tort, wrong or grievance in which the damages claimed exceed five hundred dollars; or if the action is for debt, or founded on contract wherein the amount claimed or the damages sought to be recovered exceed one thousand dollars, or for the recovery of real property, or for the recovery of a claim, mining property, mineral claim or location, as defined by the *Yukon Placer Mining Act*, or by the regulations for the disposal

*Action for recovery etc., of claims, mining property or mineral locations.*

of quartz mining claims on territorial lands in the Yukon Territory, or of any interest therein, or to establish title thereto, or for the definition of or establishment of the boundaries of any such claim, mining property, mineral claim or location, or to establish the right of a claimant to any such claim, mining property, mineral claim or location, or interest therein, or to have included within said claim, mining property, mineral claim or location, any land or property, or if the action is for divorce or judicial separation, and if either party signifies his desire to have the issues of fact therein tried by a judge with a jury, or the judge so directs, the same shall be tried by a jury. R.S., c. 215, s. 70.

73. In cases of disputed accounts, the judge may, in place of a trial by jury, direct the evidence to be taken by any clerk of the Court, or by any other competent person; which clerk or other person shall be sworn to take the same truly, and to reduce it to writing. R.S., c. 215, s. 71.

74. The judge may give judgment on the verdict of the jury or upon the evidence taken by the clerk or other person as aforesaid, or may, in the case of a verdict, order a new trial, when justice seems to require it. R.S., c. 215, s. 72.

75. In such cases a judge may give such judgment and make such orders and decrees, interlocutory and final, as appear just and agreeable to equity and good conscience. R.S., c. 215, s. 73.

76. No court or judge in the Territory has jurisdiction in respect of any action for a gambling debt, or of any action by any person on any promissory note, bill of exchange, cheque, draft or other document or writing whatsoever, the consideration or any part of the consideration for which was a gambling debt. R.S., c. 215, s. 74.

77. Every judgment of the judge shall be pronounced in open court as soon as may be after the hearing of the case; except that, in any case where the judge is not prepared to pronounce judgment at the close of the trial, he may postpone judgment and deliver and enter the same subsequently, and such judgment is as effectual as if rendered in court at the trial. R.S., c. 215, s. 75.

*Judgment in such cases.*

*Judgment in such cases.*

*Equity and good conscience to direct.*

*Gambling debts.*

*Judgment how given.*



78. The proceedings to carry into effect any judgement, order or decree of the Court whether interlocutory or final, shall be as prescribed by ordinance of the Commissioner in Council; or, if no such ordinance is in force when the judgment, order or decree is rendered, then in such manner as the judge who pronounced the same directs. R.S., c. 215, s. 76.

*Execution of judgment.*

79. The Governor in Council may, from time to time, by proclamation repeal the provisions of section 72 to 78, or any of them, from and after a day to be named in such proclamation. R.S., c. 215, s. 77.

*Repeal of sections 72 to 78.*

*Appeal in Civil Cases.*

80. (1) The Court of Appeal of British Columbia is hereby constituted a court of appeal for the Territory.

*Court of Appeal.*

(2) An appeal lies from any final judgment of the Territorial Court of the judges of the said Court of Appeal sitting together as a full court where the matter in controversy amounts to the sum or value of five hundred dollars or upwards, or where the title to real estate or some interest therein is in question, or the validity of a patent is affected, or the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a public or general nature affecting future rights, or in cases of proceedings for or upon mandamus, prohibition or injunction, or if the action is for the recovery of a claim, mining property, mineral claim or location, as defined by the *Yukon Placer Mining Act*, or by the regulations for the disposal of quartz mining claims on territorial lands in the Yukon Territory, or of any interest therein or to establish title thereto, or for the definition of or establishment of the boundaries of any such claim, mining property, mineral claim or location, or to establish the right of a claimant to any such claim, mining property, mineral claim or location or interest therein, or to have included within said claim, mining property, mineral claim or location, any land or property, or if the action is for divorce or judicial separation.

*Jurisdiction.*

(3) The said Court of Appeal and the judges thereof have the same powers, jurisdiction and authority with reference to any such appeal and the proceedings thereon as if it were an appeal duly authorized from a like judgment, order or decree made by the Supreme Court of British Columbia, or a judge thereof, in the exercise of its ordinary jurisdiction.

*Powers.*

(4) Notice of any such appeal shall be given within twenty days from the day upon which the judgment appealed from is pronounced or given, or within such further time as the Territorial court may allow.

*Notice of appeal.*

(5) Execution of the judgment appealed from shall not be stayed except upon application to the Territorial court or to the said Court of Appeal or a judge thereof, and upon such terms as may be just.

*Execution.*

(6) Three judges of the said Court of Appeal constitute a quorum for the hearing of appeals from the Territorial Court.

*Quorum.*

(7) The procedure upon such appeals shall be regulated by the ordinary practice and procedure upon similar appeals coming before the said Court of Appeal, so far as such practice and procedure are applicable and are not inconsistent with anything in this Act, and except in so far as if otherwise provided by general rules made in pursuance of this Act.

*Procedure.*

(8) The judges of the said Court of Appeal, or any three of them, may make general rules not inconsistent with this Act for regulating the practice and procedure upon appeal from the Territorial Court.

*Rules.*

(9) An appeal lies to the Supreme Court of Canada from the judgment upon any appeal authorized by this Act of the Court of Appeal of British Columbia, wherever such an appeal to the Supreme Court of Canada would have been authorized had the judgment appealed from been delivered by the Court of Appeal of British Columbia in a like case in the exercise of its ordinary jurisdiction upon appeal in respect of cases originating in the courts of the said province. R.S., c. 215, s. 78.

*Appeal to Supreme Court of Canada.*

*Administration of Criminal Law.*

81. (1) The procedure in criminal cases in the Territorial Court shall, subject to any Act of the Parliament of Canada, conform as nearly as may be to the procedure existing in like cases in the Northwest Territories on the 13th day of June, 1898.

*Procedure in criminal cases.*

(2) No grand jury shall be summoned or sit in the Territory. R.S., c. 215, s. 79.

*No grand jury.*

82. Every judge of the Court has and may exercise the powers of a justice of the peace, or of any two justices of the peace, under any laws or ordinances in force in the Territory. R.S., c. 215, s. 80.

*Judge to have powers of one or more justices.*

83. Every such judge may in a summary way, and without the intervention of a jury, hear, try and determine any charge against any person of having committed in the Yukon Territory the offence of

*Summary trial in criminal cases.*

- (a) theft or attempt to steal, or obtaining money or property by false pretences, or unlawfully receiving stolen property, in any case in which the value of the whole property alleged to have been stolen, obtained or received, does not, in the opinion of such judge, exceed two hundred dollars;
- (b) unlawfully wounding or inflicting any grievous bodily harm upon any other person, either with or without a weapon or instrument;
- (c) Indecent assault on any female, or on a male person under the age of fourteen years, when such assault, if upon a female, does not, in his opinion, amount to an assault with intent to commit rape; or
- (d) escaping from lawful custody or committing prison breach, or assaulting, resisting or wilfully obstructing any judge or any public or peace officer engaged in the execution of his duty, or any person acting in aid of such officer. R.S., c. 215, s. 81.

*No grand jury.*

*Wounding.*

*Indecent assault.*

*Escape.*

84. When any person is charged with a criminal offence not within section 83, and which is not otherwise by any law made summarily triable without the consent of the accused, the charge shall be heard, tried, and determined by the judge with the intervention of a jury; but in any case the accused may, with his own consent, be tried by a judge in a summary way and without the intervention of a jury. R.S., c. 215, s. 82.

*Trial with jury.*

85. In any case of trial with the intervention of a jury, the jury shall be composed of six jurors. R.S., c. 215, s. 83.

*Summary trial with consent.*

*Jury of six.*

86. (1) Whenever upon a trial before a judge in a summary way such judge is not satisfied that the accused is guilty of the offence with which he stands charged, but the circumstances are such that, upon a trial before a jury under the *Criminal Code* for the like offence, the accused might be found guilty of some other offence, the judge has the same power as to findings as a jury would have in the like circumstances under the *Criminal Code*, and may convict the accused of such other offence, notwithstanding that such offence is one for which under the preceding sections the accused could not, without his own consent, have been tried in a summary way.

*Accused summarily tried for one offence may be convicted of another.*

(2) The person so convicted is liable to the punishment by the *Criminal Code* or otherwise by law prescribed for the offence of which he is found guilty. R.S., c. 215, s. 84.

*Punishment in such cases.*

87. The judge shall, upon every such trial, take or cause to be taken down in writing full notes of the evidence and other proceedings thereat; and all persons tried as aforesaid shall be admitted after the close of the case for the prosecution, to make full answer and defence by counsel, attorney or agent. R.S., c. 215, s. 85.

*Conduct of trial.*

88. When any person is convicted of a capital offence and is sentenced to death, the judge shall forward to the Minister of Justice full notes of the evidence, with his report upon the case; and the execution shall be postponed from time to time, by the judge, if found necessary, until such report is received and the pleasure of the Governor General thereon is communicated to the Commissioner. R.S., c. 215, s. 86.

*Capital offences.*

89. Subject to the provisions of any ordinances of the Commissioner in Council, persons required as jurors for a trial shall be summoned by a judge from among such male persons as he thinks suitable in that behalf; and the jury required on such trial shall be called from among the persons so summoned as such jurors, and shall be sworn by the judge who presides at the trial. R.S., c. 215, s. 87.

*Summoning of jurors.*

90. (1) Any person arraigned for treason or an offence punishable with death, or an offence for which he may be sentenced to imprisonment for more than five years, may challenge peremptorily and without cause any number of jurors not exceeding six; and every peremptory challenge beyond that number shall be void.

*Peremptory challenge by accused.*

(2) The Crown may peremptorily challenge any number of jurors not exceeding four.

*By the Crown.*

(3) Challenges for cause shall be the same as are provided for in the *Criminal Code*. R.S., c. 215, s. 88.

*Challenges for cause.*

91. Subject to the provisions of any ordinances of the Commissioner in Council, if by reason of challenges or otherwise, the number of jurors summoned for the trial is exhausted the judge shall direct some constable or other person to summon by word of mouth from among the bystanders or from the neighbourhood, such number of persons as are necessary to make up a jury, who shall be subject to challenge as if summoned by the judge in the first instance; and the like proceedings shall be repeated, if necessary, until a jury is obtained, competent to try the case. R.S., c. 215, s. 89.

*Summoning of additional jurymen.*

92. Subject to the provisions of any ordinance of the Commissioner in Council, any person so summoned to serve as juror who makes default or refuses to serve as such jurors, without lawful excuse to the satisfaction of the judge, may be fined by him in a sum not exceeding ten dollars, and committed to prison until such fine is paid. R.S., c. 215, s. 90.

*Penalty for non-attendance.*

93. Any person duly summoned, whether on behalf of the prisoner or against him, to attend and give evidence on any such trial, shall be bound to attend on the day appointed for the same, and shall remain in attendance throughout the whole trial, and if, he fails so to attend, he shall be deemed guilty of contempt of court and may be proceeded against therefor. R.S., c. 215, s. 91.

*Attendance of witnesses.*

94. Upon proof to the satisfaction of the judge of the summoning of any witness who fails to attend, and upon such judge being satisfied that the presence of such witness before him is indispensable to the end of justice, he may, by his warrant, cause such witness to be apprehended and forthwith brought before him to give evidence and to answer for his contempt; and such witness may be detained on such warrant with a view to secure his presence as a witness, or may be released on recognizance, with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer for his contempt. R.S., c. 215, s. 92.

*Bench warrant.*

95. The judge may, in a summary manner, examine and dispose of the charge of contempt against such witness who, if found guilty of contempt, may be fined or imprisoned, or both, such fine not to exceed one hundred dollars, and such imprisonment to be with or without hard labour, and not to exceed the term of ninety days. R.S., c. 215, s. 93.

*Charge of contempt.*

96. Returns of all trials and proceedings, civil and criminal, shall be made to the Commissioner in such form and at such times as he directs. R.S., c. 215, s. 94.

*Returns of trial.*

97. The Governor in Council may at any time by proclamation declare that section 84 to 96 shall be repealed from and after the date named in such proclamation. R.S., c. 215, s. 95

*Governor in Council may repeal section 84 to 96.*

98. No person shall be summoned or sworn as a juryman on any trial in the Territorial Court, unless he is a British subject.

*Jurymen to be British subjects.*

99. The trial of any person charged with a criminal offence shall be commenced by a formal charge in writing setting forth as in an indictment the offence wherewith he is charged. R.S., c. 215, s. 97.

*Charge in writing against accused.*

100. Every justice of the peace or other magistrate holding a preliminary investigation in to any criminal offence that may not be tried under the provisions of the *Criminal Code* relating to summary convictions shall, immediately after the conclusion of such investigation, transmit to the clerk of the court, or the clerk of the court for the judicial district in which the charge was made, all informations, examinations, depositions, recognizances, inquisitions and papers connected with such charge, and such clerk shall notify the judge of the court of such investigation and result thereof. R.S., c. 215, s. 98.

*Justices holding preliminary investigation to transmit papers to court.*

101. Whenever any person charged is committed to gaol for trial, the sheriff or other person in charge of such gaol shall, within twenty-four hours, notify a judge of the court, in writing that such prisoner is so confined, stating his name and the nature of the charge preferred against him; whereupon, with as little delay as possible, one of the judges of the court shall cause the prisoner to be brought before him for trial, either with or without a jury, as the case requires. R.S., c. 215, s. 99.

*Notice by sheriff to judge of committal for trial.*

102. The Governor in Council may, from time to time, direct that any building or any part thereof, or any inclosure, in any part of the Territory, shall be a gaol or lock-up for the confinement of prisoners charged with the commission of any offence or sentenced to any punishment or confinement therein; and confinement therein shall thereupon be held lawful and valid, whether such prisoners are being detained for trial or are under sentence of imprisonment in a penitentiary, gaol or other place of confinement. R.S., c. 215, s. 100.

*Establishment of gaols and lock-ups.*

103. The Governor in Council may, at any time, direct that any building, or any part thereof, or any inclosure shall cease to be a gaol or lock-up, and thereupon such building or part thereof, or such inclosure, shall cease to be a gaol or lock-up. R.S., c. 215, s. 101.

*Disestablishment.*

104. The Governor in Council may, from time to time, prescribe the terms and conditions upon which persons convicted or accused of any offence under any ordinance in force in the Territory, or any municipal by-law or regulation, or sentenced to confinement under any such ordinance, by-law or regulation, or arrested under any civil process, shall be received and kept in any gaol or lock-up created under the authority of section 102 and 103; and he may from time to time, specify what gaols and lock-ups shall be available for the confinement of such persons. R.S., c. 215, s. 102.

*Terms and conditions of confinement of offenders under ordinances, etc.*

105. Every lock-up, guard-room, guard-house or place of confinement provided by or for or under the direction of the Royal Northwest Mounted Police Force, or the regular military force, or a municipal body, or by the Commissioner or Commissioner in Council of the Territory, shall be a penitentiary, gaol, and place of confinement for all persons sentenced to imprisonment in the Territory, and the Commissioner shall direct in which such penitentiary, gaol or place of confinement any person sentenced to imprisonment shall be imprisoned. R.S., c. 215, s.103.

*Police guardrooms, etc., to be penitentiaries, gaols and places of confinement.*

106. The Governor in Council may make rules and regulations respecting the management, discipline and policy of every penitentiary, gaol or place of confinement used as such in the Territory. R.S., c. 63, s 88.

*Their management and discipline.*

*Police Magistrates and Their Special Jurisdiction.*

107. The Governor in Council may appoint police magistrates for Dawson and Whitehorse in the Territory, who shall reside at those places, respectively, and shall ordinarily exercise their functions there, but who shall have jurisdiction respectively in such portions of the Territory as are defined in their commissions. R.S., c. 63, s. 90.

*Appointment.*

108. Such police magistrates shall hold office during pleasure and shall be debarred from practising professionally while holding office. R.S., c. 215, s. 106.

*Tenure of office.*



109. (1) The annual salary of each of such police magistrates shall be four thousand dollars, and such salaries may be paid out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada.

*Salaries.*

(2) Such magistrates may be paid in addition to the said salaries such living allowances as may be fixed by the Governor in Council. R.S., c. 215, s. 107.

*Living allowances.*

110. No person shall be appointed a police magistrate hereunder unless he has been admitted and has practised as an advocate, barrister or solicitor in one of the provinces of Canada for a period of not less than three years. R.S., c. 215, s. 108.

*Qualification.*

111. Each of the police magistrates so appointed shall *ex officio*, within the territorial limits of his jurisdiction, be a justice of the peace and have and exercise the authority and jurisdiction of two or more justices of the peace sitting or acting together. R.S., c. 215, s. 109.

*Ex officio justices.*

112. Each such police magistrate shall also, with such limits, be a magistrate for the purposes of the provisions of the *Criminal Code* relating to the summary trial of indictable offences, and shall have and exercise all the jurisdiction of such magistrate, including that vested in police magistrates of cities and incorporated towns by the said provisions; and his jurisdiction shall be absolute without the consent of the person charged, except in cases where such jurisdiction is dependent upon the said provisions with respect to police magistrates of cities and incorporated towns, or where the accused is charged with theft or with obtaining property by false pretences, or with unlawfully receiving stolen property, and the value of the property stolen, obtained or received exceeds ten dollars in which cases, unless the accused consents to be tried by the police magistrate, or unless he is a person in respect to whom the magistrate has absolute jurisdiction under the said provisions, he shall be dealt with as in ordinary cases of indictable offences. R.S., c. 215, s. 110.

*And magistrates for summary trials.*

113. The Governor in Council may, subject to the limitations hereinafter mentioned, if he thinks proper, vest any police magistrate so appointed with civil jurisdiction

*Civil jurisdiction.*

- (a) in cases of claims and demand of debt, or account, or breach of contract or covenant, or money demand, whether payable in money or otherwise, where the amount does not exceed five hundred dollars;
- (b) in other personal actions where the amount claimed does not exceed three hundred dollars, or, if the parties consent in writing, does not exceed five hundred dollars;
- (c) in all cases of claims for the recovery of a debt or money demand where the amount or balance of the claim does not exceed one thousand dollars exclusive of interest as hereinafter mentioned, and such amount or balance ascertained by the signature of the defendant or of the person whom as executor or administrator the defendant represents, notwithstanding that the claim with the interest accrued or accumulated since such ascertainment exceeds the sum of one thousand dollars. R.S., c. 215, s. 111.

114. Such police magistrates, if given civil jurisdiction, shall also have jurisdiction in cases of replevin where the value of the goods or other property or effects distrained, taken or detained, does not exceed three hundred dollars. R.S., c.215, s. 112.

*Replevin up to \$300.*

115. Such police magistrates shall not have jurisdiction, in respect of action,--

*Jurisdiction excluded in certain cases.*

- (a) for gambling debts;
- (b) for spirituous or malt liquors drunk in a hotel, tavern, or house of public entertainment;
- (c) on notes of hand given wholly or partly in consideration of a gambling debt or for such liquors;
- (d) for the recovery of land or in which the right or title to any corporeal or incorporeal hereditament, or to any toll, custom or franchise, comes in question;
- (e) in which the validity of any devise, bequest or limitation under a will or settlement is disputed;

- (f) for malicious persecution, libel, slander, criminal conversation, seduction, or breach, of promise of marriage;
- (g) against a justice of the peace for anything done by him in the execution of his office, if he objects to such jurisdiction. R.S., c. 215, s. 113.

**116.** Each of the judges of the Territorial Court shall have and may exercise in any part of the Territory, the criminal jurisdiction vested by this Act in police magistrates, and, in the exercise of such jurisdiction, shall have all the powers of a police magistrate. R.S., c. 215, s. 114.

*Judges to have criminal jurisdiction of police magistrates.*

**117.** The Governor in Council may, from time to time, assign to one of the judges of the said court the duty of ordinarily exercising such jurisdiction. R.S., c. 215, s. 115.

*Judge may be assigned.*

**118.** (1) There shall be an appeal to the Territorial Court from the final judgment of a police magistrate in any civil case where the amount in dispute, exclusive of costs, exceeds one hundred dollars.

*Appeal to Territorial Court.*

(2) The appeal in such cases shall be heard upon the evidence taken before the police magistrate, and the judgment of the Territorial Court shall be final. R.S., c. 215, s. 116.

**119.** The Commissioner in Council shall have full power, from time to time, to make ordinances,--

*Procedure and practice.*

- (a) prescribing and regulating the procedure and practice to be observed in connection with the exercise of the civil jurisdiction of police magistrates under this Act; or,
- (b) empowering the judges of the Territorial Court to make general rules and orders prescribing and regulating such procedure and practice. R.S., c. 215, s. 117.

### *Appeal in Criminal Cases*

120. For the purpose of the provisions of the *Criminal Code* relating to procedure by indictment the court of appeal from the judgment of a police magistrate in a case where his jurisdiction is dependent upon the said provisions with respect to police magistrates of cities and incorporated towns shall be the Court, and there shall be an appeal from the Court to the Court of Appeal of British Columbia, R.S., c. 215, s. 119.

*Court of Appeal under Criminal Code relating to procedure by indictment.*

121. In the Territory the appeal from a summary conviction or order under the provisions of the *Criminal Code* relating to summary conviction shall be to a judge of the Court sitting without a jury at the place where the cause of the information or complaint arose, or the nearest place thereto where a court is appointed to be held. R.S., c. 215, s. 120.

*Appeal from summary convictions.*

### *Justices of the Peace*

122. While in the Territory, the Commissioner, each member of the Council, every judge of the court, and every commissioned officer of the Royal Northwest Mounted Police, shall *ex officio* have, possess and exercise all the powers of a justice of the peace, or of two justices of the peace, under any laws or ordinances, civil or criminal, in force in the Territory, and the Governor in Council may, by commission, appoint such other persons justices of the peace or police commissioners, having each the power of two justices of the peace within the Territory, as may be deemed desirable. R.S., c. 215, s. 121.

*Justice with authority of two justices.*

### *Coroners.*

123. All persons possessing the powers of two justices of the peace in the Territory shall also be coroners in and for the Territory. R.S., c. 215, s. 122.

*Coroners.*

124. Except as hereinafter provided, no inquest shall be held upon the body of any deceased person by any coroner, unless it has been made to appear to such coroner that there is reason to believe that the deceased died from violence or unfair means, or by culpable or negligent conduct either of himself or of others under such circumstances require investigation, and not through mere accident or mischance. R.S., c. 215, s. 123.

*Inquests, when only to be held.*

125. Upon the death of any prisoner, the gaoler or officer in charge of the gaol wherein such prisoner dies shall immediately give notice to the nearest resident coroner, and such coroner shall proceed forthwith to hold an inquest upon the body. R.S., c. 215, s. 124.

*Death of prisoner.*

126. It shall not be necessary in any case that a coroner's jury shall exceed six persons, but in every case of an inquest six jurors must agree in order to render the verdict valid. R.S., c. 215, s. 125.

*Coroner's jury.*

127. Coroners shall have the same power to summon witnesses and to punish them for disobeying a summons to appear or for refusing to be sworn or to give evidence as are possessed by justices of the peace. R.S., c. 215, s. 126.

*Power to summon witnesses, etc.*

128. The fees of coroners, jurors and witnesses attending inquests may be fixed, from time to time, by the Governor in Council, and paid in such manner as he directed. R.S., c. 215, s. 127.

*Fees of coroners.*

#### *Enforcement of Territorial Ordinances*

129. Unless otherwise therein specially provided, proceedings for the imposition of punishment by fine, penalty or imprisonment for enforcing any ordinance in force in the Territory may be brought summarily before a justice of the peace under the provisions of the *Criminal Code* relating to summary conviction. R.S., c. 215, s. 128.

*Enforcement of fines, etc.*

#### *Prohibition of Intoxicants.*

130. No intoxicating liquor or other intoxicant shall be manufactured, compounded, or made in the Territory, except by permission of the Commissioner in Council; and no intoxicating liquor or other intoxicant shall be imported or brought into the Territory from any province or territory in Canada or elsewhere, except by permission of the Commissioner. 1951, c. 23, s. 2.

*Manufacturer or importation of intoxicants.*

131. All intoxicating liquors or intoxicants imported or brought from any place out of Canada, into the Territory, are subject to the customs and excise laws of Canada. R.S., c. 215, s. 130.

*Such importation subject to customs and excise law.*

*Abolition of Council, etc.*

132. The Governor in Council may at any time abolish the Council hereinbefore mentioned, and may substitute therefor a Council composed of two or more members, appointed by warrant of the Governor General under his Privy Seal, and to the Council so appointed may transfer any or all of the duties and powers of the Council so abolished. R.S., c. 215, s. 131.

*Abolition of Council and new Council provided for.*

133. The Governor in Council may abolish any position or office authorized or created under the provisions of this Act, and may transfer to any office of the Crown any or all of the duties or functions of the position or office so abolished, whether any of such duties or functions are defined in this Act, or in any other Act, or in any regulations made under the authority of this Act or any other Act applying to the Yukon Territory. R.S., c. 215, s. 132.

*Governor in Council may abolish offices, and transfer duties.*

## SCHEDULE

The Yukon Territory shall be bounded as follows:--On the south, by the province of British Columbia and the United States Territory of Alaska; on the west, by the said United States Territory of Alaska; on the north, by that part of the Arctic Ocean called Beaufort Sea; and on the east, by a line beginning at the point of intersection of the left bank of the Liard River, by the northern boundary of the province of British Columbia in approximate longitude 124<sup>0</sup> 16' west of Greenwich; thence north-westerly along the line of the watershed separating the streams flowing into the Liard River below the point of beginning, or into the Mackenzie River, from those flowing into the Liard River above the point of beginning, or into the Yukon River, to the line of watershed of the basin of Peel River; thence northerly along the line of watershed between the Peel and Mackenzie Rivers to the sixty-seventh degree of north latitude; thence westerly along the parallel of the sixty-seventh degree of north latitude to the line of watershed between the Peel and Yukon Rivers; thence northerly along the said line of watershed to the trail across the portage in McDougall Pass between Rat and Bell Rivers; thence due north of the northern limit of the Yukon Territory; the said territory to include the islands within twenty statute miles from the shores of the Beaufort Sea as far as the aforesaid due north line from McDougall Pass. R.S., c. 215, Sch.

# YUKON ACT, 1953

1-2 ELIZABETH II.

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## CHAP 53.

An Act to provide for the Government of the Yukon Territory.

[Assented to 14th May, 1953].

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows.

### SHORT TITLE.

1. This Act may be cited as the *Yukon Act*. *Short title.*

### INTERPRETATION.

2. In this Act, *Definitions.*
- (a) "Commissioner" means the Commissioner of the Yukon Territory; *"Commissioner"*
- (b) "Commissioner in Council" means the Commissioner acting by and with the advice and consent of the Council; *"Commissioner in Council"*
- (c) "Council" means the Council of the Yukon Territory; *"Council"*
- (d) "Court" means the Territorial Court for the Yukon Territory; *"Court"*
- (e) "intoxicant" includes alcohol, alcoholic, spirituous vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks, drinkable liquids, preparations or mixtures capable of human consumption that are intoxicating; *"Intoxicant"*
- (f) "Minister" means the Minister of Resources and Development; *"Minister"*
- (g) "ordinance" includes an ordinance of the Territory passed before or after the commencement of this Act; *"Ordinance"*

- |     |  |                          |
|-----|--|--------------------------|
| (h) | "public lands" means any lands, in the Territory, belonging to Her Majesty in right of Canada or of which the government of Canada has power to dispose; and | " <i>Public lands</i> ". |
| (i) | "Territory" means the Yukon Territory, which comprises the area described in the Schedule.   | " <i>Territory</i> ".    |

### PART I.

#### GOVERNMENT.

##### *Commissioner.*

3.	The Governor in Council may appoint for the Territory a chief executive officer to be styled and known as the Commissioner of the Yukon Territory	<i>Commissioner.</i>
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4.	The Commissioner shall administer the government of the Territory under instructions from time to time given him by the Governor in Council or the Minister.	<i>Administration of the government.</i>
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5.	The Governor in Council may appoint an Administrator to execute the office and functions of the Commissioner during his absence or illness or other inability or when the office of Commissioner is vacant.	<i>Appointment of Administrator.</i>
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6.	The Commissioner and every Administrator appointed under this Act shall, before assuming the duties of his office, take and subscribe such oaths of office and allegiance in such manner as the Governor in Council may prescribe.	<i>Oaths of Commissioner and Administrator.</i>
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7.	The salary of the Commissioner and of the Administrator shall be fixed by the Governor in Council and shall be paid out of the Consolidated Revenue Fund of Canada.	<i>Salaries.</i>
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##### *Seat of Government.*

8.	The seat of government of the Territory shall be that prescribed by the Council and may, from time to time, be changed by him.	<i>Seat of government.</i>
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*Council.*

9. (1) There shall be a Council of the Yukon Territory, which shall be composed of five members elected to represent such electoral districts in the Territory as are named and described by the Commissioner in Council.

*Elective Council.*

(2) Every Council shall continue for three years from the date of the return of the writs for the general election and no longer, but the Governor in Council may at any time dissolve the Council and cause a new Council to be elected.

*Term of Council.*

10. Each member of the Council shall, before assuming the duties of his office, take and subscribe before the Commissioner such oaths of office and allegiance as the Governor in Council may prescribe.

*Oaths of office.*

11. The Commissioner shall convene at least one session in every calendar year so that twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

*Yearly session.*

12. The Council shall sit separately from the Commissioner and shall present bills passed by it to the Commissioner for his assent.

*Sittings separate from  
Commissioner:  
sanction of bills.  
Quorum.*

13. A majority of the Council, including the Speaker, constitutes a quorum.

14. (1) Subject to subsection (2), the Commissioner in Council may prescribe the qualifications of those entitled to vote at an election of members of the Council and of those eligible for nomination and election as members of the Council and the reasons for or matters by which an elected member may be or become disqualified from being or sitting as a member of the Council.

*Governor in  
Council may  
prescribe  
qualifications of  
electors, candidates  
etc.*

(2) A person is not entitled to vote at an election or to be nominated or elected as a member of the Council unless he is a Canadian citizen or other British subject, has attained the age of twenty-one years and has been ordinarily resident in the Territory for a period of at least twelve months immediately prior to the date of election.

*Minimum  
qualifications.*

15. (1) The Commissioner in Council may provide for payment out of the Yukon Consolidated Revenue Fund to each member of the Council of

- (a) an amount not exceeding fifty dollars for each day he is in attendance at a session of the Council, but the total amount payable under this paragraph to a member in any one calendar year shall not exceed one thousand dollars;
- (b) the actual travelling expenses incurred by him in travelling from his place of residence to the place where the Council holds its session and return, but no payment shall be made to a member in respect of more than one return trip for each session of the Council; and
- (c) an allowance for living expenses, not exceeding fifteen dollars for each day in which the Council is in session.

(2) An allowance for living expenses that is paid to a member of the Council under paragraph (c) of subsection (1) is not income for that member for the purposes of the *Income Tax Act*.

*Sessional indemnity and expenses of members.*

*Living expenses not income.*

*Legislative Powers of Commissioner in Council.*

16. The Commissioner in Council may, subject to the provisions of this Act and any other Act of the Parliament of Canada, make ordinances for the government of the Territory in relation to the following classes of subjects, namely,

- (a) direct taxation within the Territory in order to raise a revenue for territorial, municipal or local purposes;
- (b) the establishment and tenure of territorial offices and the appointment and payment of territorial officers.
- (c) municipal institutions in the Territory, include municipalities, school districts, local improvement districts and irrigation districts;
- (d) election of members of the Council and controverted elections;
- (e) the licensing of any business, trade, calling, industry, employment or occupation in order to raise a revenue for territorial, municipal or local purposes;

*Legislative powers.*

*Direct taxation.*

*Territorial offices.*

*Municipal institutions.*

*Elections and controverted elections.  
Licenses.*

- |     |  |                                       |
|-----|--|---------------------------------------|
| (f) | the incorporation of companies with territorial objects, including tramways and street railway companies but excluding railway, steamship, air transport, canal, telegraph, telephone or irrigation companies;   | <i>Incorporation of companies.</i>    |
| (g) | the solemnization of marriage in the Territory;  | <i>Marriage.</i>                      |
| (h) | property and civil rights in the Territory;  | <i>Property and civil rights.</i>     |
| (i) | the administration of justice in the Territory, including the constitution, organization and maintenance of territorial courts of civil jurisdiction and the procedure in such courts but excluding the appointment of any judicial officer except coroners or the constitution, organization and maintenance of courts of criminal jurisdiction or procedure in criminal matters except the fees and expenses payable to jurors, witnesses and other persons; | <i>Administration of justice.</i>     |
| (j) | the fees and expenses of witnesses, jurors, interpreters and coroners in civil and criminal matters;   | <i>Fees of witnesses etc.</i>         |
| (k) | the appointment, powers and duties of coroners and coroners' inquests;   | <i>Coroners.</i>                      |
| (l) | the summoning of juries, enforcement of their attendance and all matters relating to juries;   | <i>Juries.</i>                        |
| (m) | the powers, duties and obligations of sheriffs and clerks of the courts and their deputies;  | <i>Sheriffs and clerks of courts.</i> |
| (n) | the conferring of jurisdiction in matters of alimony upon the Court;   | <i>Alimony.</i>                       |
| (o) | the issuing of licences or permits to scientists or explorers to enter the Territory or any part thereof and the prescription of the conditions under which such licences or permits may be issued and used;   | <i>Scientists and explorers.</i>      |
| (p) | the levying of a tax upon furs or any portions of fur-bearing animals to be shipped or taken from the Territory to any place outside the Territory;  | <i>Fur tax.</i>                       |
| (q) | the preservation of game in the Territory;   | <i>Game.</i>                          |



18. The Commissioner in Council may make ordinances authorizing the Commissioner to enter into an agreement with the Government of Canada under and for the purposes of any Act of the Parliament of Canada that authorizes the Government of Canada to enter into agreements with the provinces, but no such agreement shall be entered into by the Commissioner without the approval of the Governor in Council.

*Agreements with  
Government of  
Canada.*

19. (1) The Commissioner in Council may make ordinances

*Borrowing.*

- (a) for the borrowing of money by the Commissioner on behalf of the Territory for the purpose of
  - (i) meeting annual expenditures of the Territory pending receipt of annual expenditures of the Territory
  - (ii) lending money to municipalities for the construction of roads, waterworks, sewers or other municipal works,
 and for the repayment out of the Yukon Consolidated Revenue Fund of money so borrowed; and
- (b) for lending money out of the Yukon Consolidated Revenue Fund to municipalities for the purposes set out in subparagraph (ii) of paragraph (a).

(2) The payment of all money borrowed under the authority of this section and interest thereon is a charge on and payable out of the Yukon Consolidated Revenue Fund.

*Charge on Yukon  
C.R.F.*

(3) No money shall be borrowed or lent under the authority of this section without the approval of the Governor in Council.

*Restriction.*

20. (1) A copy of every ordinance made by the Commissioner in Council shall be transmitted to the Governor in Council within thirty days after the passing thereof and shall be laid before both houses of Parliament as soon as conveniently may be thereafter.

*Ordinances be laid  
before Parliament.*

(2) Any ordinances or any provision thereof may be disallowed by the Governor in Council at any time within two years after its passage.

*Dissallowance.*

21. Unless otherwise therein specially provided, proceedings for the imposition of punishment by fine, penalty or imprisonment for enforcing any ordinance in force in the Territory may be brought summarily before a justice of the peace under the provisions of the *Criminal Code* relating to summary conviction.

*Enforcement of fines, etc.*

*Laws Applicable to Territory.*

22. Subject to the provisions of this Act, the laws relating to civil and criminal matters and the ordinances in force in the Northwest Territories on the 13th day of June, 1898, shall be and remain in force in the Territory, in so far as the same are applicable thereto, and in so far as the same have not been or are not hereafter repealed, abolished or altered by the Parliament of Canada, or any ordinance.

*Existing laws continued.*

*Yukon Consolidated Revenue Fund*

23. All public moneys and revenue over which the Commissioner in Council has the power of appropriation shall form a fund to be known as the Yukon Consolidated Revenue Fund.

*Yukon Consolidated Revenue Fund.*

24. It shall not be lawful for the Council to adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue of the Territory, or of any tax or impost, to any purpose that has not been first recommended to Council by message of the Commissioner, in the session which such vote, resolution, address, or bill is proposed.

*Recommendation of Commissioner.*

25. When any sum of money is granted to her Majesty by Parliament to defray expenses for any specified public service in the Yukon Territory, the power of appropriation by the Commissioner in Council over that sum is subject to the specified purpose for which it is granted.

*Appropriation of moneys granted by Parliament.*

26. (1) The receipt and expenditure of territorial funds and of such portion of any moneys appropriated by Parliament for the Territory as the Commissioner is authorized to expend by and with the advice and consent of the Council or any committee thereof, and the accounts with respect to such receipt and expenditure, are subject to examination and

*Audit by Auditor General.*

audit by the Auditor General in the same manner and to the same extent as are the receipt and expenditure of public moneys of Canada and the accounts with respect thereto under the *Financial Administration Act*.

(2) The Auditor General shall, whenever he deems it necessary or desirable, send an officer of his office to the Territory for the purpose of examining and auditing such receipt, expenditure and accounts, and reporting thereon to him.

*Auditor General may send officer to Territory.*

(3) The public accounts of the Territory shall include the period from the 1st day of April in one year to the 31st day of March in the next year, both inclusive, which period constitutes the fiscal year.

*Fiscal year.*

(4) The Auditor General, and while he is engaged in any inspection, examination and audit under this section, the officer referred to in subsection (2), has, in connection with such inspection, examination and audit all the powers that the Auditor General has under the *Financial Administration Act* in connection with the examination and audit of the receipt and expenditure of public moneys of Canada and the accounts with respect thereto.

*Powers of Auditor General.*

## Part II.

### ADMINISTRATION OF JUSTICE

#### *Territorial Court.*

27. There shall continue to be a superior court of record in and for the Territory called the Territorial Court of the Yukon Territory, consisting of one or more judges appointed by the Governor in Council.

*Territorial Court Continued.*

28. The judges of the Court hold office during good behaviour, but are removable by the Governor in Council on address of the Senate and House of Commons.

*Tenure of office.*

29. (1) The Governor in Council may, from time to time, in the case of sickness, absence or engagement upon other duty of a judge of the Court or at the request of a judge of the Court, specially appoint any person who is or has been a judge of a superior, court or district court of any of the provinces of Canada or a barrister or advocate of at least ten years' standing at the bar of any such province to be a deputy judge of the Court.

*Deputy judges.*

(2) A deputy judge may be appointed pursuant to this section for any particular case or cases or for any specified period of time and his appointment shall be terminated at the pleasure of the Governor in Council.

*Tenure of office.*

(3) A deputy judge shall be sworn to the faithful performance of his duties in the same manner as a judge of the Court and shall be deemed to include a deputy judge of the Court.

*Powers.*

30. (1) Every judge of the Court shall, before assuming the duties of his office, take the following oath of office:

*Oath of office.*

I, \_\_\_\_\_, do solemnly and sincerely promise and swear that I will duly and faithfully and to the best of my skill and knowledge execute the powers and trusts reposed in me as one of the judges of the Territorial Court of the Yukon Territory. So help me God.

(2) The oath shall be administered by a judge of the Court or by the Commissioner or by a person authorized by the Commissioner to administer such oath.

*Administration of oath.*

31. (1) The Court is a superior court of record having civil and criminal jurisdiction throughout the Territory.

*General powers.*

(2) The Court shall, throughout the Territory, have and may exercise in civil cases, all the powers, duties and functions that were vested in it immediately prior to the commencement of this Act.

*Jurisdiction continued.*

(3) A judge of the Court shall, throughout the Territory, have and may exercise all the powers, duties and functions that are vested in the Court.

*Judge has powers of Court.*



32. Each judge of the Court shall reside at such place as the Governor in Council, in the Commission to such judge, or by order in council, directs.

*Residence.*

33. Sittings of the Court shall be held at such times and places as a judge of the Court deems necessary or as may be directed by the Commissioner.

*Sittings.*

34. No grand jury shall be summoned or sit in the Territory.

*No grand jury.*

35. (1) In this section "court of appeal" means the Court of Appeal of the Province of British Columbia.

*Meaning of Court of Appeal.*

(2) Subject to subsection (3), an appeal lies from the final judgment of a judge of the Court to the court of appeal in any civil case where

*Where appeal lies.*

- (a) the matter in controversy amounts to the sum or value of five hundred dollars or upward;
- (b) the title to real property or some interest therein is affected;
- (c) the validity of a patent is affected;
- (d) the matter related to the taking of an annual or other rent, customary or other duty or fee or a like demand of a public or general nature affecting future rights;
- (e) the proceedings are for or upon mandamus, prohibition or injunction;
- (f) the action is for the recovery of, the establishment of title to or the right of the claimant to or the establishment of the boundaries of or the inclusion of land or property in a claim, mining property, mineral claim, location, or permit, or interest therein, as defined in any Act of Parliament or regulations thereunder; or
- (g) the action is for divorce or judicial separation.

*Matter involves five hundred dollars or more.*

*Title to real property.*

*Patent.*

*Future rights.*

*Mandamus etc.*

*Mining claims.*

*Divorce & judicial separation.*

(3) No appeal lies from the final judgment of a judge of the court on appeal from the decision of a mining recorder respecting a dispute in regard to mining property previous to the issue of a lease of a claim.

*Exemption.*

(4) The court of appeal and the judges thereof have the same powers, jurisdiction and authority with reference to any such appeal and the proceedings thereon as if it were an appeal duly authorized from a like judgment, order or decree made by the Supreme Court of British Columbia, or a judge thereof, in the exercise of its ordinary jurisdiction.

*Powers of court of appeal.*

(5) Notice of any such appeal shall be given within twenty days from the day upon which the judgment appealed from is pronounced or given or within such further time as the judge of the Court who gave such judgment may allow.

*Notice of appeal.*

(6) Execution of the judgment appealed from shall not be stayed except under order of the judge of the Court who gave such judgment or the court of appeal, or a judge thereof, and upon such terms as may be just.

*Stay of execution.*

(7) Three judges of the court of appeal constitute a quorum for the hearing of such appeal.

*Quorum.*

(8) The procedure upon such appeals shall be regulated by the ordinary practice and procedure upon similar appeals coming before the court of appeal, so far as such practice and procedure are applicable and are not inconsistent with anything in this section and except in so far as it is otherwise provided by the general rules made pursuant to this section.

*Procedure.*

(9) The judges of the court of appeal may make general rules not inconsistent with this Act for regulating the practice and procedure upon such appeals.

*General rules.*

(10) An appeal lies to the Supreme Court of Canada from the judgment upon any appeal authorized by this section wherever such an appeal to the Supreme Court of Canada would have been authorized had the judgment appealed from been delivered in a like case in the exercise of the ordinary jurisdiction of the court of appeal upon appeal in respect of cases originating in the courts of British Columbia.

*Appeal to Supreme Court of Canada.*

*Police Magistrates.*

36. (1) The Governor in Council may appoint one or more persons who are barristers or advocates of at least three years' standing at the bar of any of the provinces of Canada to be police magistrates in and for the Territory and may fix their salaries and allowances.

*Appointment.*

(2) A police magistrate holds office during pleasure, shall reside in the Territory during his term of office and shall not, during such term, practice as a barrister or solicitor.

*Tenure, residence, etc.*

37. A police magistrate has and may exercise the powers, duties and functions of a justice of the peace or any two justices of the peace under this Act or any other law or ordinance in force in the Territory.

*Has powers of justices of the peace.*

38. (1) Subject to subsection (2), the Governor in Council may, by order, vest in any police magistrate named in such order civil jurisdiction in

*Civil jurisdiction.*

- (a) actions arising out of contract, expressed or implied, and actions of debt, where the debt, demand or damages claimed do not exceed one thousand dollars;
- (b) personal actions of tort, where the damages claimed do not exceed one thousand dollars;
- (c) all actions for the recovery of personal property, including actions of replevin and for detinue, where the value of the property claimed does not exceed one thousand dollars;
- (d) interpleader proceedings
  - (i) where the person seeking relief is under liability for any debt, money or chattels to an amount or value not exceeding one thousand dollars for and in respect of which adverse claims are made by two or more persons, or

*Contract and debt.**Torts.**Recovery of personal property.**Interpleader proceedings.*

- (ii) where the applicant is a sheriff or some other officer charged with the execution of process and claim is made to be taken in the execution, or the proceeds of value thereof, by a person other than the person against whom the process issued, where the money, proceeds or value of the chattels claimed does not exceed one thousand dollars;
- (e) garnishment proceedings for the attachment of debt due, obligations and liabilities owing, payable or accruing due by a third person to a person against whom an action for a debt or liquidation demand not exceeding one thousand dollars is or is about to be commenced or against whom a judgment has been given; and
- (f) attachment proceedings for the recovery of a sum not exceeding one thousand dollars for debt or damages arising upon a contract, expressed or implied, or upon a judgment upon the personal property of a person who
- (i) being a non-resident of the Territory, is so indebted or liable to a resident of the Territory, or
- (ii) with intent to defeat or defraud his creditors or those who have causes of action against him, absconds or is about to abscond from the Territory leaving personal property or to remove his personal property out of the Territory or did or is about to assign, transfer, dispose of or secrete such property or to conceal himself to avoid service of process.
- (2) A police magistrate shall not be vested with civil jurisdiction in
- (a) actions in which the title to land or to an interest in land is brought in question;
- (b) actions in which the validity of any devise, bequest or limitation is disputed;
- (c) actions for malicious prosecution, false imprisonment, libel, slander, criminal conversation, seduction or breach of promise of marriage; and
- (d) actions against a justice of the peace for anything done by him in the execution of his office.
- Garnishment proceedings.*
- Attachment proceedings.*
- Jurisdiction excluded in certain cases.*  
*Where title to land involved.*  
*Devises bequests etc.*  
*Malicious prosecution, etc.*
- Actions against justices of the peace.*

39. (1) An appeal may be taken from the final judgment of a police magistrate in any civil case to a judge of the Court where the matter in controversy, exclusive of costs, amounts to the sum or value of not less than one hundred dollars.

*Appeals from police magistrates in civil cases.*

(2) An appeal from the final judgment of the Court on an appeal referred to in subsection (1) may be taken in the same manner, for the same causes and subject to the same limitations as are prescribed in section 35 with reference to appeals from trial judgments of judges of the Court.

*Further title.*

### *Justices of the Peace*

40. (1) The Governor in Council may, from time to time, appoint any person to be a justice of the peace in and for the Territory to hold office during pleasure.

*Appointment.*

(2) Every commissioned officer of the Royal Canadian Mounted Police is, when he is in the Territory, *ex officio*, a justice of the peace in and for the Territory.

*R.C.M.P. officers are ex officio justices of the peace.*

(3) Every justice of the peace in and for the Territory shall, throughout the Territory, have and may exercise the powers, duties and functions of two justices of the peace under any law or ordinance in force in the Territory.

*Have powers of two justices of the peace.*

### *Other Officers.*

41. The Governor in Council may appoint the clerk of the Court, sheriff and such other officers for the due administration of justice in the Territory as are deemed necessary and may fix their salaries and allowances.

*Other officers.*

### *Oaths of Office.*

42. Every police magistrate and justice of the peace appointed under this Act and every person appointed under section 41 shall, before assuming the duties of his office, take and subscribe such oaths of office and allegiance in such manner as the Governor in Council may prescribe.

*Oaths of office.*

*Confinement of Prisoners.*

43. (1) The following places in the Territory are prisons, gaols or lockups for the confinement of persons charged with the commission of any offence under a statute, ordinance or other law in force in the Territory or sentenced thereunder to a term of imprisonment not exceeding two years, namely,

- (a) every guardhouse, guardroom or other place of confinement that is maintained or managed by the Royal Canadian Mounted Police; and
- (b) every building or part thereof or other enclosure, other than those referred to in paragraph (a), that is designated as a prison, gaol or lockup for the purposes of this section by the Governor in Council.

(2) Where it is impossible or inconvenient, by reason of absence or remoteness, to confine a person referred to in subsection (1) in a prison, gaol or lockup, such person may be sentenced or directed by a judge of the Court, police magistrate or justice of the peace, as the case may be, to be placed and kept in the custody of the Royal Canadian Mounted Police.

44. The Governor in Council may make rules and regulations for the management, discipline and policy of prisons, gaols and lockups in the Territory, for the duties and conduct of persons employed therein or otherwise charged with the custody of prisoners and for the matters pertaining to the maintenance, discipline or conduct of prisoners including their employment without as well as within any prison, gaol or lockup.

*Prisons in the Territory.*

*Idem.*

*Regulations respecting prisons and prisoners.*

## PART III.

## GENERAL

*Lands*

45. The following properties, namely,
- (a) lands acquired before or after the coming into force of this Act with territorial funds;
  - (b) public lands, the administration of which has before or after the coming into force of this act been transferred by the Governor in Council to the Territory.
  - (c) all roads, streets, lanes and trails on public land;

*Power to hold lands.*

are and remain vested in Her Majesty in right of Canada, but the right to the beneficial use or to the proceeds thereof is hereby appropriated to the Territory and is subject to the control of the Commissioner in Council; and any such lands, roads, streets, lanes or trails may be held by and in the name of the Commissioner for the beneficial use of the Territory.

## Reindeer.

46. (1) The Governor in Council may make regulations

*Regulations respecting reindeer.*

- (a) authorizing the Minister to enter into agreements with Eskimos or Indians, or persons with Eskimo or Indian blood living the life of an Eskimo or Indian, for the herding of reindeer that are the property of Her Majesty, such agreements, if deemed advisable by the Minister, to include provisions for the transfer of such portions of the herds as may be therein specified to the herders upon satisfactory completion of the agreements;
- (b) for the control, management, administration and protection or reindeer in the Territory, whether they are the property of Her Majesty or otherwise;
- (c) for the sale of reindeer and the slaughter or other disposal of surplus reindeer and the carcasses thereof; and

- (d) controlling or prohibiting the transfer or shipment by any means of reindeer or their carcasses or parts thereof, whether they are the property of Her Majesty or otherwise, from any place in the Territory to any other place within or without the Territory.

(2) Where a peace officer or any person who is a game officer under any ordinance has reasonable grounds for believing that any reindeer or part thereof has been taken, killed, transferred, shipped or had in possession in violation of the regulations or that any vessel, vehicle, aeroplane, firearm, trap or other article or thing has been used in violation of the regulations, he may, in the Territory, without a warrant, effect seizure thereof.

*Seizure.*

(3) Every seizure made under subsection (2) shall be reported as soon as practicable to a justice of the peace who may, upon satisfying himself that the reindeer or part thereof or the vessel, vehicle, aeroplane, firearm, trap or other article or thing has been taken, dealt with or used in violation of the regulations, declare it to be forfeited to Her Majesty and, upon such declaration, it is forfeited.

*Forfeiture.*

(4) The *Game Export Act* applies to reindeer or the carcasses or part thereof and for that purpose, "game" under that Act shall be deemed to include such reindeer, carcasses or part thereof, "killed" to include the taking or capture of or dealing in live reindeer and "export permit" to include a permit or licence issued under the regulations made pursuant to this section.

*Application of the Game Export Act.*

### *Intoxicants*

47. (1) No intoxicant shall be manufactured, compounded or made in the Territory or imported or brought into the Territory from any place outside the Territory, whether it is in Canada or elsewhere, except by permission of the Commissioner.

*Manufacture and importation of intoxicants.*

(2) Intoxicants manufactured, compounded or made in the Territory or imported or brought into the Territory are subject to the customs and excise laws of Canada.

*Subject to customs and excise laws*



(3) Where a peace officer has reasonable grounds for believing that any intoxicant has been manufactured, compounded or made in the Territory or imported or brought into the Territory from any place outside the Territory in violation of this Act or that any vessel, vehicle, aeroplane, appliance, article or thing has been used for any of the above purposes in violation of this Act, he may, in the Territory, without a warrant, effect seizure thereof.

*Seizure.*

(4) Every seizure made under subsection (3) shall be reported as soon as practicable to a justice of the peace who may, upon satisfying himself that the intoxicant or that vessel, vehicle, aeroplane, appliance, article or thing has been manufactured, compounded, made, imported, brought in or dealt with or used in violation of this Act, declare it to be forfeited to Her Majesty and, upon such declaration, it is forfeited.

*Forfeiture.*

#### *Insane Persons.*

48. (1) The Commissioner may, subject to the approval of the Minister, arrange with any province of Canada for the removal of insane persons from the Territory to mental institutions, asylums or other suitable place of confinement in that province, for their confinement, care and maintenance therein until the pleasure of the Commissioner is made known or until they are discharged by law and for the compensation to be paid to that province in respect of the confinement, care and maintenance of such insane persons.

*Arrangements for transfer to provincial institutions.*

(2) The compensation to be paid to a province under subsection (1) shall be paid out of territorial revenues.

*Payment out of territorial revenues.*

49. (1) Where an insane person has escaped from a mental institution, asylum or other place of confinement, within or without the Territory, any person employed therein or connected therewith or other person requested by the person in immediate charge or control thereof may, within forty-eight hours after such escape, without a warrant, retake the escaped person and return him thereto, or may at any time after such escape up to the time specified in the warrant, do so if a warrant is issued to him for that purpose.

*Recapture of escaped insane person.*

(2) A warrant may be issued for the purposes of subsection (1) by the person in immediate charge or control of the mental institution, asylum or other place of confinement from which the escape was made and shall contain the name and description of the escaped insane person, the name and office, if any, of the person to whom it is issued, the place to which the person to whom the escaped person is to be returned and the time, not exceeding three months, for which the warrant is valid.

*Warrants.*

(3) An escaped person who is returned to custody under this section shall remain in custody under the authority by virtue of which he was detained prior to his escape.

*Custody of  
recaptured persons.*

### *Neglected Children.*

50. (1) The Commissioner may, subject to the approval of the Minister, arrange with any province of Canada for the removal of neglected children from the Territory to foster homes or suitable institutions in that province, for their care, education and maintenance therein and for the compensation to be paid to that province in respect of the care, education and maintenance of such neglected children.

*Arrangements for  
care in provincial  
institutions.*

(2) The compensation to be paid to a province under subsection (1) shall be paid out of territorial revenue.

*Payment out of  
territorial revenues.*

### *Archaeological Sites*

51. (1) The Governor in Council may make regulations for the protection, care and preservation of sites, works, objects and specimens of archaeological, ethnological or historical importance, interest or significance and explorers' cairns and explorers' documents.

*Regulations  
respecting  
archaeological  
sites, etc.*

(2) Where any peace officer has reasonable grounds for believing that any object, specimen or document has been removed, taken, shipped, had in possession or otherwise dealt with contrary to the regulations, he may, in the Territory, without a warrant effect seizure thereof.

*Power to seize.*

(3) Every seizure made under subsection (2) shall be reported as soon as practicable to a justice of the peace, who may, upon satisfying himself that the object, specimen or document was removed, taken, shipped, had in possession or otherwise dealt with contrary to the regulations, declare it to be forfeited to Her Majesty and upon such declaration it is forfeited.

*Forfeiture.*

*Offence and Penalty.*

52. Every person who violates a provision of this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year or to both fine and imprisonment.

*Offence and penalty.*

53. (1) Every person who exports or attempts to export from the Territory any gold that was obtained from placer mining operations and with respect to which any royalty imposed by law has been paid, is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three years or to both fine and imprisonment.

*Export of gold without payment of royalty.*

*Offence.*

(2) Where a person is convicted under subsection (1) the convicting magistrate or justice may in his discretion order that the gold in respect of which the conviction is had is and thereupon the gold shall be forfeited to Her Majesty.

*On conviction gold forfeited to Her Majesty.*

(3) Every person about to export such gold from the Territory shall upon demand produce to any peace officer a certificate from the Commissioner of the Territory or person authorized by the Commissioner certifying that the royalty with respect to such gold has been paid and failure to produce the certificate upon such demand is prima facie evidence that the royalty had not been paid.

*Production of certificate that royalty paid.*

(4) Where any peace officer has reasonable and probable grounds for believing that any person has committed or has reason to believe that any person is about to commit an offence described in subsection (1) or has in his possession or in his belongings any such gold in respect of which the royalty has not been paid, such peace officer may without warrant search such person and his belongings and any articles

*Search without warrant and seize gold.*

believed to be his belongings and may seize any such gold found upon such person or in such belongings.

(5) No female shall be searched pursuant to this section except by a suitable woman who is a peace officer or is authorized by the peace officer to make the search.

*Search of female.*

(6) Any gold seized pursuant to subsection (4) may be detained for a period of six months, and if before the expiration of such period any proceedings with respect to such gold are taken under this Act may be further detained until such proceedings are finally concluded.

*Detention of seized gold.*

(7) For the purpose of this section the expression "peace officer" means a peace officer as defined in the *Criminal Code*.

*"Peace officer"*

#### *Repeal and Coming into Force*

54. (1) This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

*Coming into force.*

(2) If this Act comes into force before the day on which the Revised Statutes of Canada, 1952 come into force, then, on the day this Act comes into force,

*Repeal.*

- (a) the *Yukon Act*, chapter 215 of the Revised Statutes of Canada, 1927, is repealed;
- (b) sections 5 to 11 and 14 to 16 of the *Land Titles Act*, chapter 118 of the Revised Statutes of Canada, 1927, are repealed; and
- (c) In section 19 of *The Penitentiary Act*, chapter 6 of the statutes of 1939, the words "The British Columbia Penitentiary, for the Province of British Columbia; and" are repealed and the words "The British Columbia Penitentiary, for the Province of British Columbia and for the Yukon Territory; and" are substituted therefor;

and the *Yukon Act*, chapter 298 of the Revised Statutes of Canada, 1952, is repealed on the day the Revised Statutes of Canada, 1952 come into force.

(3) If this Act comes into force on or after the day on which the Revised Statutes of Canada, 1952 come into force, then, on the day this Act comes into force,

*Repeal.*

- (a) the *Yukon Act*, chapter 298 of the Revised Statutes of Canada, 1952, is repealed;
- (b) sections 5 to 11 and 14 to 16 of the *Land Title Act*, chapter 162 of the Revised Statutes of Canada, 1952, are repealed; and
- (c) paragraph (e) of section 19 of the *Penitentiary Act*, chapter 206 of the Revised Statutes of Canada, 1952, is repealed and the following substituted therefor: "(e) the British Columbia Penitentiary, for the Province of British Columbia and for the Yukon Territory; and"

#### SCHEDULE

The Yukon Territory shall be bounded as follows:--On the south, by the province of British Columbia and the United States Territory of Alaska; on the west, by the said United States Territory of Alaska; on the north, by that part of the Arctic Ocean called Beaufort Sea; and on the east, by a line beginning at the point of intersection of the left bank of the Liard River, by the northern boundary of the province of British Columbia in approximate longitude  $124^{\circ} 16'$  west of Greenwich; thence north-westerly along the line of the watershed separating the streams flowing into the Liard River below the point of beginning, or into the Mackenzie River, from those flowing into the Liard River above the point of beginning, or into the Yukon River, to the line of watershed of the basin of Peel River; thence northerly along the line of watershed between the Peel and Mackenzie Rivers to the sixty-seventh degree of north latitude; thence westerly along the parallel of the sixty-seventh degree of north latitude to the line of watershed between the Peel and Yukon Rivers; thence northerly along the said line of watershed to the trail across the portage in McDougall Pass between Rat and Bell Rivers; thence due north of the northern limit of the Yukon Territory; the said territory to include the islands within twenty statute miles from the shores of the Beaufort Sea as far as the aforesaid due north line from McDougall pass.

# YUKON ACT, REVISED STATUTES OF CANADA, 1985

## CHAPTER Y-2.

An Act respecting the Yukon Territory.

### SHORT TITLE

1. This Act may be cited as the *Yukon Act*.  
R.S., c. Y-2, s. 1.

*Short title*

### INTERPRETATION

2. In this Act

"Commissioner" means the Commissioner of the Yukon Territory;

"Commissioner in Council" means the Commissioner acting by and with the advice and consent of the Council;

"Committee" means the Advisory Committee on Finance established pursuant to section 14;

"Council" means the Council of the Yukon Territory;

"Court" means the Supreme Court of the Yukon Territory;

"intoxicant" includes alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks, drinkable liquids, preparations or mixtures capable of human consumption that are intoxicating;

"Minister" means the Minister of Indian Affairs and Northern Development;

"ordinance" includes an ordinance of the Territory passed before or after the 1st day of April 1955.

"public lands" means any lands, in the Territory, belonging to Her Majesty in right of Canada or of which the Government of Canada has power to dispose;

*Definitions.*

*"Commissioner"*

*"Commissioner in Council"*.

*"Committee"*.

*"Council"*.

*"Court"*.

*"intoxicant"*.

*"Minister"*.

*"ordinance"*.

*"public lands"*.

"Territory" means the Yukon Territory, which comprises the area described in the schedule. R.S., c. Y-2, s. 2; 1972, c. 17, s. 2.

*"Territory".*

## PART 1

### GOVERNMENT

#### *Commissioner*

3. The Governor in Council may appoint for the Territory a chief executive officer called the Commissioner of the Yukon Territory. R.S., c. Y-2, s. 3.

*Appointment.*

4. The Commissioner shall administer the government of the Territory under instructions given by the Governor in Council or the Minister. R.S., c. Y-2, s. 4.

*Administration of government.*

5. The Governor in Council may appoint an Administrator to execute the office and functions of the Commissioner during his absence or illness or other inability or when the office of Commissioner is vacant. R.S., c. Y-2, s. 5.

*Administrator.*

6. The Commissioner and every Administrator appointed under this Act shall, before assuming the duties of his office, take and subscribe such oaths of office and allegiance in such matter as the Governor in Council may prescribe. R.S., c. Y-2, s. 6.

*Oaths of office.*

7. The salary of the Commissioner and of the Administrator shall be fixed by the Governor in Council and shall be paid out of the Consolidated Revenue Fund. R.S., c. Y-2, s. 7.

*Salaries.*

#### *Seat of Government*

8. The seat of government of the Territory shall be at such place as may be designated by the Governor in Council. R.S., c. Y-2, s. 8.

*Location.*

#### *Council*

9. (1) There is hereby established a Council of the Yukon Territory, the members of which shall be elected to represent such electoral districts in the Territory as are named and described by the Commissioner in Council.

*Council establishment.*

(2) The Council consists of twelve members, but the Commissioner in Council may make ordinances to increase or decrease the membership to a number not less than twelve nor greater than twenty.

*Size of Council.*

(3) Every Council shall continue for four years from the date of the return of the writs for the general election and no longer, but the Governor in Council may at any time, after consultation with the Council where the Governor in Council deems consultation to be practicable or, otherwise, after consultation with each of the members of the Council with whom consultation can then be effected, dissolve the Council and cause a new Council to be elected. R.S., c. Y-2, s. 9; R.S., c. 48(1st Supp.), s. 2.; 1974, s. 5, ss. 1, 2.

*Duration of Council.*

10. Each member of the Council shall, before assuming the duties of his office, take and subscribe before the Commissioner such oaths of office and allegiance as the Governor in Council may prescribe. R.S., c. Y-2, s. 10.

*Oaths of office.*

11. The Commissioner shall convene at least one session in every calendar year so that twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session. R.S., c. Y-2, s. 11.

*Yearly session.*

12. (1) The Council shall elect one of its members to be Speaker.

*Speaker.*

(2) The Speaker shall preside over the Council when it is in session. 1974, c. 5, s. 3.

13. A majority of the Council, including the Speaker, constitutes a quorum. R.S., c. Y-2, s. 13.

*Quorum.*

14. (1) There shall be an Advisory Committee on Finance consisting of three members of the Council to be appointed by the Commissioner on the recommendation of the Council.

*Advisory Committee on Finance.*



(2) Two members of the Committee constitute a quorum.

*Quorum.*

(3) The Commissioner shall consult with the Committee in the preparation of the estimates of the expenditures and appropriations required to defray the charges and expenses of the public services of the Territory for each fiscal year. R.S., c. Y-2, s. 12; R.S., c. 48(1st Supp.), s. 3.

*Consultation with Committee.*

15. The Commissioner in Council may prescribe

*Qualifications of electors and candidates.*

- (a) the qualifications of persons as electors and the qualifications of electors to vote at an election of members of the Council.
- (b) the qualifications of persons as candidates for election as members of the Council; and
- (c) the reasons for which an elected member of the Council may be or become disqualified from being or sitting as a member of the Council. R.S., c. Y-2, s. 14; R.S., c. 48(1st Supp.), s. 4.

16. (1) Subject to subsection (3), each member of the Council shall be paid out of the Yukon Consolidated Revenue Fund such annual indemnity and such travel and living expenses for each session of the Council as the Commissioner in Council may prescribe.

*Sessional indemnity and expenses.*

(2) Subject to subsection (3), each member of the Advisory Committee on Finance and of any other committee of the Council shall be paid out of the Yukon Consolidated Revenue Fund, in addition to his annual indemnity, such indemnity and such travel and living expenses as the Commissioner in Council may prescribe.

*Indemnities and expenses of Committee members.*

(3) The Commissioner in Council may prescribe the terms and conditions on which the indemnities and travel and living expenses prescribe pursuant to subsection (1) and (2) shall be paid to members of the Council or any committee thereof.

*Payment of indemnities.*

(4) The first one thousand dollars of the indemnity paid to a member of the Council under subsection (1) in any year is not income for the purposes of the *Income Tax Act*. R.S., c. Y-2, s. 15; R.S., c. 48(1st Supp.), s. 5.

*Part of indemnity not taxable.*

*Legislative Powers of Commissioner in  
Council*

17. The Commissioner in Council may, subject to this Act and any other Act of Parliament, make ordinances for the government of the Territory in relation to the following classes of subjects:

*Legislative powers.*

- (a) direct taxation within the Territory in order to raise a revenue for territorial, municipal or local purposes;
- (b) the establishment and tenure of territorial offices and the appointment and payment of territorial officers;
- (c) municipal institutions in the Territory, including municipalities, school districts, local improvement districts and irrigation districts;
- (d) election of members of the Council and controverted elections;
- (e) the licensing of any business, trade, calling, industry, employment of occupation in order to raise a revenue for territorial, municipal or local purposes;
- (f) the incorporation of companies with territorial objects, including tramways and street railway companies but excluding railway, streamship, air transport, canal, telegraph, telephone or irrigation companies;
- (g) the solemnization of marriage in the Territory;
- (h) property and civil rights in the Territory;
- (i) the administration of justice in the Territory, including the constitution, maintenance and organization of territorial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts;
- (j) the establishment, maintenance and management of prisons, jails or lock-ups designated as such by the Commissioner in Council under paragraph 43(b), the duties and conduct of persons employed therein or otherwise charged with the custody of prisoners, and all matters pertaining to the maintenance, discipline or conduct of prisoners including their employment outside as well as within a prison, jail or lock-up;

- (k) the issuing of licences or permits to scientists or explorers to enter the Territory or any part thereof and the prescription of the conditions under which those licences or permits may be issued and used;
- (l) the levying of a tax on furs or any portions of fur-bearing animals to be shipped or taken from the Territory to any place outside the Territory;
- (m) the preservation of game in the Territory;
- (n) education in the Territory, subject to the conditions that any ordinance respecting education shall always provide that
  - (i) a majority of the ratepayers of any district or portion of the Territory, or of any less portion or subdivision thereof, by whatever name the same is known, may establish such schools therein as they think fit, and make the necessary assessment and collection of rates therefor, and
  - (ii) the minority of the ratepayers in the area referred to in subparagraph (i), whether Protestant or Roman Catholic, may establish separate schools therein, in which case the ratepayers establishing Protestant or Roman Catholic separate schools are liable only to assessments of such rates as they impose on themselves in respect thereof;
- (o) the closing up, varying, opening, establishing, building, management or control of any roads, streets, lanes or trails on public lands;
- (p) intoxicants;
- (q) the establishment, maintenance and management of hospitals in and for the Territory;
- (r) agriculture;
- (s) the expenditure of territorial funds and such portion of any moneys appropriated by Parliament for the Territory as the Commissioner is authorized to expend by and with the advice of the Council;

- (t) generally, all matters of a merely local or private nature in the Territory;
- (u) the imposition of fines, penalties, imprisonment or other punishments in respect of the contravention of the provisions of any ordinance; and
- (v) such other matters as may be designed by the Governor in Council. R.S., c. Y-2, s. 16; R.S., c. 48(1st Supp.), s. 6; 1974, c. 5, s. 4.

18. Nothing in section 17 shall be construed as giving the Commissioner in Council greater powers with respect to any class of subjects described therein than are given to legislatures of the provinces under sections 92 and 95 of the *Constitution Act, 1867*, with respect to similar subjects therein described. R.S., c. Y-2, s. 17.

*Restriction on powers.*

19. (1) Notwithstanding section 18 but subject to subsection (3), the Commissioner in Council may make ordinances for the government of the Territory, in relation to the preservation of game in the Territory, that are applicable to and in respect of Indians and Inuit.

*Game ordinances in respect of Indians and Inuit.*

(2) Any ordinances made by the Commissioner in Council in relation to the preservation of game in the Territory, unless the contrary intention appears therein, are applicable to and in respect of Indians and Inuit.

*Presumption in respect of Indians and Inuit.*

(3) Nothing in subsection (1) and (2) shall be construed as authorizing the Commissioner in Council to make ordinances restricting or prohibiting Indians or Inuit from hunting for food, on unoccupied Crown lands, game other than game declared by the Governor in Council to be game in danger of becoming extinct. R.S., c. Y-2, s. 17; 1984, c. 40, s. 77.

*Hunting for food.*

20. The Commissioner in Council may make ordinances authorizing the Commissioner to enter into an agreement with the Government of Canada under and for the purposes of any Act of Parliament that authorizes the Government of Canada to enter into agreements with the provinces, but no such agreement shall be entered into by the Commissioner without the approval of the Governor in Council. R.S., c. Y-2, s. 18.

*Agreements with Government of Canada.*

21. (1) The Commissioner in Council may make ordinances

*Borrowing and lending.*

- (a) for the borrowing of money by the Commissioner on behalf of the Territory for territorial, municipal or local purposes;
- (b) for the lending of money by the Commissioner to any person in the Territory; and
- (c) for the investment by the Commissioner of surplus money standing to the credit of the Yukon Consolidated Revenue Fund.

(2) No money shall be borrowed under the authority of this section without the approval of the Governor in Council.

*Restriction.*

(3) The repayment of all money borrowed under the authority of this section, and the payment of interest thereon, is a charge on and payable out of the Yukon Consolidated Revenue Fund. R.S., c. Y-2, s. 19; R.S., c. 48(1st Supp.), s. 7.

*Charge on Yukon C.R.F.*

22. (1) A copy of every ordinance made by the Commissioner in Council shall be transmitted to the Governor in Council within thirty days after the passing thereof and shall be laid before both Houses of Parliament as soon as conveniently may be thereafter.

*Ordinances to be laid before Parliament.*

(2) Any ordinance or any provision of any ordinance may be disallowed by the Governor in Council at any time within one year after its passage. R.S., c. Y-2, s. 20; R.S., c. 48(1st Supp.), s. 8.

*Disallowance.*

23. (1) Subject to this Act, the laws relating to civil and criminal matters and the ordinances in force in the Northwest Territories on June 13, 1989 are and remain in force in the Territory, in so far as they are applicable thereto, and in so far as they have not been or are not hereafter repealed, abolished or altered by Parliament or by any ordinance.

*Existing laws continued.*

(2) All laws of general application in force in the Territory are, except where otherwise provided, applicable to and in respect of Inuit in the Territory. R.S., c. Y-2, s. 22; 1984, c. 40, s. 77.

*Laws applicable to Inuit.*

*Yukon Consolidated Revenue Fund*

24. (1) All public moneys and revenue over which the Commissioner in Council has the power of appropriation shall form a fund to be known as the Yukon Consolidated Revenue Fund.

*Yukon C.R.F.*

(2) The Commissioner shall establish, in the name of the government of the Territory, accounts with such banks as the Commissioner designates for the deposit of public moneys and revenue. R.S., c. Y-2, s. 23.

*Establishment of bank accounts.*

25. It is not lawful for the Council to adopt or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue of the Territory, or of any tax or impost, to any purpose that has not been first recommended to the Council by message of the Commissioner, in the session in which the vote, resolution, address or bill is proposed. R.S., c. Y-2, s. 24.

*Recommendation of Commissioner.*

26. When a sum of money is granted to Her Majesty by Parliament to defray expenses for a specified public service in the Territory, the power of appropriation by the Commissioner in Council over that sum is subject to the specified purpose for which it is granted. R.S., c. Y-2, s. 25.

*Appropriation of moneys granted by Parliament.*

*Territorial Accounts*

27. A report for each fiscal year of the Territory, called the Territorial Accounts, shall be laid before the Council by the Commissioner on or before such day following the termination of the fiscal year as the Council may fix, and the Council shall consider the report. R.S., c. Y-2, s. 26; R.S., c. 48(1st Supp.), s. 10.

*Submission of Territorial Accounts to Council.*

28. The Territorial Accounts shall be in such form as the Commissioner may direct, and shall include:

*Form and contents.*

- (a) a report on the financial transactions of the fiscal year;
- (b) a statement, certified by the Auditor General of Canada, of the expenditures and revenues of the Territory for the fiscal year;
- (c) a statement, certified by the Auditor General of Canada, of assets and liabilities as at the termination of the fiscal year; and

- (d) such other information or statements as are required in support of the statements referred to in paragraphs (b.) and (c.), or as are required by ordinance or by the Minister. R.S., c. Y-2, s. 26.

29. The fiscal year of the Territory is the period beginning on April 1 in one year and ending on March 31 in the following year. R.S., c. Y-2, s. 26.

*Fiscal Year.*

30. (1) The accounts and financial transactions of the Territory shall be examined by the Auditor General of Canada who shall report annually to the Council the result of that examination, and the report shall state whether in his opinion

*Examination and report by Auditor General.*

- (a) proper books of account have been kept by the Territory;
- (b) the financial statements of the Territory were prepared on a basis consistent with that of the preceding fiscal year and are in agreement with the books of account;
- (c) the statement of expenditures and revenues gives a true and fair view of the expenditures and revenues of the Territory for the fiscal year;
- (d) the statement of assets and liabilities gives a true and fair view of the affairs of the Territory at the end of the fiscal year; and
- (e) the transactions of the Territory that have come to the notice of the Auditor General have been within the powers of the Territory under this Act and any other Act applicable to the Territory.

(2) The Auditor General of Canada shall call attention to any other matter falling within the scope of the examination made under subsection (1) that in the opinion of the Auditor General should be brought to the attention of the Council. R.S., c. Y-2, s. 26.

*Other matters.*

31. The Auditor General of Canada has, in connection with the examination of the accounts of the Territory, all the powers that the Auditor General has under the *Auditor General Act* in connection with the examination of the accounts of Canada. R.S., c. Y-2, s. 26; 1976-77, c. 34, s. 28.

*Power of Auditor General.*

## PART II

## ADMINISTRATION OF JUSTICE

*Judicature*

32. The Governor in Council shall appoint the judges of such superior, district or county courts as are now or may hereafter be constituted in the Territory. R.S., c. 48(1st Supp.), ss. 11.

*Appointment of judges.*

33. The judges of the superior, district and county courts in the Territory shall hold office during good behaviour but are removable by the Governor in Council on address of the Senate and House of Commons and shall cease to hold office on attaining the age of seventy-five years. R.S., c. 48(1st Supp.), s. 11.

*Tenure of office of judges.*

*Supreme Court*

34. A judge of the Supreme Court of the Northwest Territories is *ex officio* a judge of the Supreme Court of the Yukon Territory. R.S., c. Y-2, s. 27; SOR/71-371; 1972, c. 17, s. 2.

*Judges of N.W.T. Supreme Court ex officio judge.*

35. (1) The Governor in Council may appoint any person who is or has been a judge of a superior, county or district court of any of the provinces or a barrister or advocate of at least ten years standing at the bar of any province to be a deputy judge of the Court and fix his remuneration and allowances.

*Deputy judges.*

(2) An appointment under subsection (1) may be made for any particular case or cases or for any specified period of time and shall be terminated at the pleasure of the Governor in Council.

*Tenure of office.*

(3) A deputy judge shall be sworn to the faithful performance of his duties in the same manner as a judge of the Court and, during his appointment, temporarily has and may exercise and perform all the powers, authorities and functions of a judge of the Court and the expression "judge of the Court" shall be deemed to include a deputy judge of the Court. R.S., c. Y-2, s. 29.

*Power.*



36. Unless the Governor in Council, by order, otherwise provides, the judges of the Court, other than *ex officio* judges and deputy judges, shall reside in the city of Whitehorse or within forty kilometres thereof. R.S., c. Y-2, s. 32; 1976-77, c. 25, s. 22.

*Residence.*

37. The Court may sit in the Northwest Territories for the purpose of hearing a civil case other than a civil case where the Court sits with a jury. R.S., c. Y-2, s. 33; SOR/71-371.

*Court may sit in N.W.T.*

38. When the Court sits in the Northwest Territories, the Court has and may exercise and perform all the powers, duties and functions in the Northwest Territories that it has and may exercise and perform when sitting in the Yukon Territory.

*Power when sitting in N.W.T.*

#### *Court of Appeal*

39. The Court of Appeal of the Territory may sit in the Territory or in the Province of British Columbia. R.S., c. Y-2, s. 35; SOR/71-371.

*Sittings.*

#### *Criminal Trials Held in the Northwest Territories*

40. (1) Whenever it appears to the satisfaction of the Minister of Justice that it is expedient to the ends of justice that the trial of any person charged with an indictable offence alleged to have been committed north of the 65th parallel of latitude, in the Yukon Territory, should be held in some district or place other than that in which the offence is alleged to have been committed or would otherwise be triable, the Minister of Justice may order the trial shall be proceeded within in the Northwest Territories before the court or judge named in the order, and thereupon the court or judge so named has jurisdiction to try such person.

*Minister of Justice to order trial in N.W.T.*

(2) The provisions of the *Northwest Territories Act* apply to a trial described in subsection (1). R.S., c. Y-2, s. 36.

*N.W.T. Act to apply.*

### *Police Magistrates*

41. A police magistrate has and may exercise and perform the powers, duties and functions of a justice of the peace or any two justices of the peace under this Act or any other law or ordinance in force in the Territory. R.S., c. Y-2, s. 38.

*Powers.*

### *Justices of the Peace*

42. Every justice of the peace in and for the Territory has and may exercise and perform, throughout the Territory, the powers, duties and functions of two justices of the peace under any law or ordinance in force in the Territory. R.S., c. Y-2, s. 41; SOR/71-371.

*Powers.*

### *Confinement of Prisoners*

43. The following places in the Territory are prisons, jails or lock-ups for the confinement of persons charged with the commission of any offence under a statute, ordinance or other law in force in the Territory or sentenced thereunder to a term of imprisonment not exceeding two year:

*Prisons in the Territory.*

- (a) every guardhouse, guardroom or other place of confinement that is maintained or managed by the Royal Canadian Mounted Police; and
- (b) every building or part thereof or other enclosure, other than those referred to in paragraph (a), that is designated as a prison, jail or lock-up for the purpose of this section and section 44 by the Commissioner in Council. R.S., c. Y-2, s. 44.

44. Where it is impossible or inconvenient, by reason of absence or remoteness, to confine a person referred to in section 43 in a prison, jail or lock-up, the person may be sentenced or directed by a judge of the Court, police magistrate or justice of the peace, as the case may be, to be placed and kept in the custody of the Royal Canadian Mounted Police. R.S., c. Y-2, s. 44.

*Custody of R.C.M.P., where no prison.*

45. The Governor in Council may make rules and regulations for the management, discipline and policy of guardhouses, guardrooms or other places of confinement referred to in paragraph 43(a), for the duties and conduct of persons employed therein or otherwise charged with the custody of prisoners and for all matters pertaining to the maintenance, discipline or conduct of prisoners including their employment outside as well as within a guardhouse, guardroom or other place of confinement. R.S., c. Y-2, s. 45; 1974, c. 5, s. 6.

*Regulations respecting R.C.M.P. confinement places.*

46. The Governor in Council may, after consulting with the Council, declare this Part or any provision thereof, except sections 32, 33 and 40, to be repealed on a day or days to be fixed by proclamation. R.S., c. 48(1st Supp.), s. 12.

*Repeal of this Part.*

## PART II

### GENERAL

#### *Lands*

47. (1) The following properties are and remain vested in Her Majesty in right of Canada:

*Lands vested in Her Majesty.*

- (a) lands acquired before, on or after April 1, 1955 with territorial funds;
- (b) public lands, the administration and control of which has before, on or after April 1, 1955 been transferred by the Governor in Council to the Commissioner;
- (c) all roads, streets, lanes and trails on public lands; and
- (d) lands acquired by the Commissioner pursuant to tax sale proceedings.

(2) The right to the beneficial use or to the proceeds of the properties mentioned in subsection (1) is hereby appropriated to the Commissioner in Council.

*Beneficial use and proceeds.*

(3) The properties mentioned in subsection (1) may be held by and in the name of the Commissioner for the beneficial use of the Territory. R.S., c. Y-2, s. 46; 1974, c. 5, s. 7.

*Lands held in name of Commissioner.*

*Reindeer*

48. The Governor in Council may make regulations

- (a) authorizing the Minister to enter into agreements with Indians or Inuit, or persons with Indian or Inuit blood living the life of an Indian or Inuit, for the herding of reindeer that are the property of Her Majesty, which agreements, if deemed advisable by the Minister, shall include provisions for the transfer of such portions of the herds as may be therein specified to the herders on satisfactory completion of the agreements;
- (b) for the control, management, administration and protection of reindeer in the Territory, whether they are the property of Her Majesty or otherwise;
- (c) for the sale of reindeer and the slaughter or other disposal of surplus reindeer and the carcasses thereof; and
- (d) controlling or prohibiting the transfer or shipment by any means of reindeer or their carcasses or parts thereof, whether they are the property of Her Majesty or otherwise, from any place in the Territory to any other place within or outside the Territory. R.S., c. Y-2, s. 47; 1984, c. 40, s. 77.

*Regulations  
respecting reindeer.*

49. Where a peace officer or any person who is a game officer under any ordinance believes on reasonable grounds that any reindeer has been killed, that any reindeer or part thereof has been taken transferred, shipped or has in possession in contravention of the regulations or that any vessel, vehicle, aeroplane, firearm, trap or other article or thing has been used in contravention of the regulations, he may, in the Territory, without a warrant, effect seizure thereof. R.S., c. Y-2, s. 47.

*Seizure.*

50. Every seizure made under section 49 shall be reported as soon as practicable to a justice of the peace who may, on satisfying himself that the reindeer or part thereof or the vessel, vehicle, aeroplane, firearm, trap or other article or thing has been taken, dealt with or used in contravention of the regulations, declare it to be forfeited to her Majesty and, on that declaration, it is forfeited, R.S., C. Y-2, s. 47.

*Forfeiture.*

51. The *Game Export Act* applies to reindeer or the carcasses or part thereof and, for that purpose, under that Act

*Application of the Game Export Act.*

- (a) "game" shall be deemed to include the taking or capture of or dealing in live reindeer;
- (b) "killed" shall be deemed to include the taking or capture of or dealing in live reindeer; and
- (c) "export permit" shall be deemed to include a permit or licence issued under the regulations made pursuant to section 48 of this Act. R.S., c. Y-2, s. 47.

52. (1) No intoxicant shall be manufactured, compounded or made in the Territory except by permission of the Commissioner or a person authorized by him.

*Manufacture of intoxicants.*

(2) No intoxicant shall be imported or brought into the Territory from any place outside the Territory, whether it is in Canada or elsewhere, except by permission of the Commissioner or a person authorized by him. R.S., c. Y-2, s. 48.

*Importation of intoxicants.*

53. Intoxicants manufactured, compounded or made in the Territory or imported or brought into the Territory are subject to the customs and excise laws of Canada. R.S., c. Y-2, s. 48.

*Subject to customs and excise laws.*

54. Where a peace officer believes on reasonable grounds that any intoxicant has been manufactured, compounded or made in the Territory or imported or brought into the Territory from any place outside the Territory in contravention of this Act or that any vessel, vehicle, aeroplane, appliance, article or thing has been used for any of the above purposes in contravention of this Act, he may, in the Territory, without a warrant, effect seizure thereof. R.S., c. Y-2, s. 48.

*Forfeiture.*

55. Every seizure made under section 54 shall be reported as soon as practicable to a justice of the peace, who may, on satisfying himself that the intoxicant or the vessel, vehicle, aeroplane, appliance, article or thing has been manufactured, compounded, made, imported, brought in or dealt with or used in contravention of this Act, declare it to be forfeited to Her Majesty, and on that declaration it is forfeited. R.S., c. Y-2, s. 48.

*Forfeiture*

56. The *Importation of Intoxicating Liquors Act* does not apply to the importation, sending, taking or transportation of intoxicating liquors into the Territory. R.S., c. Y-2, s. 48.

*Importation of Intoxicating Liquors Act not applicable.*

*Mentally Disordered Persons*

57. (1) The Commissioner may, subject to the approval of the Minister, arrange with any province for the admission to mental institutions, asylums or other suitable places in the province of

*Arrangements for transfer to provincial institutions.*

- (a) mentally disordered persons, for the purpose of their confinement, care and maintenance until the pleasure of the Commissioner is made known or until they are discharged by law;
- (b) persons in respect of whom the Court, a police magistrate of the Territory or a justice of the peace in and for the Territory has ordered that a psychiatric examination be made, for the purpose of that examination; and
- (c) persons in respect of whom the Commissioner has approved psychiatric examination and treatment, for the purpose of that examination and, where necessary, treatment.

(2) An arrangement described in subsection (1) may provide for compensation to be paid to the province in respect of the confinement, care, maintenance, examination and treatment of persons described in that subsection.

*Compensation to province.*

(3) The compensation paid to a province under subsection (2) shall be paid out of the Yukon Consolidated Revenue Fund. R.S., c. Y-2, s. 49.

*Payment out of Yukon C.R.F.*

58. (1) Where a mentally disordered person has escaped from a mental institution, asylum or other place of confinement, within or outside the Territory, any person employed therein or connected therewith or other person requested by the person in immediate charge or control thereof may, within forty-eight hours after the escape, without a warrant, retake the escaped person and return him to the place from which he escaped, or may, if a warrant is issued to him for that purpose, do so at any time after the escape up to the time specified in the warrant.

*Recapture of  
escaped mentally  
disordered persons.*

(2) A warrant may be issued for the purposes of subsection (1) by the person in immediate charge or control of the mental institution, asylum or other place of confinement from which the escape was made and shall contain the name and description of the escaped mentally disordered person, the name and office, if any, of the person to whom it is issued, the place to which and the person to whom the escaped person is to be returned and the time, not exceeding three months, for which the warrant is valid.

*Warrant.*

(3) An escaped person who is returned to custody under this section shall remain in custody under the authority by virtue of which he was detained prior to his escape. R.S., c. Y-2, s. 50.

*Custody of  
recaptured person.*

#### *Neglected Children*

59. (1) The Commissioner may, subject to the approval of the Minister, arrange with any province for the removal of neglected children from the Territory to foster homes or suitable institutions in that province, for their care, education and maintenance therein and for the compensation to be paid therefor to that province.

*Arrangements for  
care in provincial  
institutions.*

(2) The compensation to be paid to a province under subsection (1) shall be paid out of the Yukon Consolidated Revenue Fund. R.S., c. Y-2, s. 51.

*Payment out of  
Yukon C.R.F.*

#### *Cultural Sites and Property*

60. The Governor in Council may make regulations for the protection, care and preservation of sites, works, objects and specimens of archaeological, ethnological or historical importance, interest or significance and explorers' cairns and explorers' documents. R.S., c. Y-2, s. 52.

*Regulations.*

61. Where any peace officer believes on reasonable grounds that any object, specimen or document has been removed, taken, shipped had in possession or otherwise dealt with contrary to the regulations, he may, in the Territory, without a warrant, effect seizure thereof. R.S., c. Y-2, s. 52.

*Power to seize.*

62. Every seizure made under section 61 shall be reported as soon as practicable to a justice of the peace, who may, on satisfying himself that the object, specimen or document was removed, taken, shipped, had in possession or otherwise dealt with contrary to the regulations, declare it to be forfeited to Her Majesty, and on that declaration it is forfeited. R.S., c. Y-2, s. 52.

*Forfeiture.*

#### *Offence and Punishment*

63. Every person who contravenes any provision of this Act or the regulation is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year or to both. R.S., c. Y-2, s. 53.

*General offence and punishment.*

64. (1) Every person who exports or attempts to export from the Territory any gold that was obtained from placer mining operations, and with respect to which any royalty imposed by law has not been paid, is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three years or to both.

*Export of gold without payment of royalty.*

(2) Where a person is convicted under subsection (1), the convicting magistrate or justice may in his discretion order that the gold in respect of which the conviction is had is forfeited to Her Majesty, and thereupon the gold shall be so forfeited.

*Forfeiture.*

(3) Every person about to export gold described in subsection (1) from the Territory shall on demand produce to any peace officer a certificate from the Commissioner of the Territory or person authorized by the Commissioner certifying that the royalty with respect to the gold has been paid and failure to produce the certificate on that demand is evidence that the royalty has not been paid.

*Production of certificate that royalty paid.*



(4) Where any peace officer believes on reasonable grounds that any person has committed or has reason to believe that any person is about to commit an offence described in subsection (1) or has in his possession or in his belongings any gold in respect of which the royalty has not been paid, the peace officer may without warrant search such person and his belongings and any articles believed to be his belongings and may seize any such gold found on the person or in those belongings.

*Search without warrant and seizure.*

(5) No female shall be searched pursuant to this section except by a suitable woman who is a peace officer or is authorized by the peace officer to make the search.

*Search of female.*

(6) Any gold seized pursuant to subsection (4) may be detained for a period of six months and, if before the expiration of that period any proceedings with respect to that gold are taken under this Act, may be further detained until the proceedings are finally concluded.

*Detention of seized gold.*

(7) For the purpose of this section, the expression "peace officer" means a peace officer as defined in the *Criminal Code*. R.S., c. Y-2, s. 54.

*Definition of "peace officer"*

#### SCHEDULE (Section 2)

The Yukon Territory shall be bounded as follows: On the south, by the Province of British Columbia and the State of Alaska; on the west, by the said State of Alaska; on the north, by that part of the Arctic Ocean called Beaufort Sea; and on the east, by a line beginning at the intersection of the north boundary of British Columbia with a line passing through a boundary pipe post set in concrete, trench and mound, numbered 600, planted by the British Columbia-Yukon-Northwest Territories Boundary Commission approximately 1 chain westerly of the left bank of the Liard River, said line having a bearing of 309<sup>0</sup> with reference to the meridian through said post; thence northwesterly along said line to a point on the line of watershed separating the streams flowing into the Liard River below the La Biche River or into the Mackenzie River from those flowing into the La Biche River, into the Liard River above the La Biche River, or into the Yukon River; thence northwesterly along said line of watershed to the line of watershed of the basin of Peel River; thence northerly along the line of watershed between the Peel and Mackenzie Rivers to the sixty-seventh degree of north latitude; thence westerly along the parallel of the sixty-seventh degree of north latitude to the line of watershed between the Peel and Yukon Rivers; thence northerly along the said line of watershed to the trail across the portage in McDougall Pass between Rat and Bell Rivers; thence due north to the northern limit of the Yukon Territory; the said Territory to include the islands within twenty statute miles from the shores of the Beaufort Sea as far as the aforesaid due north line from McDougall Pass. R.S., C. Y-2, ch.; 1980-81-82-83, c. 47, s. 52.

## YUKON ACT AMENDMENT, 1988

35-36-37 Elizabeth II

### Chapter 38

An Act respecting the status and use of the official languages of Canada

[Assented to 28th July, 1988]

*Yukon Act*

*R.S., c. Y-2.*

98. The *Yukon Act* is amended by adding thereto, immediately after Part II therefore, the following Part:

#### "PART II.I

#### OFFICIAL LANGUAGES

45.1 Subject to section 45.2, the ordinance entitled the *Language Act*, made on May 18, 1988 by the Commissioner in Council, may be amended or repealed by the Commissioner in Council only if the amendment or repeal is concurred in by Parliament through an amendment to this Act.

*Languages  
Ordinance.*

45.2 Nothing in this Part shall be construed as preventing the Commissioner, the Commissioner in Council or the Government of the Territory from granting rights in respect of, or providing services in, English and French or any languages of the aboriginal peoples of Canada, in addition to the rights and services provided for in the ordinance referred to in section 45.1, whether by amending that ordinance, without the concurrence of parliament, or by any other means."

*Additional Rights  
and Services*

## 3

## LETTERS OF INSTRUCTION TO THE COMMISSIONERS AND PRIVY COUNCIL ORDERS

The Yukon Territory's legal base is established through the *Yukon Act* (see Chapter 2). This legislation in its various iterations since 1898, gives jurisdiction over the administration of the Territory to a federal Minister of the Crown. Today the Yukon falls under the jurisdiction of the Minister of Indian and Northern Affairs, Canada (INAC), but has fallen under such Ministries as the Interior, Resources and Development, and Mines and Resources to name a few.

From time to time, the federal government, upon the advice of the federal Minister responsible for the Yukon's affairs, has initiated the preparation of Privy Council Orders respecting government in the Yukon. Letters of instruction to the Chief Executive Officer of the Yukon Territory (the Commissioner, Comptroller or Administrator are the titles used at various points in the history of the Territory) have also been used to instruct that Officer on his or her duties in relation to the *Yukon Act*, and to the Legislative Assembly (or the Territorial Council as it was known prior to October, 1979) and administration of the Yukon Government.

This chapter does not include all Privy Council Orders and letters of instruction from the responsible federal Minister to the Commissioners and other Chief Executive Officers of the Yukon. It provides what are believed to be the more important of these documents relating to the constitutional development of the Yukon. There is an emphasis on instructions to the Commissioners in the 1970s and 1980s in that substantial developments took place during these two decades.

Documents are provided in chronological order. A brief introduction is given to each document.

## OFFICES OF COMMISSIONER AND ADMINISTRATOR ABOLISHED, 1918

*The 1918 Order (March 28, 1918) abolishing the offices of Commissioner and Administrator is consistent with the federal government's withdrawal of support for the elected Territorial Council as noted in the Introduction. Population and revenue decline are noted in the Order as the reasons for the abolition of these senior offices in the Territory.*

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At the Government House at Ottawa,

Present:

His Excellency

The Governor General in Council:

WHEREAS provision is made in the Yukon Act, being Section 4 of Chapter 63, R.S.C.1906, that the Governor in Council may, by instruction under the Great Seal, appoint for the Yukon Territory a chief executive officer to be styled and known as the Commissioner of the Yukon Territory, and Section 3, Chapter 76, 7-8, Edward VII, being an Act to amend the above Act, provides that the Governor in Council may from time to time appoint an Administrator to execute the office and functions of the Commissioner, during his absence or illness or other inability;

AND WHEREAS in view of the decrease in the population of and in the revenue derived from the Yukon Territory, owing to the rich placer mines of the Territory becoming gradually worked out, it is considered that the officer of Commissioner and Administrator are no longer essential to the efficient administration of the Territory;

THEREFORE His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior and under and in accordance with the provisions of The War Measures Act, 1914, is pleased to Order and it is hereby ordered that on and after the first day of April, 1918, the said two offices be abolished and that the powers and duties conferred upon and vested in the Commissioner of the Yukon Territory and the Administrator, under the provisions of the Yukon Act, or any other Act or any regulations made under the authority of the Yukon Act, or any other Act, respecting the Yukon Territory, shall be transferred to and vested in the Gold Commissioner of the Territory.

## OFFICE OF GOLD COMMISSIONER ABOLISHED, 1932

*The June 30th, 1932 Order further reduces the senior administrative offices in the Yukon by abolishing the office of Gold Commissioner and transferring those powers to the Comptroller. No reason is given in the Order for this change, though the opportunity presented itself with the retirement of Gold Commissioner of the day, Mr. George Ian MacLean.*

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AT THE GOVERNMENT HOUSE AT OTTAWA  
Thursday, the 30th day of June, 1932.

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL:

WHEREAS by Order in Council of the 28th March, 1918, P.C. 745, all the powers and duties of the Commissioner and Administrator of the Yukon Territory, under the Yukon Act or any other Act respecting the Yukon Territory, were transferred to and vested in the Gold Commissioner of the Yukon Territory;

AND WHEREAS the Minister of the Interior reports that the present Gold Commissioner, Mr. George Ian MacLean, is being retired from the Government Service from the 30th June, 1932, and that the said position is being abolished;

THEREFORE His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to order that all the powers and duties vested in the Gold Commissioner, under the provisions of the Yukon Act or any other Act respecting the Yukon Territory, be and they are hereby transferred to and vested in Mr. George Allan Jeckell, Comptroller of the Yukon Territory under the authority of Section 132 of the Yukon Act, Chapter 215, R.S. 1927.

## CHANGE OF TITLE: COMPTROLLER TO CONTROLLER, 1936

*The December, 1936 change of title from Comptroller to Controller appears to be a simple administrative action consistent with the wording of the Yukon Act.*

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The Committee of the Privy Council, on the recommendation of the Minister of Mines and Resources, advise that Order in Council of the 30th June, 1932, P.C. 1481, be amended by designating Mr. George Allan Jeckell "Controller of the Yukon Territory" instead of "Comptroller of the Yukon Territory", this change in title to become effective 1st December, 1936.

## THE YUKON'S SEAL, 1956

*The 1956 Order provided the Yukon with its own Seal, this being an important symbol of the Legislature's jurisdiction in representing Yukoners in the establishment of law.*

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AT THE GOVERNMENT HOUSE AT OTTAWA  
THURSDAY, the 29th day of NOVEMBER, 1956.

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL:

His Excellency the Governor General in Council, on the recommendation of the Minister of Northern Affairs and National Resources, pursuant to the Yukon Act, is pleased hereby, effective the fifteenth day of December 1956, to order as follows:

1. From and after the 15th day of December, 1956 the use of the seal presently in use in the Yukon Territory shall be discontinued and in lieu thereof Yukon Territory shall, upon all occasions that may be required, use a common seal to be called the Seal of the Yukon Territory, which said seal shall be composed of the Armorial Bearings of the Yukon Territory encircled by the following legend or inscription:

"The Seal of the Yukon Territory".

## 1970 LETTER OF INSTRUCTION TO THE COMMISSIONER

*The June 17, 1970 letter of instruction from the Minister of Indian Affairs and Northern Development to the Yukon's Commissioner, is the first step in the move toward responsible government for the Yukon Territory. Of note in this document is the establishment of the Executive Committee with two members appointed as nominated by the Territorial Council (the legislative assembly). As an historical note, in the early 1900s the Territorial Council pressed the federal government to allow involvement by its members in the executive function of the Yukon Government, but this did not take place. The letter is from the Honourable Jean Chretien to Commissioner James Smith.*

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Since possible mail delays may make it inadvisable to write in time for June Session, I am asking you by this telex to discuss with Council the draft paper prepared on establishment of Executive Committee. Paper was sent to you March 13, and was subsequently returned to us with your approval. We have a few minor revisions and D.A. Davidson will have final draft at meeting June 16, regarding Whitehorse boundaries.

As previously discussed and as outlined in my speech on second reading of Bill C-212, this telex is to be considered as my directive to you to establish an Executive Committee consisting of yourself as chairman, your two Assistant Commissioners and two Members of Council whom you are to invite Council to nominate. Two Council nominees are to be appointed by yourself to serve during pleasure.

Although statutory requirement in the Yukon Act that the Commissioner shall administer the Government of the Territory under instruction from time to time of the Governor in Council or myself still stands I would support giving advice of Committee and especially elected Members fullest possible consideration in determining the course of action to be followed by you in any given situation. I will rely on your judgment to keep me informed of your decisions as well as areas of potential conflict with federal policy, and that when necessary you will consult me or my officers before action is taken.

I want each Councillor on the Committee to be given administrative responsibility for one or more Departments of the Territorial administration. Choice of the Departments I leave to your discretion. The Assistant Commissioner holding the appointment of Administrator of the Yukon will be Vice-Chairman of the Committee and will act as Chairman in your absence.

You should be prepared to remove Council Members on the Committee and replace them with other Councillors whenever requested by a formal motion of



Council. Members could serve on the Committee beyond the life of the Council or their appointments could terminate automatically upon dissolution of Council. Practice to be followed should be whichever alternative you and Council prefer. To ensure continuity provincial Executives remain in office after dissolution of Legislature and do not vacate office until successors are ready to take over. If it should be decided that elected Members on Committee are to remain on Committee following dissolution, new Council can confirm the incumbents or nominate replacements. The failure of a Councillor to win reelection will make it necessary for the Council to nominate a replacement.

Council Members on the Committee will be expected to serve as full-time Members of the Committee and should be paid from the Yukon Consolidated Revenue Fund in amounts to be established in consultation with the Council and provided under Appropriations in the usual way. This plus their Council indemnity should not exceed the highest remuneration paid any other Member of the Executive Committee and no additional salary over and above these amounts should be paid for the supervision and direction of one or more Territorial Departments. Whatever is agreed upon should be enough to enable the Councillors on the Committee to devote their full time to their new duties. Other arrangements would be required in event Council elects for part-time service on Executive Committee.

Councillors should divest themselves of their current employment and terminate any activities which might give rise to a conflict of interest with their positions on Executive of Yukon Government. In addition it might be advisable to discuss with Council and obtain their approval of a code of conduct for the elected Members of the Committee and the course of action to be taken in the event of a breach. You might even wish to consider special legislation to back this up.

Further to foregoing, additional guidelines might be helpful during your discussions in Council such as:

1. Presumable two Council Members of Executive Committee should also be Members of Advisory Committee on Finance and therefore of the Budget Programming Committee.
2. In first instance you might wish to retain present Chairman of Budget Programming Committee in that position to allow elected Members fullest possible freedom on Committee.
3. Assume you will wish elected Members to sit on Legislative Programming Committee and other appropriate internal committees.
4. Council should consider whether appropriate for Speaker or Deputy Speaker to sit on Executive Committee. Normal practice in other Legislatures is to keep role of Speaker separate from role of Executive, but Yukon Council may wish to proceed differently. If Speaker or his Deputy is allowed to serve in both capacities, Council should be careful of establishing a tradition that could be difficult to terminate at a later date.
5. No doubt Council will wish to review rules of procedure. Section 6 should be changed if Members on Executive Committee are to vote on estimates containing their salaries.

Understand you propose to discuss paper and related procedures at June 22 Session in Watson Lake but the Committee will not be formally established until after the Council selects its Members at the First Session following the fall election. This is acceptable but you should not release contents of paper or this

telex to the Council or the public until I can notify you. Opposition may attempt to have requirement for Executive Committee written into Yukon Act and we should be certain about our position before debate takes place in Council.

## 1974 LETTER OF INSTRUCTION TO THE COMMISSIONER

*The September 19, 1974 letter to the Commissioner serves to expand the role of elected Members of the Territorial Council in the Executive of the Yukon Government. The number of elected to serve on the Executive Committee was increased from two to three. The letter is from the Honourable Judd Buchanan to the Yukon's Commissioner James Smith.*

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During the past year, as you know, some considerable thought was given to an increase in the number of elected representatives on the Executive Committee. Several alternatives were considered before Mr. Chretien announced his intention to add a third councillor to the Committee, during the second reading of Bill C-9 in the House of Commons on March 18. He stated that he would also consult the next Council about the possibility of reducing the number of appointed members of the Committee. You and I discussed this matter when you were in Ottawa on August 22, and I would now like to state my understanding of the events that are to take place.

I would envisage, when the next Council is first called into session after its election, that you would request the Council to nominate three councillors to be appointed to the Executive Committee by you and responsible for such executive duties as you may decide. At the same time, I think that you should announce your position on the continuing make up of the Committee as it relates to elected and appointed members. My view is that the Committee should not be allowed to become too large as that would promote inefficiency. I think therefore that the present number of five Committee members should be maintained by dropping one appointed member at an appropriate time during the life of the next Council, after you and I have had an opportunity to review the situation and to discuss the matter further.

## 1976 LETTER OF INSTRUCTION TO THE COMMISSIONER

*The June 1976 letter from the Minister of Indian Affairs and Northern Development to the Yukon's Commissioner comprises instructions to the newly appointed Commissioner Arthur Pearson upon assuming the Office.*

*There are a number of points raised in the letter which are significant.*

*The Minister took care in pointing out that the Commissioner was an officer of the federal government, and that executive decisions were to be made by the Commissioner. He was not to consider himself bound by the advice of the Executive Committee.*

*Attention was given to moving the territory toward responsible government, and related to this, toward greater financial autonomy by the negotiation of a resource revenue sharing agreement and the introduction of new taxation options for the Yukon.*

*It is clear, however, that the Commissioner was still the Chief Executive Officer, and that he should be prepared to reject Executive Council advice when it was considered contrary to federal policy. The Commissioner was also directed to refuse assent to legislation passed by the Territorial Council when this was seen to be contrary to the National interest.*

*Special attention was given to the role the Commissioner should play in encouraging more involvement by the native community in municipal and territorial government. The Minister stated that native affairs was the single most important area to which the Commissioner was to devote his attention.*

*The letter is from the Honourable Judd Buchanan to Commissioner Arthur Pearson.*

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I am pleased to inform you that your appointment as Commissioner of the Yukon Territory has been confirmed, to become effective on July 1, 1976.

Further to our recent discussion in Winnipeg, I would like to review with you some of the more important issues you will face as Commissioner over the next five years and to give you my views on the approach I believe you should take in specific areas such as constitutional and political evolution within the Territory, the process of government with respect to legislation and finance and such critical issues as native land claims, native employment and generally increased native participation in the society and affairs of the Territory.

Your duty as chief executive officer of the Yukon, of course, will be to administer the government of the Territory as provided for by the *Yukon Act*, the Ordinances of the Yukon Territory and other applicable federal legislation. While bearing in mind that your primary responsibility will be to the Government of Canada through me as a member of the Cabinet, I would expect you to be guided by the advice of your Executive Committee in the exercise of your responsibilities and to be receptive to the views expressed by the members of the Territorial Council.

The Government is very conscious of Yukoners' aspirations for greater control over their own affairs. In recent years a number of significant steps have been taken towards this end. For example, amendments to the Yukon Act in 1970 gave Council the authority to set the indemnities and allowances of its members (although these are for the present subject to regulation by the Anti-Inflation Board) and the power to establish the qualifications of persons who may vote or be elected in Council elections. The Council was also empowered to legislate with regard to the administration of justice. The Act was amended to provide for consultation with councillors before a Council is dissolved by the Governor in Council. In 1974, further amendments increased the size of the Council from seven to twelve members and empowered the Council to increase its size up to a maximum of twenty members by ordinance.

A significant step towards responsible government was taken in 1970 with the establishment of an Executive Committee, which included two councillors. The development of this concept has worked well and its introduction into Yukon affairs met with a sufficient degree of success to warrant the appointment of a third councillor to the Executive Committee in late 1974. Progress has also been made with regard to the transfer of responsibility for provincial type services from federal to territorial jurisdiction. For example, the responsibility for maintenance of the Yukon portion of the Alaska Highway was transferred in April, 1972. In the following September, the Yukon government assumed responsibility for the administration of sports fishing within the Yukon.

The various steps that have been taken in the area of constitutional development to date have worked well and have not given rise to any unforeseen difficulties. I must record my view that this would not have been possible without the effective leadership provided by your predecessor in their implementation. I shall be depending on you to continue this kind of leadership and you will have my confidence and support in doing so.

I wish to encourage the constitutional and political evolution of the Territory and I believe that responsible government should be regarded as a viable option in the foreseeable future. To this end, I look forward to agreement being reached soon on a resource revenue sharing formula. A companion step will be the enactment of federal and territorial provisions to enable your government to levy personal and corporate income taxes as an additional means to assist the Yukon in moving towards financial independence. Negotiations are taking place in regard to this measure. I look towards the transfer of the provision of health services to the Yukon, in consultation with native groups, and to a transfer of the legislative and administrative responsibility for the conduct of Council elections to your government.

While the future of the Yukon depends to a large extent upon our success in encouraging economic development, I do not believe that economic development should be considered an end in itself. It must be accompanied by social programs

which will ensure that all Yukoners have an opportunity to participate in the development.

Coupled with what might be termed the conventional development of territorial government, I will be looking to you to place special emphasis on the encouragement of native residents to play a larger and fuller role in territorial affairs. As the majority of the population gain opportunities for greater economic and social development, it will be important that the Indian and Metis people are given the chance to share in this development. This is one of our objectives in seeking a Yukon native land claims settlement. There is a pressing need for the native residents to become involved in the governmental process in the Territory. At the moment they look far too often to Ottawa for protection from what they seem to regard as an unfeeling Territorial government in Whitehorse. If the Yukon is ever to flourish economically and socially, or to take additional major steps towards political independence, the native population will have to come to believe that they will receive the same sympathetic treatment from your government as their fellow Yukoners expect and have received over the years.

Active native participation and involvement in the political and public affairs of the Territory is developing through the medium of native associations. I hope that it will increase to the extent that natives will gain election to the Territorial Council and to municipal councils. I would encourage you to examine ways of promoting the achievement of this objective, and to draw to my attention those that you consider might be implemented. I would also like to see the appointment of more natives to boards and committees, particularly those which have an impact on their way of life. In addition, the native associations may be encouraged to continue to undertake special projects and programs on behalf of their people. Employment of natives in the territorial public service leading to middle and senior management levels should be encouraged, perhaps by the development of a territorial equivalent of the federal Northern Careers Program. You might wish to sponsor on-the-job training programs to enable natives to become semi-skilled workers or to prepare them for entry level positions.

The Guidelines for Social Improvement which the Government established to be acted upon by all departments and agencies involved in the north seek, *inter alia*, a conscious creation in government and industry of employment opportunities for native peoples through attractive incentives, meaningful targets and where necessary imposed obligations. The guidelines also call for a reorientation of employment practices of government and industry in order to provide intensive training, not only in preparation for foreseeable employment but including on-the-job training. My objective over the next few years, and I request that it be yours as well, is to greatly increase the number of native people participating in the Yukon labour force. I recognize that this involves difficult problems relating to the lack of skills and the attitudes of both natives and non-natives. However, what is required are specific programs aimed at overcoming the disadvantaged position of the native people. At the federal level we are ensuring that all agreements covering resource development include specific obligations on the part of industry to provide training and employment for native people and specific targets against which their performance can be assessed. In this regard, you may wish to consider the recent agreement concerning the operation of Nanisivik Mine in the Northwest Territories and your officials will also be aware of negotiations which have been taking place with Canadian Arctic Gas in relation to the proposed northern pipeline. I have also indicated that the Government's support for the Arvik Mine project will be dependent on a demonstrated program

of consultation with communities likely to be affected in terms of the social impact and the training and employment opportunities for native people.

I foresee several initiatives to accomplish this objective which I would ask you to consider. A management assistance program could be established for natives engaged in non-governmental or small businesslike operations. Community employment and work opportunity programs could be vigorously expanded in co-operation with the Department of Manpower and Immigration's community employment strategy in areas where little or no economic development is anticipated in the foreseeable future. My Department's Training and Employment Liaison Division is ready to provide assistance in this field and to provide any liaison necessary with industry in the Territory, particularly related to mining and petroleum.

In giving consideration to these various proposals, you should bear in mind the requirement to meet the needs for training and employment which will undoubtedly arise from the anticipated settlement of native claims. The Alaskan experience in this regard might be relevant and you might want to examine what is being done there.

In the matter of native claims, the Government's objective will be to reach a claims settlement with the Yukon native associations at an early date. This will not be easy to achieve because the natives view a final settlement as encompassing more than just compensation for land. It will be expected to provide assurances that the native people can continue their traditional lifestyle and maintain their identity. They will want to ensure that resource development will not destroy their values. All of their priorities, such as wildlife, housing, education, justice, political power and the management of their affairs are likely to find expression in their proposals. It remains to be determined to what extent their aspirations can be satisfied bearing in mind the needs and aspirations of other Yukoners and the desire to encourage the economic development of the Territory.

I have dealt at length with native affairs because I judge this to be the most important single area in the affairs of the Territory that will require your attention. I will certainly look forward to discussing these questions with you and I will be grateful to receive your views about the kinds of solutions which can be developed. I will look to you to seek the advice of your Executive Committee and through the elected members, the views of the Council. Conversely, I will expect you to put forward and explain my position and that of the Government in seeking to arrive at an appropriate settlement and to encourage native residents to play a full part in Yukon society.

I should like to turn now to the management of the government process and your role in this process. In addition to being the senior member of the federal public service resident in the Yukon, you are the chief executive officer of the Territory responsible for the administration of the territorial government, including the executive, legislative and administrative arms, in accordance with established law and practices.

I have already touched on the need for you to seek the advice of the Executive Committee in the exercise of your responsibilities. I leave to you the manner in which you will do this and the frequency with which you will accept this advice. You will have to keep in mind the instructions you will undoubtedly receive from me from time to time, and you should in addition be guided by other indications of

the Government's policies and priorities that will come to your attention in a variety of ways. Within this frame of reference, I should like you to accept the advice of the Committee to the fullest extent possible.

Your role in the legislative process is an important one. In developing your legislative program, you will want to rely heavily on the Executive Committee and the sub-committee on legislation, in particular, to ensure the support and understanding of the elected members on whom you must rely to introduce and defend your legislation in Council. I should, of course, like to be kept informed of the legislation you propose to present at any time in order that I may assess the policy and financial implications of the bills as they may relate to federal policies and programs for northern assistance provided to your government. I hope, in addition, that you will continue the practice of making copies of minutes of the sub-committees on legislation available to me and my senior advisors.

In addition to the program of legislation which you will want introduced at each Council session, you may expect councillors to introduce their own bills from time to time and amendments to your bills. This is their prerogative under the Rules of Council providing such bills or amendments are in order and do not involve the expenditure or the raising of public funds. I would ask you to consider the content of these bills or amendments carefully to ensure that they do not contain provisions to which you cannot agree or which are contrary to federal policies and legislation or our expressed views. In the event there are provisions which are not acceptable in your view I would ask you to draw them quickly to my attention for my concurrence or otherwise before you give assent. There may be rare occasions when it will be necessary for me to request that you refuse assent to certain bills. The alternative to this practice would be to seek the disallowance of unacceptable legislation as provided for in the *Yukon Act*. This is not an acceptable course of action for me, however, nor is it practical as a standard procedure and would doubtless cause confusion and misunderstanding if used with any regularity.

The central instrument for your guidance in the financial operation of the territorial government will be the annual federal-territorial financial agreements which are signed on behalf of Canada by the Minister of Finance. These agreements set the broad guidelines for territorial spending, territorial revenue measures, and federal capital grants and loans and operating subsidies to the Territory. It is your responsibility to operate within the spirit of these agreements, to confine territorial programs and expenditures generally to the forecasts on which the agreements are based and to communicate with me or my responsible officers if events indicate the need to diverge substantially from the patterns set by these agreements.

The sound financial management practices of your predecessor should be continued. Your two Assistant Commissioners have a wealth of knowledge in this field and I know you can rely with confidence on their expert advice in your supervision of territorial government expenditures and revenues.

I will look to you, in your capacity as the senior federal representative in the Yukon, to continue the good work of your predecessor in co-ordinating the activities of all federal departments in the Yukon as Chairman of the Federal Interdepartmental Co-ordinating Committee and to continue his active participation in other facets of the Advisory Committee on Northern Development. I will expect you to become thoroughly familiar with the



Government's national objectives in the North and to assist with their implementation when called upon.

In carrying out your duties as Commissioner, you must feel free to communicate directly with me whenever the need should arise. However, I would also encourage you to deal directly with Arthur Kroeger or Ewan Cotterill, both of whom will be ready to assist you in any way possible. There have been good relations between your officials and mine in the past and I hope that these will continue. I would also ask you to make every effort to maintain good public relations with the people of the Yukon and with the press. I am sure you will agree that it is most important that the residents are kept fully informed of your government's activities and, conversely, that you are kept fully informed of the needs and aspirations of the people.

The demands of the job you are undertaking are substantial and will require the utmost of your energy, tact and diplomacy to deal with the complex and difficult problems that lie ahead. You can be assured of my full support in your new endeavour and I wish you every success.

Your appointment as Commissioner of the Yukon Territory is made pursuant to the provisions of the *Yukon Act*, sections 3 to 7 in particular, and a copy of the Order in Council which gives effect to your appointment will be provided to you.

## 1977 GREEN PAPER - A FOURTH ELECTED MEMBER APPOINTED TO EXECUTIVE COMMITTEE

*The December 14, 1977 Green Paper on the Appointment of a Fourth Elected Member of Executive Committee, though not a letter of instruction from the federal Minister, clearly states the federal government's intention to the continued evolution toward responsible government for the Territory by placing further control of the Executive Committee in the hands of the elected Members. The Green Paper came from the Officer of Commissioner Arthur Pearson.*

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The Minister of Indian and Northern Affairs, the Honourable Hugh Faulkner, has authorized me to expand Executive Committee to six members and to increase the number of elected members to four. A vacancy therefore currently exists on the Executive Committee for a member designated by the Legislative Assembly from among its members.

The establishment of a fourth elected position on Executive Committee represents the fourth major advance during the three years of this 23rd Legislature in the development of Executive Committee toward a more complete system of responsible government. You will recall that in January, 1975 a third elected member was added. In January 1977 one appointed position was dropped thereby creating a majority of elected members. In July of 1977, the second appointed position, that of Deputy Commissioner, was filled by a long-time Yukon resident. Currently all five positions on Executive Committee are filled by people who have lived at least ten years in the Yukon.

Mr. Faulkner, and his predecessor, Mr. Allmand, had agreed in principle to a fourth elected member but had heretofore envisaged such a development coinciding with the expansion of this Assembly from 12 to 16 members. Following representations from members of this Assembly, from Executive Committee and from the Commissioner, however, he agreed to advance this step after receiving clarification as to how expansion would relate to this government's need to plan for the pipeline and to reflect the needs of the Yukon Indian community in government processes, policies and programming.

By way of response to this request from the Minister it was noted that:

"In the past year, the Government of the Yukon Territory has been presented with, and accepted, two significant challenges. The first was to take steps to ensure that the Yukon Indian community was represented in and by the structure and processes of this government. The second challenge was to prepare for and manage the impacts of an enormous

construction project which will soon pass through Yukon Territory and society.

In the past year, initial steps have been taken to respond to these two challenges. Because of the load being borne by the present elected members of Executive Committee, the burden of responsibility for policy and action in these two areas has fallen to the Offices of Commissioner and Deputy Commissioner. This arrangement has resulted in less than full-time dedication to these important areas and the strong feeling in the Legislative Assembly that these sensitive areas are being managed outside the sphere of political responsibility.

To cope with expanding workload and changing priorities, a reorganization of the public service was announced during the Speech from the Throne. Included in this reorganization are the creation of a new Office of Pipeline Co-ordination, a Department of Consumer and Corporate Affairs and a Department of Manpower. The Office of Native Advisor was created earlier this year."

It is the Commissioner's view, and that of Executive Committee, that with this expansion of Executive Committee, responsibility for policy co-ordination with respect to both the pipeline and native concerns would be placed in the hands of an elected member. To this end, elected members would have direct responsibility for the Native Advisor, Office of Pipeline Co-ordination and the two new departments.

In this regard it is important to note that not only will more policy and departmental responsibilities be in the hands of elected members, but more elected members, and a greater percentage of Executive Committee than ever before will be responsible to this Assembly for their actions and performance.

Because of the importance of this step for both the evolution of responsible government and for the provision of better administration for the citizens of Yukon, I ask the Legislative Assembly to give this matter their early and serious consideration.

## JANUARY, 1979 LETTER OF INSTRUCTION TO THE COMMISSIONER

*The January 25, 1979 letter of instructions to the new Commissioner, Mrs. Ione Christensen, set the stage for the Territory to move to fully responsible government as established by the subsequent federal Minister's letter in October of the same year.*

*The formal powers of the Commissioner were substantially reduced through this Ministerial directive. Of particular note is the requirement for the Commissioner to be bound by certain kinds of decisions made by the Executive Committee.*

*In addition, party politics was recognized, and the Commissioner was directed to be bound by the advice of the majority leader in the Territorial Council respecting appointments to Executive Committee.*

*This correspondence was from the Honourable J. Hugh Faulkner.*

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This letter will serve as a means of reviewing the situation in the Yukon at the time of your appointment, suggesting ways in which that situation might be expected to unfold during the early stages of your tenure as Commissioner, and of providing you with direction on the way you should carry out the responsibilities of your office. While in one sense the letter serves as your terms of reference as Commissioner, it will also provide a basis for supplementary communications and less formal discussions between us in the future.

### *Priorities in the Yukon*

I would like to begin with a few comments about the current priorities of the Federal Government in the Yukon. I should emphasize that the three major matters which I have in mind -- constitutional development, Indian land claims, and economic development (including pipelines) -- all have a high degree of priority and none of them can be pursued exclusively, not at the expense of one or more of the other priority concerns.

### *Constitutional Situation*

The complexity of the linkages between these priorities is illustrated by the current constitutional situation in the Territory. The elected Territorial Council has been pressing for further transfers of authority and responsibility from the Federal Government. Yukon Indians, who have a direct relationship with the Federal Government by virtue of the Indian Act, and who with Metis and non-status Indians make up such a large and important segment of the Yukon's

population, have at the same time been pressing for greater authority and responsibility for themselves at both Territorial and community levels. The requirement to reconcile the spirit and objectives of the Yukon and Indian Acts, as they relate to Government in the Yukon, poses a complex political problem for the Federal Government, and more particularly for me as the Minister responsible.

In my view the concept of "one Government", and one delivery system for Government programs and services is capable of being achieved in the Yukon, and is highly desirable if we are to avoid a costly duplication of services to a relatively small population, and more importantly if we are to be able to establish the basis for an effective and positive long term relationship between the Indian and non-Indian people of the Territory. To ensure this, however, the concept must be broad and flexible enough to encompass and encourage the development of programs and services that take account of the particular needs of Indian people, and provide them with the means to exercise directly a greater degree of control over those programs and services which are of principal importance to them.

### *Native Land Claims*

You will be aware that Yukon Land Claims have been under periodic review and negotiation since 1973. While some progress has been made in identifying the main issues, there is general agreement that progress to date has not been satisfactory. Although land claims in the Yukon are primarily a responsibility of the Federal Government, I want to ensure that the Territorial Government is involved to the fullest possible extent in the development of a settlement since the implementation of the settlement will clearly require Territorial participation.

### *Economic Development*

In connection with prospects for the Yukon economy, it may be helpful if I re-state briefly my objectives for this area of activity. They are:

1. That development must be "for" the Territory in the sense that it contributes directly and in a continuing way to the well being of Yukon residents.
2. That development must be balanced between renewable and non-renewable resources, between wage employment activities and the traditional native economy, between benefits that are shared by both native and non-native elements in the Yukon population, between a rational use of resources and the protection of the natural environment.
3. That development thrusts be multi-sectoral to achieve a diverse economic base which will lessen the economic vulnerability of the Yukon.
4. That every Yukoner must have real opportunities to apply his knowledge, training and skills in activities within the Territory that contribute to his own fulfillment and to the common good of Yukon society. This implies a situation in which there will be viable choices available to native and non-native Yukoners, deriving from wage employment, private entrepreneurship, and the traditional sectors of the Yukon economy.

### *Pipeline*

The prospect of pipeline construction has raised the possibility of economic boom in the Territory as well as anxiety about environmental, social and cultural impacts. Despite some delays and uncertainties, the Alaska Highway Pipeline project is expected to proceed, and it continues to be given high priority by the Government of Canada. It is firmly part of national policy on the pipeline that

its adverse effects be minimized and its opportunities be maximized, as was specified by Parliament in the objects of the Northern Pipeline Act.

Although the Northern Pipeline Agency has been set up to control the project, it remains the responsibility of government at all levels to continue to provide better services and opportunities for local people within their respective areas of responsibility. I will expect the Territorial Government to plan and implement new programs and the extension of existing programs to meet the needs of the Yukon people in connection with the pipeline and to co-ordinate its actions with those of my Department and the other Federal departments and agencies concerned.

In addition, we must recognize that the major significance of the pipeline may well lie beyond its construction and operation. The economic activity created by the pipeline in these two phases will encourage, and in some cases make possible, the creation of further infra-structural development in the Yukon which in turn could generate an additional growth in economic activity. Continuing co-operation will be required between the two levels of Government to ensure that this additional growth is effectively planned and controlled, and that it meets our economic objectives.

#### *Responsibilities of the Commissioner*

By virtue of Section 4 of the *Yukon Act*, the Commissioner is subject to instructions from time to time from the Governor in Council or the Minister of Indian and Northern Affairs. Increasingly, however, as the Executive Committee of the Yukon has been enlarged by the addition of elected Members of Council, the Commissioner has been seeking and taking advice from these elected representatives. This has been a significant step in the constitutional advance of the Yukon towards responsible government, and it is a development that the Federal Government clearly wants to encourage and promote. It is my view that responsible government in a manner that is compatible with the continuing responsibilities of the Federal Government should be one of our principal objectives.

At the same time, because of continuing federal responsibilities in the key areas of Indian affairs, resources, and finance, you will be required from time to time to keep me informed of matters which touch upon these essential federal interests. In this regard, I would like to mention the importance the Federal Government attaches to the initiative of the Commissioner in dealing with territorial legislation or specific government instructions in these areas, rather than having to rely on the procedure of disallowance.

For greater precision, the responsibilities and powers of the Commissioner can be summarized as follows:

1. Executive Head of the Yukon Territorial Government

The Commissioner carries out the responsibilities provided by the *Yukon Act* both as Chairman of the Executive Committee and Head of the Territorial Public Service.

## 2. Indian Rights and Interests

As principal representative of the Minister and the Government in the Yukon, the Commissioner is expected to take a particular interest in the protection of all matters affecting Indian people in the Territory. Relations between the Territorial Government and the Indian people of the Territory play a key role in the discharge of my duties as Minister, and I must ask you to devote particular attention to this aspect of your new responsibilities.

## 3. Co-ordination of Federal Government Activities

A number of federal departments and agencies are operating in the Yukon, and it is your responsibility on my behalf to co-ordinate their activities and those of the Yukon Government. It is for this reason that the Commissioner or the Deputy Commissioner chairs the Federal Interdepartmental Co-ordinating Committee. You and the Executive Committee may wish to ensure that the Territorial Government has appropriate representation on this and other committees relating to the activities of the Advisory Committee on Northern Development in Ottawa.

## 4. Federal-Provincial Liaison

The Commissioner is the formal channel of communication between the Territorial Government and other levels of government. Increasingly, the Territorial Government is participating in Federal-Provincial conferences, both at the ministerial and official levels. The invitations and arrangement for such participation are channeled through the Commissioner, but this should not preclude direct communication between Members of the Executive Committee and federal or provincial Ministers or between officials of different governments, as long as you are kept fully informed and I am also kept fully in the picture with regard to correspondence and other discussions with federal Ministers.

### *Role of the Commissioner*

Perhaps the most important aspect of your role during the next few years is the requirement to act as a broker between myself and the Territorial Council through the Executive Committee. You will have to ensure that the Executive Committee members are confident that they can deal with you as the effective representative of the Minister, and that through you they are fully aware of my views and the directions in which I wish to move or am prepared to take. At the same time, the Executive Committee members must be confident that they can operate freely and effectively with you in order to influence, moderate or modify my views and directions. For this reason, I will be relying on you to keep me informed of the views and concerns of the Executive Committee and the Territorial Council, especially in situations where their positions differ from my own.

A similar role must be played in relation to the Yukon Indians. Here the main requirement will be compromise and accommodation involving three parties - the Federal Government, the Territorial Government, and the native groups. The most important aspect of this relationship will be to increase native participation in the political, economic and social evolution of Yukon society. Yukon Indians must be adequately represented and effectively involved in government at both territorial and community levels; they must be assured of appointments and effective participation in subsidiary bodies of government (advisory councils,

management boards, commissions and committees) and in the public service of the Yukon, especially in areas of government responsibility that bear directly on their well-being.

### *Role of the Executive Committee*

In response to Territorial requests for further transfers or delegation of responsibility to the Yukon, the Federal Government wishes to be as forthcoming and as flexible as possible. Our aim is to achieve full responsible government in the Yukon while ensuring that the interests and the participation of the Yukon Indians are fully guaranteed. The election of two native people to the legislature and the appointment of Mr. Njootli to the Executive Committee represent major steps in this direction.

The designation of a wide area of Territorial jurisdiction within which the advice of the Executive Committee would be binding on the Commissioner would represent the attainment of one of our major objectives. As you know, previous Ministers have issued instructions requesting the Commissioner to consult the Executive Committee in the exercise of his powers under the *Yukon Act*, and to attach as much weight as possible to the advice of the elected Members.

I would now like to take the next step. For this purpose, I have divided the areas of responsibility of the Commissioner into three categories. In the first category are those matters in which you are to consider yourself bound by the advice of the Executive Committee. You should follow the advice of the Executive Committee on all matters in this category and sign all orders recommended to you by them, except in cases of extreme importance where you anticipate the result would be serious injustice, abuse of power, illegality or improper use of public funds.

The second category includes matters for which there is a special federal interest or responsibility. In these areas I would expect you to work closely with the Executive Committee to accomplish Territorial objectives in a manner that ensures full protection and accommodation of federal interests and responsibilities. It may be that special arrangement, following consultation with the Indian people of the Yukon where appropriate, could be agreed upon with respect to matters falling within category two that would permit their transfer to category one. Upon the completion of arrangements mutually acceptable to the Federal and the Territorial Governments with respect to the items in this category, I am prepared to consider issuing further instructions. In the third category are those matters which will remain subject to federal direction. With respect to both categories two and three, it is to be understood, of course, that you will continue to consult the Executive Committee and that you will attach as much weight as possible to the advice of the elected members.

With respect to category one, the advice of the Executive Committee will be binding in the preparation and introduction of Bills and the subsequent administration of all Ordinances passed by the Commissioner in Council except those referred to in categories two and three.

Category two includes all Bills, Ordinances, policy decisions and administration measures within the jurisdiction of the Commissioner-in-Council under the *Yukon Act* as they affect the on-going federal interest with regard to:



1. The rights and special interests of the Indian people of the Yukon, particularly in the areas of game and education.
2. Finance, including the Financial Administration Ordinance and all appropriation, revenue and loan legislation.
3. Territorial legislation administered by the Federal Government, for example in the fields of public health, mental health, mining, and forest protection.
4. Responsibilities of the Commissioner for the general administration of the government of the Territory, such as the Public Service Commission Ordinance, the Territorial Employees' Superannuation Ordinance and the Public Service Staff Relations Ordinance.

Category three includes all matters which affect the territorial constitution. These are principally the powers of the Commissioner and the Council, areas of territorial legislative jurisdiction and the relationship of the Territorial Government with departments and agencies of the Government of Canada.

There are also two other important areas of responsibility where you should seek and be bound by the advice of the leader of the majority in the Territorial Council. I discussed these matters when I met with the Executive Committee in Whitehorse on December 19, 1978.

The first of these is the question of how many elected Members there are to be on the Executive Committee. It was my view at the time, and I would now like to confirm my position in writing, that there should be as many elected members as the majority leader wishes and his advice to you on this matter should be binding, subject only to the limitation that at no time should the elected members of the Executive Committee constitute a majority in the Council. He and his party thus become fully responsible to the Council and the electorate for the number of elected members of the Executive Committee.

The second matter relates to the nomination and appointment of elected Members to the Executive Committee. As you know, the present arrangement is that the Council nominates and the Commissioner appoints these Members. This was essential before the last Territorial election when there were no parties, as such, in the Council. Now that parties have emerged, it should no longer be necessary to convene a session of the Council for this purpose alone. Accordingly, it will suffice in future to accept the advice of the majority leader in the appointment of the elected Members of the Executive Committee. It is to be understood, of course, that these elected members of the Executive Committee would be subject to a vote of confidence in Council, in keeping with normal parliamentary practice. Such a vote should initially occur at the earliest possible opportunity following their appointment.

### *General*

In the performance of your duties, I would like you to ensure that you maintain the closest possible contact with the people of the Yukon particularly in the outlying communities. In order to do so, you should plan to travel throughout the Territory as frequently as possible. In referring to this point, I would like to emphasize the importance of ensuring that these contacts include the native people of the Territory and that you maintain the closest possible working relationship with the representatives of other federal agencies.

The final point I would like to make in connection with your duties as Commissioner is that you should feel free to communicate directly with me

whenever the need arises. You can be assured of my full support at all times. I would also encourage you to deal directly with the Deputy Minister and the Assistant Deputy Minister for Northern Affairs, both of whom will be ready to assist you in any way possible. There have been good relations between your officials and mine in the past, and I am confident that these will continue.

Your appointment as Commissioner of the Yukon Territory is made pursuant to the provision of the *Yukon Act*, Sections 3 to 7, in particular, and a copy of the Order-in-Council which gives effect to your appointment will be provided to you. You should table this letter in the Executive Committee and release it to the public.

## OCTOBER, 1979 LETTER OF INSTRUCTION TO THE COMMISSIONER (THE "EPP LETTER")

*The October 5, 1979 letter from the Minister of Indian Affairs and Northern Development, better known as the "Epp Letter" after its author, is perhaps the most well known of the federal instructions to the Yukon Commissioner. It was through this instrument that the Commissioner was instructed to remove herself from the day to day activities of the Executive Council, the Government Leader was given the opportunity to call himself "Premier", and the executive function was turned in entirety to the elected members holding the confidence of the Legislative Assembly.*

*This marks a significant move in the Yukon's period of transition toward responsible government. Though it does not give legislative confirmation through changes in the Yukon Act, effectively it provides the Yukon with responsible government.*

*As an historical footnote, the Epp Letter prompted Commissioner Ione Christensen to resign. She argued that this transition was far too rapid, that a more gradual approach to introducing these changes should be taken.*

*The letter is from the federal Minister, the Honourable Jake Epp, to Commissioner Ione Christensen.*

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I have commenced a review of the matter of the governing of the Yukon Territory and in particular the relationship of the Commissioner, the Governor in Council, the Minister of Indian Affairs and Northern Development and elective Council of the Yukon Territory. In addition, I have considered the terms and provisions of The British North America Act, the Yukon Act, the Indian Act and other relevant statutes.

There is no question, but that this Government intends to continue and give high priority to the evolutionary process toward full responsible government. Normal constitutional development in the history of the world is not only and necessarily by way of statutory enactment, but has been and continues to be in part by way of custom and usage and executive direction. The Yukon Act well envisages this in Section 4 where it states that instructions may from time to time be given to the Commissioner by the Governor in Council or the Minister. Such instructions have in fact been given and received in the past in accordance with the Yukon Act.

As you know, the Prime Minister has stated that if the people of Yukon choose it there will be an opportunity given to them to express their opinion on

Provincial status. The opportunity is to be provided the Yukon during the first four years of our Government's mandate.

I have not as yet had an opportunity of determining required amendments to the Yukon Act to further the evolutionary process. However, this is under active review and will be considered by me, and the Ministers of Justice and Federal-Provincial Relations. I have an unaltered intention to proceed with requisite amendments to the Yukon Act. I recognize the responsibility that the Governor in Council and I have for the general administration of the Yukon Territory, and I do not intend, in the absence of statutory amendment, to abdicate that responsibility. In particular, I shall carry on with my duties under the terms and provisions of the Department of Indian Affairs and Northern Development Act and the Indian Act.

In addition, it is clear to me that prior to the introduction of legislative changes to the Yukon Act, it will be necessary for me to ensure that measures are developed which will protect the interests of native people in Yukon, and ensure their full and effective participation in its Government. To determine these measures, it will be necessary to deal with a number of issues that relate to my responsibilities for Indians under the Indian Act, and in particular the delivery of programs and services to them. Many of these issues have been reflected in the land claims positions of Yukon native people.

It is equally clear that the identification of these issues, and the process by which they are resolved, will require the effective participation of the representatives of Yukon native people. It is my intention, therefore, to convene an early meeting between the Government of Canada, the Government of the Yukon Territory, and the Council for Yukon Indians to begin identifying these issues, and to determine a process by which they can be resolved as we move to full and formal responsible government.

As my representative in Yukon, I expect you to play a large role in that meeting, and in the ensuing discussions.

In the meantime I believe that there are a number of immediate steps that can be taken by executive direction which are consistent with our principle objective of moving to full responsible government, do not impinge upon my responsibilities to protect the interest of Yukon native people, and rationalize the current executive arrangements within the Government of the Yukon Territory. These steps will eventually be reflected in the amendments to the Yukon Act.

There are three basic categories of responsibility in the Yukon Act as they relate to your duties. They are as follows:

- 1) Commissioner in Council
- 2) Commissioner
- 3) Governor in Council

With respect to each of the three categories and pursuant to Section 4 of the Yukon Act, I advise and instruct as follows:

### 1) *Commissioner in Council*

Section 2 of the Yukon Act defines "Commissioner in Council" as meaning the Commissioner acting by and with the advice and consent of the Council. I hereby instruct you to accept the advice of the Council in all matters in the said Act which are delegated to the Commissioner in Council, provided that those matters meet the requirements of Section 17 of the said Act and excepting Section 46 of the said Act.

You are instructed to request the Territorial Government Leader that he shall constitute and appoint a body known as the Cabinet or the Executive Council which will have as its members those elected representatives of the Territorial Council who are designated from time to time by the Government Leader who enjoys the confidence of the Council. On the advice of the Government Leader you shall assign Departmental executive responsibilities to the appropriate members of the Executive Council.

There shall be at no time a majority of members of Council appointed to the Cabinet or the Executive Council.

You will not be a member of the Cabinet or the Executive Council, and will not participate on a day-to-day basis in the affairs of the Cabinet or the Executive Council, and Council of the Yukon in those matters delegated in the Yukon Act to the Commissioner in Council.

You should advise the Government Leader that he may use the term Premier to describe his Office, and the term Minister to describe the other members of the Executive Council. Until legislative amendments to the Yukon Act are passed, however, these terms should not be used in Territorial legislation or legal instruments.

### 2) *Commissioner*

The Yukon Act provides for certain responsibilities of the Commissioner, and these responsibilities shall continue to be fulfilled by you on the present basis subject to the following additional directions:

- (a) With respect to the date of convening a sitting of the Council pursuant to Section 11 of the said Act you shall accept the advice of the Government Leader provided that the said Section is complied with in other respects.
- (b) In appointing the members of the Advisory Committee on Finance pursuant to Section 12(1) you shall accept the recommendation of the Council.
- (c) With reference to Section 12(3) the Cabinet or Executive Council will prepare the estimates initially and then refer them to you.
- (d) With respect to the designation of chartered bank or banks pursuant to Section 23(2) you shall accept the designation of the Cabinet or Executive Council.

### 3) *Governor in Council*

I am in the process of considering and reviewing the powers of the Governor in Council and advising Cabinet, in keeping with the evolutionary process in the transfer of responsibility to the Commissioner in Council of the Yukon Territory. This process may require amendment of the Yukon Act, and I will advise you further in the near future.

In all other respect, your duties and authority are to remain the same, and be in keeping with instructions given previously.

However, you will appreciate that Parliament through the Yukon Act and the Department of Indian Affairs and Northern Development Act has entrusted in me with the overall administrative responsibility for the Government of the Yukon. Unless and until such time as Parliament amends the Yukon Act, I must carry out my statutory duties, and therefore these instructions are subject to such changes as I may deem necessary from time to time.

In making these changes, I am not unmindful of the considerable and rapid progress toward responsible government which has occurred in the past few years and of the important contribution you have made to that progress. Change of this proportion and pace cannot be achieved without some difficulty and dislocation but I know you share with me the belief that political responsibility for the decisions of the Yukon Territorial Government must be, and be seen to be, more clearly affixed to the elected representatives of the Yukon people.

In this transitional period I foresee an important role for the Commissioner as my agent of change. I will look to you to assume an important role in whatever process of consultation and discussion that emerges from the meeting I plan to have with elected representatives of the Territorial Government, and the Council for Yukon Indians. I would expect that in this emerging role you will be an active broker and mediator in assisting me to find mutually satisfactory accommodation of native interests within a fully responsible Yukon Territorial Government. In this regard I am confident that your experience in the affairs of Yukon, sensitivity to the issues in which it is involved, and deep commitment to the objective of advancing its political and constitutional development, will contribute greatly to our success.

In view of the significance of these instructions in terms of the Government's objectives for political and constitutional development in Yukon, and your important role in achieving those objectives, it is my intention to make this letter public to ensure the full understanding of all Yukon residents.

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## ADMINISTRATOR OF YUKON TO FULFILL DUTIES OF COMMISSIONER, NOVEMBER, 1979

*The November 8, 1979 letter confirms Mr. Douglas Bell as Administrator of the Yukon to fulfill the duties of Commissioner. This was necessary due to the resignation of Commissioner Christensen.*

*The letter is from the Honourable Jake Epp to Mr. Bell.*

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I wish to confirm that during the present vacancy in the Office of Commissioner you will fulfill the function of Administrator as provided for in Section 5 of the Yukon Act. In so doing, you will of course be guided by the instructions I recently sent to Commissioner Christensen.

You are assuming these duties in exciting and challenging times. I want you to be assured of my support and I invite you to seek whatever assistance you may require from me and my officials.

## CLARIFICATION OF 1979 LETTER OF INSTRUCTION TO THE COMMISSIONER, NOVEMBER, 1979

*The November 14, 1979 letter to Administrator Bell clarifies some specific aspects of the Epp Letter of October 5, 1979. The letter is from the Honourable Jake Epp.*

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Now that the new Territorial Executive Council (or Cabinet) has been sworn in and the individual members have assumed responsibility for their respective portfolios I would like to elaborate on the instructions contained in my letter of October 5, 1979 in order to clarify certain aspects of your relationship with them. It was my intention that in the exercise of those legislative powers specifically delegated to the Commissioner in Council in the Yukon Act you are to consider yourself bound by the advice of the Council provided those matters meet the requirements of Section 17 of the Act excepting Section 46. This was clearly stated in my letter.

In order to eliminate any possibility of doubt about the exercise of your executive powers I would like to indicate more specifically than I did in my letter of October 5 that in the exercise of your executive powers as these relate to Territorial policy decisions and administrative measures, including the signing of Territorial Orders and regulations, you should consider yourself bound in the same way and to the same extent by the advice of the Territorial Executive Council as you were by the Executive Committee. I trust this will be helpful to you. Please let me know if I can be of any further assistance.



## RESERVATION OF ASSENT TO 1982 TERRITORIAL LEGISLATION

*The April 21, 1982 statement by Acting Commissioner Bert Law to the Yukon Legislative Assembly shows that the federal government was still prepared to direct the Commissioner to reserve assent on legislation. This reflects a substantial difference between the Yukon and the Provinces in their relationship with the federal government. By convention, the federal government will no longer reserve assent or disallow legislation passed by Provincial legislatures, yet are prepared to do so with Yukon legislation.*

*A copy of the Bill passed by the Yukon Legislature can be found in Chapter 5*

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I have been instructed by the Hon. John Munro, Minister of Indian Affairs and Northern Development, pursuant to s. 4 of the *Yukon Act*, to reserve assent to the *Executive Council Bill* because, on the basis of legal advice given to the Minister by the Department of Justice, he has grave doubt as to the authority of the Yukon legislature to enact legislation which modifies the powers and office of Commissioner as constituted under sections 3 and 4 of the *Yukon Act*.

## 1982 LETTER OF INSTRUCTION TO THE COMMISSIONER

*The May 26, 1982 letter to the Commissioner clarified the role of the Commissioner in matters surrounding the upcoming territorial election. The involvement of the Commissioner in the transition was to be consistent with that of a Provincial Lieutenant Governor.*

*The letter was from the Honourable John C. Munro to Commissioner Bell.*

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In view of the forthcoming election of June 7, it is appropriate that I write you regarding your responsibilities with respect to interpreting the election results and selecting a government leader to form a government for the Yukon.

Since the instructions of my predecessor, the Honourable Jake Epp, in 1979 instituted a large measure of responsible government in the Yukon, it follows that in performing your responsibilities in this matter, you should be guided by those parliamentary traditions that govern the role of the Governor General and of Lieutenant Governors in selecting a leader of government following an election. Consequently, Mr. Pearson should retain the position of Government Leader (assuming that he, himself, is re-elected) until and unless you have ascertained that he does not command the support of the Council, and that another member of the Council does command its support and is willing to assume the responsibility. Should Mr. Pearson, after viewing the results of the election, feel it necessary to resign his position precipitously before you have had the time to select a replacement, you should endeavour to dissuade him as such an action would not be consistent with the best constitutional practice in these matters. Should he insist, however, it will be incumbent upon you to select another Government Leader with all due haste.

Viewing the fact that the candidates in the forthcoming election represent four different political affiliations or persuasions, Progressive Conservative, New Democratic, Liberal and Independent, the following situations could present themselves following the tally of votes:

- a) one party with a clear majority of elected members to Council;
- b) no party with a clear majority of elected members to Council.

Should one party emerge clearly in the majority, you shall seek to have the leader of that party assume the reigns of government. Should the Progressive Conservative party retain a majority of members, Mr. Pearson should, of course, remain Government Leader and be asked to nominate his choice of members to the Executive Council. Should another party secure a majority of seats, it would be

expected that Mr. Pearson would tender his resignation, although he has the right not to do so until he goes before the Council and is defeated.

Should the number of members returned to Council be evenly split between two parties, you should allow Mr. Pearson to continue as Government Leader to see if some sort of arrangement can be worked out between himself and the leader of the other party so as to allow government to continue in the Yukon. It is conceivable that Mr. Pearson may wish to pass the responsibility to govern to the leader of the other party. In either event, it is possible that a co-operative legislative policy could be worked out in the short term. If some sort of co-operative arrangement cannot be achieved and neither leader is able to control the Council, you will have to request a further dissolution.

Should no party receive a clear majority, but representation is fragmented among at least three parties or groups, it will be incumbent upon you to consult with the leaders of the parties to determine who among them will be able to attain the support of the Council. Should no agreement of support be attainable by one leader from another, it would be most advisable that Mr. Pearson be allowed to meet the Council to see if he can elicit its support. Should he not be able to do so, or should he not wish to do so, it would be your responsibility to request or accept his resignation and to select the leader of the other party who in your opinion, after consultation with all the party leaders involved or key independent members of Council, can command the support of the Council.

## 1985 LETTER OF INSTRUCTION TO THE COMMISSIONER

*The February 14, 1985 letter to the Commissioner provides clarification respecting the selection of a Government Leader.*

*The letter is from the Honourable David Crombie to Commissioner Bell.*

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I understand that at the commencement of your service as Commissioner of the Yukon Territory, the Honourable John Munro, former Minister of Indian Affairs and Northern Development, requested orally that you adhere in spirit to the letter of instructions issued on October 9th, 1979 [the October 5th letter provided above] by the then Minister to former Commissioner Ione Christensen.

It has been brought to my attention that certain provisions of the 1979 letter could be unduly restrictive in regard to the processes by which a Government Leader is selected. On page three of the letter, it might be inferred that no person can serve as Government Leader and form a Government if he or she is not first an elected Member of the Legislative Assembly. As a matter of constitutional practice elsewhere in Canada today, I think it would be expected that any non-elected person asked to form a Government would seek a seat as soon as possible in the Legislature. On the other hand, I do not think it is generally required that such person be a Member of the Legislature at the time he or she is called upon to form a Government.

As a Territorial party leadership convention is apparently imminent, I think it appropriate that I clarify the above provisions now to ensure that no candidates are unfairly prejudiced thereby in relation to others and in comparison with their fellow Canadians in the Federal and Provincial political systems.

Accordingly, I instruct you to regard the letter of October 9th, 1979 and any other relevant instructions as being subject to the following provision -- The person you ask to serve as Government Leader need not be a Member of the Legislative Assembly at the time of your request. Any such person not then a Member of the Legislative Assembly would be expected to seek election to it within a reasonable time of becoming Government Leader. Until elected, he or she would not, of course, sit in the Assembly. However, he or she could fulfill the other duties of the position of Government Leader, including forming a Government and being a Member of the Executive Council.

With appreciation for your continued distinguished service to Yukon, ...

## 1989 LETTER OF INSTRUCTION TO THE COMMISSIONER

*The August 16, 1989 letter to the Yukon's Commissioner outlines the role of the Commissioner in signing intergovernmental agreements which utilize as their statutory base the Yukon Act. This serves to partially clarify a matter which has been of concern to the Yukon Government for some time.*

*From a legal standpoint, it is quite clear that the Yukon must function through the Commissioner on these matters. However, territorial legislation is recommended by the Minister which would allow the Territorial Government to exercise some autonomy in this regard.*

*The letter is from the Honourable Pierre H. Cadieux to Commissioner Ken McKinnon.*

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The Government of the Yukon has, from time to time, raised the question of the need for the Commissioner's signature on agreements pertaining to the transfer of provincial-type programs. Legal opinions which we have received on the subject have been consistent in advising that, to remove any doubt about the legality of such documents, the Commissioner's signature is necessary.

The issue has again been raised with respect to the transfer of Mine Safety. As a result, I have had a thorough review of the subject carried out to determine if a mutually acceptable solution could be found. The attached letter which I have sent to Mr. Penikett, Government Leader of the Yukon Territory, proposes such a solution.

The purpose of this letter is to direct you, in accordance with s. 4 of the *Yukon Act*, to be bound by any transfer agreement entered into between Canada and the Government of the Yukon pursuant to the enabling legislation which that government must first pass. Until such legislation has been passed, you should continue to sign all transfer agreements in order to remove any doubt about the legality of such documents.

With regard to agreements affected by s. 20 of the *Yukon Act*, your signature should continue to appear on all such documents.

## 1989 LETTER TO THE GOVERNMENT LEADER ON SIGNING OF INTERGOVERNMENTAL AGREEMENTS

*The final letter in this Chapter, dated October 23, 1989, serves to clarify aspects of the August 16th letter of instructions to the Commissioner. The letter, though addressed to the Government Leader, holds the same status as a letter of instruction to the Commissioner in that, by way of a copy to the Commissioner, it clarifies the intent of the earlier correspondence.*

*The letter is from the Honourable Pierre H. Cadieux to the Yukon's Government Leader, Mr. Tony Penikett.*

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Thank you for your letter of September 7, 1989 concerning the issue of the requirement for the Commissioner's signature on federal-territorial agreements that do not fall within section 20 of the *Yukon Act*. I am pleased to provide the clarification that you seek.

My letter of August 16, 1989 was not intended to limit the authority of the territorial government regarding the types of agreements that could be entered into without the Commissioner's signature. Territorial legislation need not be expressly limited to transfer agreements and could be broad enough to cover other Canada-Yukon agreements. From a legal standpoint, however, I cannot be definitive at this time as to whether each and every future agreement could be concluded without the signature of the Commissioner. It would seem best to look at the issue on a case-by-case basis rather than hypothetically.

I look forward to being informed that your government has passed the required legislation so that the instructions I have given the Commissioner may be activated.

c.c. Mr. Ken McKinnon

## 4

## NATIONAL CONSTITUTIONAL AND INSTITUTIONAL LEGISLATION

The Yukon Territory, though distinct from the Provinces in terms of its relationship with the federal government, holds a recognized status both in the federal Houses of Parliament and in the Canadian Constitution itself.

This chapter will provide those documents, or sections thereof, which relate to the Yukon's place within the Canadian Constitutional framework.

Specifically, the federal legislation which provided the Yukon with a seat in the House of Commons to the Yukon, is included. The Yukon also holds a seat in the Senate of Canada, and those documents which gave the Yukon this seat are also provided.

In a number of sections, the Yukon is given recognition in the Constitution Acts of Canada. These will be referenced in this chapter, along with other pertinent sections that have a bearing on the Territory's present or potential future status. For instance, the new amending formula in the *Constitution Act, 1982* has direct relevance for the Yukon in that it now requires provincial support before the Yukon can be made a province in Canada. Another example is s. 92 which identifies the powers of the provincial governments; this provides a useful comparison for those interested in comparing the powers of the Yukon, as described in the *Yukon Act* (Chapter 2) with those held constitutionally by the Provinces.

The Charter of Rights and Freedoms is also included given its universal application of rights to all Canadians. Once again, a useful comparison can be made with the Yukon's *Human Rights Act* which is provided in Chapter 5.

The final document in this chapter is the 1987 Constitutional Accord, known to most Canadians as the Meech Lake Accord. Though this document was not ratified by all Canadian legislatures by the June 23rd, 1990 deadline, it is indicative of the constitutional direction in which Canada was moving. The potential impact of the Accord on the relationship of the Yukon in Canada is substantial. It is included here to give Yukoners one reference point as to the impact of national constitutional decision-making on the future of the Yukon in Confederation.

## THE YUKON TERRITORY REPRESENTATION ACT, 1902

*The Yukon's representation in the House of Commons was secured with the assent of "An Act respecting the representation of the Yukon Territory in the House of Commons" May 15, 1902.*

*Note that the Schedules to the Act are not included in this chapter, but otherwise the Act is reported in its entirety.*

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### 2 EDWARD VII

#### CHAPTER 37.

#### An Act respecting the representation of the Yukon Territory in the House of Commons

[Assented to 15th May, 1902]

His majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: --

1. This Act may be cited as The Yukon Territory Representation Act, 1902.

*Short title.*

2. The Yukon Territory, as that territory is defined and constituted by section 13 of, and the schedule to, chapter 41 of the statutes of 1901, shall be an electoral district and shall return one member to the House of Commons of Canada.

*Representation in  
the House of  
Commons.*

3. The judges of every court now existing or hereafter created in the Yukon Territory whose appointment rests with the Governor in Council shall be disqualified and incompetent to vote at any election of a member under this Act.

*Judges not to vote.*



4. Every male person shall be qualified to vote at the election of a member under this Act who, not being an Indian, is a British subject and of the full age of twenty-one years, and who has resided in the Yukon Territory for at least twelve months, immediately preceding the issue of the writ of election.

*Qualification of electors.*

5. Every writ for the election of a member of the House of Commons under this Act shall be dated and be returnable on such days as the Governor General determines, and shall be addressed to such person as the Governor General appoints; and such person shall be the returning officer at the election to which such writ relates: Provided always, that if the person to whom the writ has been addressed refuses, or is disqualified or unable to act, the Governor General may appoint another person to be such returning officer.

*Issue of writs of election.*

*Provision in case of inability to act.*

6. The Governor General shall fix the place and the day for the nomination of candidates at each such election, and the place and the day so fixed shall be specified in the writ of election.

*Place and day of nomination.*

2. The first election of a member to represent the Yukon Territory in the House of Commons under this Act shall be held on or before the first day of January, 1903.

*Date of the first election.*

7. The writs of election shall be in the form A in the schedule to this Act, and shall be transmitted by mail to the returning officer, unless otherwise ordered by the Governor General.

*Form of writ of election.*

8. None of the persons hereinafter mentioned shall be appointed returning officer or deputy returning officers, election clerk or poll clerk, that is to say: --

*Who may not be appointed returning officers, etc.*

- (a) Members of the King's Privy Council for Canada or of the Executive Council of any of the provinces of Canada;
- (b) Members of the Senate or members of the Legislative Council of any of the provinces of Canada;
- (c) Members of the House of Commons, or members of the Legislative Assemblies of the several provinces of Canada, or of the Council or Legislative Assembly of the North-west Territories or members of the Yukon Territorial Council;

- (d) Ministers, priests or ecclesiastics of any religious faith or worship;
- (e) Judges of the courts of superior civil or criminal jurisdiction, police magistrates or stipendiary magistrates;
- (f) Persons who have served in the Parliament of Canada in the session immediately preceding the election, or in the then present session of Parliament;
- (g) Sheriffs, registrars or other persons who have been found guilty by the House of Commons, or by any court for the trial of controverted elections, or other competent tribunal, of any offence or dereliction of duty under this Act, or under *The Dominion Elections Act, 1900*, or any amendment thereto.

9. None of the persons hereinafter mentioned, unless they are sheriffs, registrars, town clerks or assessors, shall be obliged to act as a returning officer, deputy returning officer, election clerk or poll clerk, that is to say: --

- (a) Professors in any university, college, high school or academy;
- (b) Physicians or surgeons;
- (c) Millers;
- (d) Postmasters, customs officers, or clerks in post offices or customs offices;
- (e) Persons of sixty years of age or upwards;
- (f) Persons who have previously served as returning officer at the election of a member of the House of Commons.

10. The returning officer shall, on receiving the writ of election, forthwith indorse thereon the date of which he receives it, and before taking any further action thereon, he shall take the oath of office in the form B in the schedule of this Act.

11. The returning officer, by a commission under his hand, and in the form C in the schedule to this Act, shall appoint an election clerk, and may, at any time during the election, appoint, in the same manner, another election clerk, if the one so appointed resigns, or refuses or is unable to perform his duties as such clerk.

*Who shall not be obliged to act as such.*

*Proceedings on receipt of writ.*

*Election clerk.*

12. The election clerk shall assist the returning officer in the performance of his duties, and act in his stead as returning officer, whenever the returning officer refuses or is disqualified or unable to perform his duties, and has not been replaced by another.

*Duties of election clerk.*

13. The election clerk shall, before acting as such clerk, take the oath of office in the form D in the schedule to this Act.

*To take oath of office.*

14. Neither the returning officer nor the election clerk shall in any case vote at an election in the electoral district for which he is acting, except as hereinafter provided.

*Returning officer and election clerk not to vote.*

15. At least two weeks before the date fixed in the writ for the nomination of candidates, the returning officer shall cause to be inserted in at least one of the daily newspapers published in Dawson, and in the newspaper published in White Horse, if any, a notice in the form E in the schedule to this Act, in which notice shall be set forth --

*Notice to be published.*

- (a) The place and time fixed for the nomination of candidates;
- (b) The day on which the poll for taking the votes of the electors is to be held in case a poll is demanded;
- (c) The several polling stations fixed by him, and the territorial limits to which they respectively apply;
- (d) The time when and the place where the returning officer will sum up the number of votes given to the several candidates.

*Nomination.*

*Day of polling.*

*Polling stations.*

*Summing up votes.*

2. At least fifty copies of the said notice shall also be published by proclamation, at least two weeks before the nomination, posted up in conspicuous places throughout the territory at sufficient distances from each other to ensure general and sufficient notice throughout the said electoral district.

*Notice to be posted.*

16. Whenever from unforeseen accident, delays or otherwise, the notice cannot be published so as to leave the required delay between the publishing of the notice and the nomination day appointed by the Governor General, or whenever any candidate dies after being nominated, and before the close of the polls, the returning officer may fix another day for the

*Another day may be fixed in cases specified.*

nomination of candidates, -- which day shall be the nearest day possible after allowing the number of days required by the next preceding section between the publishing of the notice and the nomination day; and shall give the same notice on the day fixed for such later nomination in the newspapers and by proclamation as is required by section 15 of this Act; and in every such case the returning officer shall, with his return, make to the Clerk of the Crown in Chancery a special report of the causes which occasioned the postponement of the election.

*Notice.*

*Report in such case.*

17. At any time after the date of the publication of the notice, and before two of the clock in the afternoon of the day fixed for the nomination, any fifteen or more electors may nominate a candidate by affirming to and signing, before a justice of the peace or police magistrate, or before the returning officer, and causing to be filed with the returning officer a nomination paper in the form F in the schedule to this Act; and any votes given at the election for any other candidates than those so nominated shall be null and void.

*Nomination of candidates.*

*Nomination paper.*

18. No nomination paper shall be valid and acted upon by the returning officer unless it is accompanied by the consent in writing of the person therein nominated, except when such person is absent from the Yukon Territory, when such absence shall be stated in the nomination paper, and -- Unless a sum of two hundred dollars, in legal tender or in the bills of any chartered bank doing business in Canada, or a cheque for that amount drawn upon and accepted by any such bank, is deposited in the hands of the returning officer at the time the nomination paper is filed with him; and the receipt of the returning officer shall, in every case, be sufficient evidence of the production of the nomination paper, of the consent of the candidate and of the payment herein mentioned.

*Consent of candidate.*

*Deposit to be made.*

2. The sum so deposited by any candidate shall be returned to him in the event of his being elected, or of his obtaining a number of votes at least equal to one-half the number of votes polled in favour of a candidate elected, -- otherwise it shall belong to His Majesty for the public uses of

*Application of sum deposited.*

Canada; and the sums so paid and not returned as herein provided, shall be applied by the returning officer towards the payment of the election expenses; and an account thereof shall be rendered by him to the Auditor General of Canada.

19. The returning officer shall require the person, or one or more of the persons producing any such nomination paper, to make oath before him, that he or they know that the several persons who have signed such nomination paper are electors duly entitled to vote; and that they have signed the same in his or their presence; and that the consent of the candidate has been signed in his or their presence, or that the person named as candidate is absent from the Yukon Territory as the case may be.

*Attestation of nomination paper.*

2. Such oath may be in the form G in the schedule to this Act; and the fact of its having been taken shall be stated on the back of the said nomination paper.

*Form of oath.*

20. Whenever only one candidate has been nominated within the time fixed for that purpose, the returning officer shall make his return to the Clerk of the Crown in Chancery that such candidate is duly elected for the said electoral district, -- of which return he shall send within forty-eight hours a duplicate or certified copy to the person elected; and such return shall be in the form H in the schedule to this Act.

*Return by acclamation.*

21. The returning officer shall accompany his return to the Clerk of the Crown in Chancery with a report of his proceedings and of any nomination proposed and rejected for non-compliance with the requirements of this Act.

*Report with return.*

22. Any candidate nominated may withdraw at any time after his nomination, and before the closing of the poll, by filing with the returning officer a declaration in writing to that effect, signed by himself; and any votes cast for the candidate who has so withdrawn shall be null and void; and if, after the withdrawal, there remains but one candidate only where one member is to be elected, at the election then pending, then the returning officer shall return as duly elected the candidate so remaining, without waiting for the day fixed for holding the poll, or for the closing of the poll if such withdrawal is filed on the polling day.

*Withdrawal of candidate.*

*Return if only one candidate remains.*

23. If at the time fixed for receiving nominations there remain more than one candidate, the returning officer shall grant a poll for taking the votes of the electors.

*When poll may be granted.*

24. As soon as the time for receiving nominations has elapsed, or at any time thereafter, the returning officer, if required, shall deliver gratis to every candidate, or to the person who filed the nomination paper on his behalf, a certified list of the candidates nominated.

*Delivery of certified list.*

25. Immediately upon the receipt by the returning officer of the writ for the election, the returning officer shall subdivide the electoral district into as many polling divisions as he deems necessary for the convenience of the electors; and he shall number or otherwise designate them, and fix upon a suitable polling station in each such division.

*Polling subdivisions to be established.*

2. Each such polling division shall include not more than two hundred, and not less than twenty-five, qualified voters.

*Number of voters in each.*

26. Whenever a poll has been granted it shall be held on the twenty-eighth day next after the expiration of the day fixed for the nomination of candidates, that is on the same or corresponding day of the week as that on which the nomination has taken place, or if such twenty-eighth day is a statutory holiday, then on the next following day not being a Sunday or a statutory holiday.

*When poll shall be held.*

2. A proclamation of the granting of such poll shall be published for at least two weeks immediately preceding the holding of such poll in the newspapers and by posting up as provided in section 15 of this Act.

*Publication.*

27. Immediately after having granted a poll, the returning officer shall cause to be posted up at all places where he has fixed polling booths for the taking of the votes at the election, and in four other of the most conspicuous places in each polling division, an election notice in the form I in the schedule to this Act.

*Proclamation if poll is granted.*

28. Immediately upon receipt of the writ the returning officer shall notify the chief justice of the Territorial Court of its receipt, or, if there be no chief justice, the senior judge of the court, or if the chief justice or the senior judge, as the case may be, is, by reason of illness or absence from the territory, or other cause, unable to act, the senior puisne judge or the judge in seniority, as the case may be, and the chief justice or judge so notified, shall forthwith appoint an enumerator in each polling subdivision to make a list of electors for such polling subdivision.

*Appointment of enumerators.*

2. The enumerator shall, before acting as such, take the oath of office in the form J in the schedule to this Act.

*Oath of office to be taken.*

3. The enumerator, forthwith after taking the said oath, shall post up, in six of the most public places within each polling division, a notice that he has been appointed enumerator for the polling division and that he will proceed forthwith to compile, and within thirty days will complete, the voters' list for the polling division, and designating the office or place where he may in the meantime be found, and the hours during which he will attend at such office on each lawful day, which shall begin not later than ten o'clock in the forenoon, and end not earlier than four o'clock in the afternoon each day.

*Notice by enumerator.*

29. Each such enumerator, upon his appointment and having first taken the oath of office, shall immediately thereafter compile a list of the persons qualified as electors to vote at the election then pending, for the polling division or each of the polling divisions for which he has been appointed; and he shall make three plainly written copies thereof, with the names of the voters alphabetically arranged, giving the occupation and residence of each voter, in the form K in the schedule to this Act.

*List of voters to be prepared.*

2. In the compilation of such list the enumerator may only enter thereon the names of such person or persons as are, by statutory declaration filed with him, declared, by such person or some agent having a personal knowledge of the facts declared to, to possess the qualifications necessary to entitle to vote under the provisions of this Act.

*What names may be placed on list.*

30. Each enumerator shall complete, date at his place of residence, and sign the copies of the voters' list or lists as aforesaid, fifteen days before the polling day; two of the said copies for each polling division he shall forthwith post up in two of the most public places within such polling division, and the other he shall retain for revision.

*List to be completed and posted up.*

31. If any enumerator, at any time after posting up any voters' list, and seven days before the polling day, is fully satisfied, from representations made to him by any credible person, that the name of any qualified voter has been omitted from the voters' list of the polling division to which such voter belongs, he shall add such name to the copy of the list in his possession below his own signature, and shall attest such addition by his initials; if the enumerator, in like manner, is fully satisfied that there is on the list the name of any person who is not qualified as a voter in such polling division, he may draw erasing lines through such name, and write his own initials opposite thereto in the column for "remarks"; and if the enumerator finds the occupation, addition or residence of any voter to be inaccurately stated in the list, he may make the necessary alteration and affix his initials thereto in like manner.

*Correction of list of voters.*

32. Every enumerator, having revised and corrected such retained copy of each voters' list compiled by him, if he deems such correction necessary, as provided in the next preceding section, shall write at the foot of such copy and close to the last name thereon, two days before the polling day, a certificate in the form of the second certificate contained in form K in the schedule to this Act.

*Attestation of list of voters.*

33. The enumerator shall deliver the voters' list so certified forthwith, or before eight o'clock in the morning of the polling day, to the deputy returning officer for the polling division to which it relates; and such list, as received by such deputy returning officer, shall be the voters' list for such polling division, subject to be further corrected on the polling day as hereinafter provided.

*List to be delivered to deputy returning officer.*

34. The returning officer shall cause to be posted up with the election notice, a notice of information to electors in the form L in the schedule to this Act.

*Notice to be posted up.*



35. The returning officer shall, by a commission under his hand, appoint one deputy returning officer for each polling division comprised in the electoral district; but if the returning officer sees fit to act in the capacity of deputy returning officer for any polling division, he may dispense with appointing a deputy for such division and himself perform the duties of deputy returning officer therein, without taking any oath of office other than that which he is hereinbefore required to take.

*Appointment of deputy returning officers.*

36. Every deputy returning officer shall, before acting as such, take an oath of office in the form M in the schedule to this Act.

*Oath of office to be taken.*

37. The returning officer shall furnish each deputy returning officer with a poll book, which shall be in the form S in schedule one to *The Dominion Elections Act, 1900*, and with at least five copies of the notice, in the form L in the schedule to this Act, for the information of electors.

*Poll books and notices.*

*1900, c. 12.*

38. Each deputy returning officer shall forthwith appoint by commission under his hand a poll clerk, who before acting as such shall take the oath in the form N in the schedule to this Act.

*Appointment of poll clerk.*

39. The deputy returning officer shall post up on the polling day before nine o'clock in the forenoon, in conspicuous places near the polling station, at least three copies of the notice, in the form L in the schedule to this Act, for the information of electors.

*Posting of notice.*

40. Every deputy Returning officer may and shall, when he is required so to do by any candidate or agent of a candidate, administer to any elector either one or both of the oaths set forth in form O in the schedule to this Act.

*Administration of oaths to electors.*

41. In case any person whose name is on the list refuses to take either of the said oaths, erasing lines shall be drawn through his name on the voters' list, and the words "refused to be sworn" written thereafter; and any person whose name is so erased shall not be permitted to vote at the said election.

*Elector refusing to be sworn.*

42. Every voter shall be entitled to vote whose name is on the voters' list and has not been erased therefrom in accordance with the foregoing provisions of this Act.

*What voters may vote.*

43. Any deputy returning officer, candidate, agent or poll clerk, who belongs to a polling division other than the one at which he is stationed on the polling day, shall be permitted to vote at the polling station where he is so stationed, provided he produces a certificate from the enumerator of the polling division to which he belongs, that he is a qualified voter in such polling division, -- which certificate such enumerator shall give gratis to any qualified elector who is so stationed outside of his own polling division.

*As to votes of certain officers and agents.*

44. In case any vote is recorded as provided in the next preceding section, in a different polling division from that in which the voter resides, the particular office or position which the voter is filling at the station at which he voted shall be entered opposite his name in the poll book in the column for "remarks".

*Entry in such case.*

45. If the deputy returning officer is unable or fails to perform his duties, the poll clerk shall act in his place without taking any further oath of office, and he shall appoint another poll clerk who shall take the oath of office as such hereinbefore prescribed.

*Poll clerk to act as deputy returning officer in case of need.*

46. The poll clerk shall make such additions, alterations, and erasures in the voters' list, and such entries in the poll book as the deputy returning officer directs him to make, as is required by any provision of this Act.

*Correction of list of voters.*

47. The returning officer shall forward to each of the respective candidates a copy of his return to the Clerk of the Crown in Chancery.

*Copies for candidates.*

48. The notices required to be posted up at any election under this Act, the poll books and all other documents herein mentioned, may either be printed or written, or partly printed and partly written.

*Proclamation, etc., may be written or printed.*

49. One copy of this Act, and of such portions of *The Dominion Elections Act, 1900*, as are hereinafter or by any other Act incorporated with this Act, and of such instructions, approved by the Governor in Council, as are necessary to carry out the elections according to the provisions of this Act (with a copious alphabetical index prefixed) for the returning officer, and one for each of his deputies, shall be transmitted, with the writ of election, to each returning officer.

*Instructions for returning officer and deputies.*

50. The application for a recount or final addition provided for by section 90 of *The Dominion Elections Act, 1900*, shall be made to any judge of the Territorial Court, and the application provided for by section 91 of the said Act shall be made to the said court *in banco*.

*Application for  
recount or final  
revision.*

51. Except as hereinafter provided, it shall not be necessary to prepare new voters' lists for the purpose of any election to be held under this Act, when there has been in the said electoral district a previous election the voters' lists prepared for which are of record in the office of the Clerk of the Crown in Chancery, and there is an interval of less than twelve months between the dates of the writs for the two elections.

*New lists not  
necessary if less  
than a year between  
elections.*

52. In the event of such an election, it shall be the duty of the Clerk of the Crown in Chancery to forward to the returning officer, with the writ for such election, three certified copies of each of the voters' lists so of record in his office.

*Lists which shall be  
used.*

53. Such certified copies shall be delivered by the returning officer to the enumerator, to be appointed as in this Act provided, and the enumerator shall post up two of such copies of each list, retaining the third for revision, and shall revise and correct the list so retained, and otherwise deal with it in all respects as if such certified copies were voters' lists completed and signed by him as provided by section 29 of this Act; and the copy so retained, as revised and certified and received by the deputy returning officer from the enumerator, shall be the voters' list for the polling division to which it relates.

*Duties of  
enumerator.*

54. Should there be in the said electoral district any polling divisions for which voters' lists are not of record in the office of the Clerk of the Crown in Chancery, lists for such polling divisions shall for the purposes of such election be prepared in the manner provided in this Act.

*Case of polling  
division for which  
no lists are of  
record.*

55. The following provisions of *The Dominion Elections Act, 1900*, shall apply to elections in the Yukon Territory, so far as they are applicable and not inconsistent with the provisions of this Act, that is to say: sections 4 to 7, both inclusive; sections 19 and 20; paragraphs (c), (d), (e) and (g) of subsection 1 of section 41, and subsection 2 of section 41; sections 43 to 59, both inclusive; sections 62 to 64, both inclusive; sections 69 to 150, both inclusive; and sections 152 to 154, both inclusive; together with the forms mentioned in the said sections and parts of sections; but otherwise, except as provided by this Act, *The Dominion Elections Act, 1900*, shall not apply to the Yukon Territory.

*Application of  
1900, c. 12.*

## CONSTITUTIONAL RECOGNITION OF YUKON REPRESENTATION IN THE HOUSE OF COMMONS

*Representation of the Yukon in the House of Commons was given constitutional recognition in 1946 with an amendment to the British North America Act. The Yukon and other parts of Canada not forming part of a province were given one seat in the Commons. A further amendment in 1952 clarified the 1946 legislation by separating the Yukon from "other parts of Canada not comprized within a province" potentially leaving each with its own member.*

*The relevant sections of both amendments are included here.*

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No. 29  
THE BRITISH NORTH AMERICA ACT,  
1946

9-10 GEORGE VI, C. 63 (U.K.)

An act to provide for the readjustment of representation in the House of Commons of Canada on the basis of the population of Canada.

[26th July 1946]

Whereas the Senate and the House of Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth;

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. Section fifty-one of the British North America Act, 1867, is hereby repealed and the following substituted therefor:

*New provision as to readjustment of representation in Commons. 30 & 31 Vict. c.3.*

"51(2) The Yukon Territory as constituted by Chapter forty-one of the Statutes of Canada, 1901, together with any Part of Canada not comprised within a province which may from time to time be included therein by the Parliament of Canada for the purposes of representation in Parliament, shall be entitled to one member."

2. This Act may be cited as the *British North America Act, 1946*, and the *British North America Acts, 1867 to 1943*, and this Act may be cited together as the *British North America Acts, 1867 to 1946*.

*Short title and citation.*

No. 34  
THE BRITISH NORTH AMERICA ACT, 1952

1 Elizabeth II, c. 15, (Canada)  
[R.S. 1952, c. 304]

An Act to amend the *British North America Act, 1867 to 1951*, with respect to the Readjustment of Representation in the House of Commons.

1. Section 51 of the *British North America Act, 1867*, as enacted by the *British North America Act, 1946*, is repealed and the following substituted therefor:

*30 & 31, Vict. c.3, (U.K.) amended.*

"51(2) The Yukon Territory as constituted by chapter 41 of the Statutes of Canada, 1901, shall be entitled to one member, and such other part of Canada not comprised within a province as may from time to time be defined by the Parliament of Canada shall be entitled to one member."

*Yukon Territory and other part not comprised within a province.*

2. This Act may be cited as the *British North America Act, 1952* and the *British North America Acts, 1867 to 1951*, and this Act may be cited together as the *British North America Acts, 1867 to 1952*.

*Short title and citation.*

## YUKON REPRESENTATION IN THE SENATE OF CANADA

*In 1975 the Yukon was given representation in the Senate of Canada by way of amendment to the Northwest Territories Representation Act and to the British North America Act. The amendments are provided below.*

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### BRITISH NORTH AMERICA ACT, 1975

#### NORTHWEST TERRITORIES REPRESENTATION ACT

23 & 24 Elizabeth II, c. 28

[13th March, 1975.]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

#### *Short Title*

1. This Act may be cited as the *Northwest Territories Representation Act*.

### PART I

#### BRITISH NORTH AMERICA ACT

2. Subsection 51(2) of the *British North America Act, 1867*, as enacted by the *British North America Act, 1952*, is repealed and the following substituted therefor:

#### *Yukon Territory and Northwest Territories*

"(2) The Yukon Territory as bounded and described in the schedule to chapter Y-2 of the Revised Statutes of Canada, 1970, shall be entitled to one member, and the Northwest Territories as bounded and described in section 2 of chapter N-22 of the Revised Statutes of Canada, 1970, shall be entitled to two members.

#### *Short Title and citation*

3. This Part may be cited as the *British North America Act, 1975*, and the *British North America Acts, 1867 to 1974* and this Part may be cited together as the *British North America Acts, 1867 to 1975*.

## BRITISH NORTH AMERICA ACT (NO. 2), 1975

23 &amp; 24 Elizabeth II, c.53

[19th June, 1975]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

*Constitution of Senate altered*

1. Notwithstanding anything in the *British North America Act, 1867*, or in any Act amending that Act, or in any Act of the Parliament of Canada, or in any order in council or terms or conditions of union made or approved under any such Act,

- (a) the number of Senators provided for under section 21 of the *British North America Act, 1867*, as amended, is increased from one hundred and ten to one hundred and twelve; and
- (b) the maximum number of Senators is increased from one hundred and ten to one hundred and twelve; and
- (c) the Yukon Territory and the Northwest Territories shall be entitled to be represented in the Senate by one member each.

*"Province"*

2. For the purposes of this Act, the term "Province" in section 23 of the *British North America Act, 1867* has the same meaning as is assigned to the term "province" by section 28 of the *Interpretation Act*.

*Short title and citation*

3. This Act may be cited as the *British North America Act, (no. 2) 1975*, and shall be included among the Acts that may be cited as the *British North America Acts, 1867 to 1975*.



## THE CONSTITUTION ACTS

*The Constitution Acts, 1867 and 1982 with all subsequent amendments to the two constitutional statutes create the overall framework for the conduct of public institutions in Canada, and at the same time articulate, through the Charter of Rights and Freedoms the basic rights enjoyed by all Canadians.*

*Those sections which directly reference the Yukon are provided below, along with significant sections on provincial status which can be compared with the Yukon Act to determine where distinctions lie between the jurisdiction of the provinces and that of the Yukon.*

*The Charter of Rights and Freedoms is also provided in that it has a strong influence on the manner with which the Courts interpret other sections of the Constitution, and due to its importance to all Canadians in articulating their basic rights in society.*

*The authors have taken liberty to determine those sections most relevant to the discussions on Constitutional reform for the Yukon. Those readers interested in a full understanding of the Canadian Constitution should review the Constitution Act 1867 as amended and the Constitution Act 1982 as amended in their entirety.*

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### THE CONSTITUTION ACT, 1867

30 & 31 Victoria, c.3

(Consolidated with amendments)

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith.

(29th March, 1867)

Whereas the Provinces of Canada, Nova Scotia and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom:

And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the

Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual Admission into the Union of other Parts of British North America:

### I. -- Preliminary.

1. This Act may be cited as the  
*Constitution Act, 1867.*

*Short title.*

### II. -- Union

*[Not included]*

### III. -- Executive Power

9. The Executive Government and Authority of and over Canada hereby declared to continue and be vested in the Queen.

*Declaration of Executive Power in the Queen.*

10. The Provision of this Act referred to the Governor General extend and apply to the Governor General for the Time being of Canada, or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of Canada on behalf and in the Name of the Queen, by whatever Title he is designated.

*Application of Provisions referring to Governor General.*

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor General and sworn in as Privy Councillors, and Members thereof may be from Time to Time removed by the Governor General.

*Constitution of Privy Council for Canada.*

12. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those

*All Powers under Acts to be exercised by Governor General with Advice of Privy Council, or alone.*

Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exercisable by the Governor General, with the Advice or with the Advice and Consent of or in conjunction with the Queen's Privy Council for Canada, or any Member thereof, or by the Governor General individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

13. The Provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting by and with the Advice of the Queen's Privy Council for Canada.

*Application of Provisions referring to Governor General in Council*

*[Sections 14, 15, 16 not included]*

#### IV. -- Legislative Power.

17. There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

*Constitution of Parliament of Canada.*

*[Sections 18, 19 and 20 not included]*

#### *The Senate*

21. The Senate shall, subject to the Provisions of this Act, consist of One Hundred and four Members, who shall be styled Senators.

*Number of Senators.*

22. In relation to the Constitution of the Senate Canada shall be deemed to consist of Four Divisions: --

*Representation of Provinces in Senate.*

1. Ontario;
2. Quebec;
3. The Maritime Provinces, Nova Scotia and New Brunswick, and Prince Edward Island;
4. The Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta;

which Four Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: Ontario by twenty-four senators; Quebec by twenty-four senators; the Maritime Provinces and Prince Edward Island by twenty-four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island; the Western Provinces by twenty-four senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta; Newfoundland shall be entitled to be represented in the Senate by six members; the Yukon Territory and the Northwest Territories shall be entitled to be represented in the Senate by one member each.

*[Sections 23 - 36 not included]*

### *The House of Commons*

37. The House of Commons shall, subject to the Provisions of this Act, consist of two hundred and eighty-two members of whom ninety-five shall be elected for Ontario, seventy-five for Quebec, eleven for Nova Scotia, ten for New Brunswick, fourteen for Manitoba, twenty-eight for British Columbia, four for Prince Edward Island, twenty-one for Alberta, fourteen for Saskatchewan, seven for Newfoundland, one for the Yukon Territory and two for the Northwest Territories.

*[Sections 38-51(1) not included]*

51(2) The Yukon Territory as bounded and described in the schedule to chapter Y-2 of the Revised Statutes of Canada, 1970, shall be entitled to one member, and the Northwest Territories as bounded and described in section 2 of chapter N-22 of the Revised Statutes of Canada, 1970, shall be entitled to two members.

51A Notwithstanding anything in this Act a province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such province.

*[Sections 52 not included]*

*Constitution of  
House of Commons  
in Canada.*

*Yukon Territory and  
Northwest  
Territories.*

*Constitution of  
House of Commons.*

*Money Votes; Royal Assent.**[Not Included]*

## V. -- Provincial Constitutions

*Executive Power.*

58. For each Province there shall be an Officer, styled the Lieutenant Governor, appointed by the Governor General in Council by Instrument under the Great Seal of Canada.

*Appointment of  
Lieutenant  
Governors of  
Provinces.*

*[Sections 59-68 not included]**Legislative Power*

## 1. -- Ontario

69. There shall be a Legislature for Ontario consisting of the Lieutenant Governor and of One House, styled the Legislative Assembly of Ontario.

*Legislature for  
Ontario.*

*[Section 70 is not included]*

## 2. -- Quebec

71. There shall be a Legislature for Quebec consisting of the Lieutenant Governor and of Two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

*Legislature for  
Quebec.*

*[Sections 72-87 are not included]*

## 3. -- Ontario and Quebec

*[Sections not included]*

## 4. -- Nova Scotia and New Brunswick

88. The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act.

*Constitutions of  
Legislatures of  
Nova Scotia and  
New Brunswick.*

## 5. -- Ontario, Quebec, and Nova Scotia

*[Section 89 repealed]*

## 6. -- The Four Provinces.

90. The following Provisions of this Act respecting the Parliament of Canada, namely, -- the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the Disallowance of Acts, and the Signature of Pleasure on Bills reserved, -- shall extend and apply to the Legislatures of the several Provinces as if those Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of One Year for Two Years, and of the Province for Canada.

*Application to  
Legislatures of  
Provisions  
respecting Money*

## VI -- Distribution of Legislative Powers

*Powers of the Parliament*

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say, --

*Legislative  
Authority of  
Parliament of  
Canada.*

1. Repealed
- 1A. The Public Debt and Property.
2. The Regulation of Trade and Commerce.
- 2A. Unemployment Insurance.
3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.

6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.
13. Ferries between a Province and any British or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.
16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians, and Lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

*Exclusive Powers of Provincial Legislatures*

92. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subject next hereinafter enumerated; that is to say, --

*Subjects of  
exclusive Provincial  
Legislation.*

1. Repealed
2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province.
4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.
8. Municipal Institutions in the Province.
9. Shop, Saloon, Tavern, Auctioneer, and other Licenses in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
10. Local Works and Undertakings other than such as are of the following Classes: --
  - (a) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province;
  - (b) Lines of Steam Ships between the Province and any British or Foreign Country;
  - (c) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.



11. The Incorporation of Companies with Provincial Objects.
12. The Solemnization of Marriage in the Province.
13. Property and Civil Rights in the Province.
14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.
16. Generally all Matters of a merely local or private Nature in the Province.

*Non-Renewable Natural Resources, Forestry Resources and Electrical Energy.*

92 A. (1) In each province, the legislature may exclusively make laws in relation to

- (a) exploration for non-renewable natural resources in the province;
- (b) development, conservation and management of non-renewable natural resources and forestry resources in the province, including laws in relation to the rate of primary production therefrom; and
- (c) development, conservation and management of sites and facilities in the province for the generation and production of electrical energy.

*Laws respecting non-renewable natural resources, forestry resources and electrical energy.*

(2) In each province, the legislature may make laws in relation to the export from the province to another part of Canada of the primary production from non-renewable natural resources and forestry resources in the province and the production from facilities in the province for the generation of electrical energy, but such laws may not authorize or provide for discrimination in prices or in supplies exported to another part of Canada.

*Export from provinces of resources.*

(3) Nothing in subsection (2) derogates from the authority of Parliament to enact laws in relation to the matters referred to in that subsection and, where such a law of Parliament and a law of a province conflict, the law of Parliament prevails to the extent of the conflict.

*Authority of  
Parliament.*

(4) In each province, the legislature may make laws in relation to the raising of money by any mode or system of taxation in respect of

*Taxation of  
resources.*

(a) non-renewable natural resources and forestry resources in the province and the primary production therefrom, and

(b) sites and facilities in the province for the generation of electrical energy and the production therefrom, whether or not such production is exported in whole or in part from the province, but such laws may not authorize or provide for taxation that differentiates between production exported to another part of Canada and production not exported from the province.

(5) The expression "primary production" has the meaning by the Sixth Schedule.

*"Primary  
production".*

(6) Nothing in subsections (1) to (5) derogates from any powers or rights that a legislature or government of a province had immediately before the coming into force of this section.

*Existing powers or  
rights.*

### *Education*

93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions: --

*Legislation  
respecting  
Education.*

*[Subsections (1) to (4) not included]*

*Uniformity of Laws in Ontario, Nova Scotia and  
New Brunswick*

*[Section 94 not included]*

*Old Age Pensions.*

94 A. The Parliament of Canada may make laws in relation to old age pensions and supplementary benefits, including survivors, and disability benefits irrespective of age, but no such law shall affect the operation of any law present or future of a provincial legislature in relation to any such matter.

*Legislation respecting old age pensions and supplementary benefits.*

*Agriculture and Immigration*

95. In each Province the Legislature may make Laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada

*Concurrent Powers of Legislation respecting Agriculture etc.*

may from Time to Time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

## VII. -- Judicature.

*[Sections 96.-101 not included]*

## VIII. -- Revenues; Debts; Assets; Taxation.

*[Sections 102 - 126 not included]*

## IX. -- Miscellaneous Provisions.

*[Sections 127 to 145 not included]*

## X. -- Intercolonial Railway.

*[Section 145 not included]*

## XI. -- Admission of Other Colonies

146. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

*Power to admit  
Newfoundland etc.  
into the Union.*

*[Section 147 not included]*

*[Schedules to the Constitution Act, 1867 not included]*

## **CONSTITUTION ACT, 1982**

An Act to give effect to a request by the Senate and House of  
Commons of Canada.

Whereas Canada has requested and consented to the enactment of an Act of the Parliament of the United Kingdom to give effect to the provisions hereinafter set forth and the Senate and the House of Commons of Canada in Parliament assembled have submitted an address to Her Majesty requesting that Her Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for that purpose.

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The *Constitution Act, 1982* set out in Schedule B to this Act is Hereby enacted for and shall have the force of law in Canada and shall come into force as provided in that Act.
2. No Act of the Parliament of the United Kingdom passed after the *Constitution Act, 1982* comes into force shall extend to Canada as part of its law.
3. So far as it is not contained in Schedule B, the French version of this Act is set out in Schedule A to this Act and has the same authority in Canada as the English version thereof.
4. This Act may be cited as the *Canada Act, 1982*.

### SCHEDULE B CONSTITUTION ACT, 1982

#### PART I

#### CANADIAN CHARTER OF RIGHTS AND FREEDOMS

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

#### *Guarantee of Rights and Freedoms*

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

*Rights and freedoms  
in Canada.*

### *Fundamental Freedoms*

2. Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

*Fundamental freedoms.*

### *Democratic Rights*

3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

*Democratic rights of citizens.*

4. (1) No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs of a general election of its members.

*Maximum duration of legislative bodies.*

(2) In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly, as the case may be.

*Continuation in special circumstances.*

5. There shall be a sitting of Parliament and of each legislature at least once every twelve months.

*Annual sitting of legislative bodies.*

### *Mobility Rights*

6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.

*Mobility of citizens.*

(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right

- (a) to move to and take up residence in any province; and
- (b) to pursue the gaining of a livelihood in any province.

*Rights to move and gain livelihood.*

(3) the rights specified in subsection (2) are subject to

- (a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and
- (b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.

*Limitation.*

(4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.

*Affirmative action programs.*

#### *Legal Rights*

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

*Life, liberty and security of person.*

8. Everyone has the right to be secure against unreasonable search and seizure.

*Search and seizure.*

9. Everyone has the right not to be arbitrarily detained or imprisoned.

*Detention or imprisonment.*

10. Everyone has the right on arrest or detention

*Arrest or detention.*

- (a) to be informed promptly of the reasons therefor;
- (b) to retain and instruct counsel without delay and to be informed of that right; and
- (c) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.

11. Any person charged with an offence has the right

*Proceedings in criminal and penal matters.*

- (a) to be informed without unreasonable delay of the specific offence;
- (b) to be tried within a reasonable time;
- (c) not to be compelled to be a witness in proceedings against that person in respect of the offence;

- (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
- (e) not to be denied reasonable bail without just cause;
- (f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;
- (g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations;
- (h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; and
- (i) if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment.

12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

*Treatment or punishment.*

13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.

*Self-crimination.*

14. A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

*Interpreter.*



*Equality Rights*

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

*Equality before and under law and equal protection and benefit of law.*

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

*Affirmative action programs.*

*Official Languages of Canada*

16. (1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.

*Official languages of Canada.*

(2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick.

*Official languages of New Brunswick.*

(3) Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English or French.

*Advancement and status of use.*

17. (1) Everyone has the right to use English or French in any debates and other proceedings of Parliament.

*Proceedings of Parliament.*

(2) Everyone has the right to use English or French in any debates and other proceedings of the legislature of New Brunswick.

*Proceedings of New Brunswick legislature.*

18. (1) The statutes, records and journals of Parliament shall be printed and published in English and French and both language versions are equally authoritative.

*Parliamentary statutes and records.*

(2) The statutes, records and journals of the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative.

*New Brunswick statutes and records.*

19. (1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament.

*Proceedings in courts established by Parliament.*

(2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick.

*Proceedings in New Brunswick courts.*

20. (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where

*Communications by public with federal institutions.*

- (a) there is a significant demand for communications with and services from that office in such language; or
- (b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.

(2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French.

*Communications by public with New Brunswick institutions.*

21. Nothing in sections 16 to 20 abrogates or derogates from any right, privilege or obligation with respect to the English or French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada.

*Continuation of existing constitutional provisions.*

22. Nothing in sections 16 to 20 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Charter with respect to any language that is not English or French.

*Rights and privileges preserved.*

#### *Minority Language Educational Rights*

23. (1) Citizens of Canada
- (a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

*Language of instruction.*

- (b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province,

have the right to have their children receive primary and secondary school instruction in that language in that province.

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

*Continuity of language instruction.*

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

*Application where numbers warrant.*

- (a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and
- (b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

#### *Enforcement*

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

*Enforcement of guaranteed rights and freedoms.*

(2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

*Exclusion of evidence bringing administration of justice into disrepute.*

### *General*

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

*Aboriginal rights and freedoms not affected by Charter.*

- (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and
- (b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired.

26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

*Other rights and freedoms not affected by Charter.*

27. This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

*Multicultural heritage.*

28. Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

*Rights guaranteed equally to both sexes.*

29. Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate or dissentient schools.

*Rights respecting certain schools preserved.*

30. A reference in this Charter to a Province or to the legislative assembly of a province shall be deemed to include a reference to the Yukon Territory and the Northwest Territories, or to the appropriate legislative authority thereof, as the case may be.

*Application to territories and territorial authorities.*

31. Nothing in this Charter extends the legislative powers of any body or authority.

*Legislative powers not extended.*

*Application of Charter*

32. (1) This Charter applies

- (a) to the Parliament and government of Canada in respect to all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and
- (b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

*Application of Charter.*

(2) Notwithstanding subsection (1), section 15 shall not have effect until three years after this section comes into force.

*Exception.*

33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or 7 to 15 of this Charter.

*Exception where express declaration.*

(2) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration.

*Operation of exception.*

(3) A declaration made under subsection (1) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration.

*Five year limitation.*

(4) Parliament or a legislature of a province may re-enact a declaration made under subsection (1).

*Re-enactment.*

(5) Subsection (3) applies in respect of a re-enactment made under subsection (4).

*Five year limitation.*

*Citation*

34. This Part may be cited as the Canadian Charter of Rights and Freedoms.

*Citation.*

## PART II

## RIGHTS OF THE ABORIGINAL PEOPLES OF CANADA

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

*Recognition of existing aboriginal and treaty rights.*

(2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Metis peoples of Canada.

*Definition of "aboriginal peoples of Canada".*

(3) [added in 1983 amendment] For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.

*Land claims agreements.*

(4) [added in 1983 amendment] Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

*Aboriginal and treaty rights are guaranteed equally to both sexes.*

35.1 [added in 1983 amendment] The government of Canada and the provincial governments are committed to the principal that, before any amendment is made to Class 24 of section 91 of the "Constitution Act, 1867", to section 25 of this Act or to this Part,

*Commitment to participation in constitutional conference.*

- (a) a constitutional conference that includes in its agenda an item relating to the proposed amendment, composed of the Prime Minister of Canada and the first ministers of the provinces, will be convened by the Prime Minister of Canada; and
- (b) the Prime Minister of Canada will invite representatives of the aboriginal peoples of Canada to participate in the discussions on that item.

## PART III

## EQUALIZATION AND REGIONAL DISPARITIES

36. (1) Without altering the legislative authority of Parliament or of the provincial legislatures, or the rights of any of them with respect to the exercise of their legislative authority, Parliament and the legislatures, together with the government of Canada and the provincial governments, are committed to

*Commitment to promote equal opportunities.*

- (a) promoting equal opportunities for the well-being of Canadians;
- (b) furthering economic development to reduce disparity in opportunities; and
- (c) providing essential public services of reasonable quality to all Canadians.

(2) Parliament and the government of Canada are committed to the principle of making equalization payments, to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.

*Commitment respecting public services.*

#### PART IV

#### CONSTITUTIONAL CONFERENCE

37. [repealed April 17, 1983]

#### PART IV.1

#### CONSTITUTIONAL CONFERENCES

37.1 (1) In addition to the conference convened in March 1983, at least two constitutional conferences composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada, the first within three years after April 17, 1982 and the second within five years after that date.

*Constitutional conferences*

(2) Each conference convened under subsection (1) shall have included in its agenda constitutional matters that directly affect the aboriginal peoples of Canada, and the Prime Minister of Canada shall invite representatives of those peoples to participate in the discussions on those matters.

*Participation of aboriginal peoples.*

(3) The Prime Minister of Canada shall invite elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions on any item on the agenda of a conference convened under subsection (1) that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories.

*Participation of territories.*

(4) Nothing in this section shall be construed so as to derogate from subsection 35(1).

*Subsection 35(1) not affected.*

## PART V

## PROCEDURES FOR AMENDING CONSTITUTION OF CANADA

38. (1) An amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by

- (a) resolutions of the Senate and House of Commons; and
- (b) resolutions of the legislative assemblies of at least two-thirds of the provinces that have, in the aggregate, according to the then latest general census, at least fifty per cent of the population of all the provinces.

*General procedure  
for amending  
Constitution of  
Canada.*

(2) An amendment made under subsection (1) that derogates from the legislative powers, the proprietary rights or any other rights or privileges of the legislature or government of a province shall require a resolution supported by a majority of the members of each of the Senate, the House of Commons and the legislative assemblies required under subsection (1).

*Majority of  
members.*

(3) An amendment referred to in subsection (2) shall not have effect in a province the legislative assembly of which has expressed its dissent thereto by resolution supported by a majority of its members prior to the issue of the proclamation to which the amendment relates unless that legislative assembly, subsequently, by resolution supported by a majority of its members, revokes its dissent and authorizes the amendment.

*Expression of  
dissent.*

(4) A resolution of dissent made for the purposes of subsection (3) may be revoked at any time before or after the issue of the proclamation to which it relates.

*Revocation of  
dissent.*

39. (1) A proclamation shall not be issued under subsection 38(1) before the expiration of one year from the adoption of the resolution initiating the amendment procedure thereunder, unless the legislative assembly of each province has previously adopted a resolution of assent or dissent.

*Restriction on  
proclamation.*



(2) A proclamation shall not be issued under subsection 38(1) after the expiration of three years from the adoption of the resolution initiating the amendment procedure thereunder.

*Idem.*

40. Where an amendment is made under subsection 38(1) that transfers provincial legislative powers relating to education or other cultural matters from provincial legislatures to Parliament, Canada shall provide reasonable compensation to any province to which the amendment does not apply.

*Compensation.*

41. An amendment to the Constitution of Canada in relation to the following matters may be made by proclamation issued by the Governor General under the Great Seal of Canada only where authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province:

*Amendment by unanimous consent.*

- (a) the office of the Queen, the Governor General and the Lieutenant Governor of a province;
- (b) the right of a province to a number of members in the House of Commons not less than the number of Senators by which the province is entitled to be represented at the time this Part comes into force;
- (c) subject to section 43, the use of the English or the French language;
- (d) the composition of the Supreme Court of Canada; and
- (e) an amendment to this Part.

42. (1) An amendment to the Constitution of Canada in relation to the following matters may be made only in accordance with subsection 38(1):

*Amendment by general procedure.*

- (a) the principle of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada;
- (b) the powers of the Senate and the method of selecting Senators;
- (c) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;
- (d) subject to paragraph 41(d), the Supreme Court of Canada;
- (e) the extension of existing provinces into the territories; and

- (f) notwithstanding any other law or practice, the establishment of new provinces.

(2) Subsections 38(2) to (4) do not apply in respect of amendments in relation to matters referred to in subsection (1).

43. An amendment to the Constitution of Canada in relation to any provision that applies to one or more, but not all, provinces, including

- (a) any alteration to boundaries between provinces, and  
 (b) any amendment to any provision that relates to the use of the English or the French language within a province,

may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies.

44. Subject to sections 41 and 42, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.

45. Subject to section 41, the legislature of each province may exclusively make laws amending the constitution of the province.

46. (1) The procedures for amendment under sections 38, 41, 42, and 43 may be initiated either by the Senate or the House of Commons or by the legislative assembly of a province.

(2) A resolution of assent made for the purposes of this Part may be revoked at any time before the issue of a proclamation authorized by it.

47. (1) An amendment to the Constitution of Canada made by proclamation under section 38, 41, 42 or 43 may be made without a resolution of the Senate authorizing the issue of the proclamation if, within one hundred and eighty days after the adoption by the House of Commons of a resolution authorizing its issue, the

*Exception.*

*Amendment of provisions relating to some but not all provinces.*

*Amendments by Parliament.*

*Amendments by provincial legislatures.*

*Initiation of amendment procedures.*

*Revocation of authorization.*

*Amendments without Senate resolution.*

Senate has not adopted such a resolution and if, at any time after the expiration of that period, the House of Commons again adopts the resolution.

(2) Any period when Parliament is prorogued or dissolved shall not be counted in computing the one hundred and eighty day period referred to in subsection (1).

*Computation of period.*

48. The Queen's Privy Council for Canada shall advise the Governor General to issue a proclamation under this Part forthwith on the adoption of the resolutions required for an amendment made by proclamation under this Part.

*Advice to issue proclamation.*

49. A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada within fifteen years after this Part comes into force to review the provisions of this Part.

*Constitutional conference.*

## PART VI

### AMENDMENT TO THE CONSTITUTION ACT, 1867

50. [see section 92A, consolidation of the Constitution Act, 1867.]

51. [see the 6th Schedule of the consolidation of the Constitution Act, 1867. -- not included in this work.]

## PART VII

### GENERAL

52. (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

*Primacy of Constitution of Canada.*

- (2) The Constitution of Canada includes
- (a) the *Canada Act, 1982*, including this Act;
  - (b) the Acts and orders referred to in the schedule; and
  - (c) any amendment to any Act or order referred to in paragraph (a) or (b).

*Constitution of Canada.*

(3) Amendments to the Constitution of Canada shall be made only in accordance with the authority contained in the Constitution of Canada.

*Amendments to Constitution of Canada.*

*[Sections 53 to 59 inclusive are not included]*

60. This Act may be cited as the *Constitution Act, 1982*, and the Constitution Acts 1867 to 1975 (No. 2) and this Act may be cited together as the *Constitution Acts, 1867 to 1982*.

*Short title and citations.*

61. *[this section added by amendment in 1983]* A reference to the "*Constitution Acts, 1867 to 1982*" shall be deemed to include a reference to the "*Constitution Amendment Proclamation, 1983*".

*References.*

## THE 1987 CONSTITUTIONAL ACCORD

*The final document in this Chapter, the 1987 Constitutional Accord, does not form part of the Canadian Constitution in that it did not receive the required support of all provincial legislatures. However, parts of this document are included in this Chapter in that they demonstrate the degree to which the Yukon can be affected by constitutional amendments, amendments to which the Yukon plays no part in establishing.*

*Items of particular interest are the lack of reference to the Yukon in appointing Supreme Court Justices and Senators, and the unanimity requirement for provinces to agree to the establishment of new provinces in Canada.*

*It is anticipated that the 1987 Constitutional Accord will be the focus of considerable debate by Yukoners as they discuss the Yukon's constitutional future in Canada.*

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### MEETING OF FIRST MINISTERS ON THE CONSTITUTION

#### *1987 Constitutional Accord*

June 3, 1987

Whereas first ministers, assembled in Ottawa, have arrived at a unanimous accord on constitutional amendments that would bring about the full and active participation of Quebec in Canada's constitutional evolution, would recognize the principle of equality of all the provinces, would provide new arrangements to foster greater harmony and cooperation between the Government of Canada and the governments of the provinces and would require that annual first ministers' conferences on the state of the Canadian economy and such other matters as may be appropriate be convened and that annual constitutional conferences composed of first ministers be convened commencing not later than December 31, 1988;

And Whereas first ministers have also reached unanimous agreement on certain additional commitments in relation to some of those amendments;

Now Therefore the Prime Minister of Canada and the first ministers of the provinces commit themselves and the governments they represent to the following:

1. The Prime Minister of Canada will lay or cause to be laid before the Senate and House of Commons, and the first ministers of the provinces will lay or cause to be laid before their legislative assemblies, as soon as possible, a resolution, in the form appended hereto, to authorize a proclamation to be issued by the Governor General under the Great Seal of Canada to amend the Constitution of Canada.

2. The Government of Canada will, as soon as possible, conclude an agreement with the Government of Quebec that would

- (a) incorporate the principles of the Cullen-Couture agreement on the selection abroad and in Canada of independent immigrants, visitors for medical treatment, students and temporary workers, and on the selection of refugees abroad and economic criteria for family reunification and assisted relatives,
- (b) guarantee that Quebec will receive a number of immigrants, including refugees, within the annual total established by the federal government for all of Canada proportionate to its share of the population of Canada, with the right to exceed that figure by five per cent for demographic reasons, and
- (c) provide an undertaking by Canada to withdraw services (except citizenship services) for the reception and integration (including linguistic and cultural) of all foreign nationals wishing to settle in Quebec where services are to be provided by Quebec, with such withdrawal to be accompanied by reasonable compensation,

and the Government of Canada and the Government of Quebec will take the necessary steps to give the agreement the force of law under the proposed amendment relating to such agreements.

3. Nothing in this Accord should be construed as preventing the negotiation of similar agreements with other provinces relating to immigration and the temporary admission of aliens.

4. Until the proposed amendment relating to appointments to the Senate comes into force, any person summoned to fill a vacancy in the Senate shall be chosen from among persons whose names have been submitted by the government of the province to which the vacancy relates and must be acceptable to the Queen's Privy Council for Canada.

Motion for a Resolution to authorize an amendment to  
the Constitution of Canada

Whereas the *Constitution Act, 1982* came into force on April 17, 1982, following an agreement between Canada and all the provinces except Quebec;

And Whereas the Government of Quebec has established a set of five proposals for constitutional change and has stated that amendments to give effect to those proposals would enable Quebec to resume a full role in the constitutional councils of Canada;

And Whereas the amendment proposed in the schedule hereto sets out the basis on which Quebec's five constitutional proposals may be met;

And Whereas the amendment proposed in the schedule hereto also recognizes the principle of the equality of all the provinces, provides new arrangements to foster greater harmony and cooperation between the Government of Canada and the governments of the provinces and requires that conferences be convened to consider important constitutional, economic and other issues;

And Whereas certain portions of the amendment proposed in the schedule hereto relate to matters referred to in section 41 of the *Constitution Act, 1982*;

And Whereas section 41 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and the House of Commons and of the legislative assembly of each province;

Now Therefore the (Senate) (House of Commons) (legislative assembly) resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

## SCHEDULE

### CONSTITUTION AMENDMENT, 1987

#### *Constitution Act, 1867*

*[Section 1 not included]*

2. The said Act [*Constitution Act, 1867*] is further amended by adding thereto, immediately after section 24 thereof, the following section:

25. (1) Where a vacancy occurs in the Senate, the government of the province to which the vacancy relates may, in relation to that vacancy, submit to the Queen's Privy Council for Canada the names of persons who may be summoned to the Senate.

*Names to be submitted.*

(2) Until an amendment to the Constitution of Canada is made in relation to the Senate pursuant to section 41 of the *Constitution Act, 1982*, the person summoned to fill a vacancy in the Senate shall be chosen from among persons whose names have been submitted under subsection (1) by the government of the province to which the vacancy relates and must be acceptable to the Queen's Privy Council for Canada.

*Choice of Senators from names submitted.*

*[Sections 3, 4 and 5 not included]*

6. The said Act is further amended by adding thereto, immediately after section 101 thereof, the following heading and sections:

*Supreme Court of Canada*

*[Section 101A & 101B not included]*

101C. (1) Where a vacancy occurs in the Supreme Court of Canada, the government of each province may, in relation to that vacancy, submit to the Minister of Justice of Canada the names of any of the persons who have been admitted to the bar of that province and are qualified under section 101B for appointment to that court.

*Names may be submitted.*

(2) Where an appointment is made to the Supreme Court of Canada, the Governor General in Council shall, except where the Chief Justice is appointed from among members of the Court, appoint a person whose name has been submitted under subsection (1) and who is acceptable to the Queen's Privy Council for Canada.

*Appointment from names submitted.*

*[subsections (3) and (4) not included]*

*[Sections 101D and 101E not included]*

7. The said Act is further amended by adding thereto, immediately after section 106 thereof, the following section:

106A. (1) The Government of Canada shall provide reasonable compensation to the government of a province that chooses not to participate in a national shared-cost program that is established by the Government of Canada after the coming into force of this section in an area of exclusive provincial jurisdiction, if the province carries on a program or initiative that is compatible with the national objectives.

*Shared-cost program.*

(2) Nothing in this section extends the legislative powers of the Parliament of Canada or of the legislatures of the provinces.

*Legislative power not extended.*



8. The said Act is further amended by adding thereto the following heading and sections:

**XII -- Conferences on the Economy and Other Matters**

148. A conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once each year to discuss the state of the Canadian economy and such other matters as may be appropriate.

*Conferences on the economy and other matters.*

**XIII -- References**

*[not included]*

***Constitution Act, 1982***

9. Sections 40 to 42 of the *Constitution Act, 1982* are repealed and the following substituted therefor:

40. Where an amendment is made under subsection 38(1) that transfers legislative powers from provincial legislatures to Parliament, Canada shall provide reasonable compensation to any province to which the amendment does not apply.

*Compensation.*

41. An amendment to the Constitution of Canada in relation to the following matters may be made by proclamation issued by the Governor General under the Great Seal of Canada only where authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province:

*Amendment by unanimous consent.*

- (a) the office of the Queen, the Governor General and the Lieutenant Governor of a province;
- (b) the powers of the Senate and the method of selecting Senators;

- (c) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;
- (d) the right of a province to a number of members in the House of Commons not less than the number of Senators by which the province was entitled to be represented on April 17, 1982;
- (e) the principle of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada;
- (f) subject to section 43, the use of the English or the French language;
- (g) the Supreme Court of Canada;
- (h) the extension of existing provinces into the territories;
- (i) notwithstanding any other law or practice, the establishment of new provinces; and
- (j) an amendment to this Part.

*[Sections 10, 11, and 12 not included]*

13. Part VI of the said Act is repealed and the following substituted therefor:

#### PART VI

##### Constitutional Conferences

50. (1) A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once each year, commencing in 1988.

*Constitutional conference.*

(2) The conferences convened under subsection (1) shall have included on their agenda the following matters:

*Agenda.*

- (a) Senate reform, including the role and functions of the Senate, its powers, the method of selecting Senators and representation in the Senate;
- (b) roles and responsibilities in relation to fisheries; and
- (c) such other matters as are agreed upon.

*[Sections 14, 15 and 16 not included]*

17. This amendment may be cited as the *Constitution Amendment, 1987*.

## 5

**YUKON TERRITORIAL LEGISLATION**

Much of this book's focus is on federal legislation such as the Constitution Acts and the Yukon Acts, and on other documents such as federal/territorial agreements.

Yukon legislation cannot be overlooked when describing the constitutional base for the territory in that Canada's constitutional framework is the combined effect of constitutional statutes of the Parliament of Canada and select Acts of the provincial legislative assemblies, such as the Executive Council and Legislative Assembly legislation and Human Rights statutes which most provincial governments have enacted.

Cheffins and Johnson note that

as a result of subsection 92(1), prior to 1982, and now as a result of section 45 [*of the Constitution Acts*], each province has a number of important statutes which are vital to Canada's constitutional functioning. For example, it is quite typical for most provinces to have an Executive Council Act and a Legislative Assembly Act.... The statutes vary somewhat in content, yet are important sources of Canadian constitutional law.

[Cheffins and Johnson, *The Revised Canadian Constitution*, p. 18]

With regard to Human Rights legislation, they further state

It should be noted also that all provinces have statutes dealing with human rights, particularly with respect to discrimination based on race, colour, and religion among other things.... These statutes tend to cover the additional political rights such as freedom of speech, religion and assembly. They tend to be relatively recent in origin and are often overlooked by constitutional scholars. Nevertheless, in any overview of the Canadian constitutional system, they must still be counted as sources.

[Cheffins and Johnson, *The Revised Canadian Constitution*, p. 18]

This chapter will provide readers with the 1987 *Human Rights Act* of the Yukon Territory.

Also included is a 1982 bill entitled the *Executive Council Act*. The Acting Commissioner, upon direction from the Minister of Indian Affairs and Northern Development, reserved assent to the bill given the unique relationship between the Yukon and Canada. The reason given was that, unlike the provincial legislatures, the Yukon legislature does not have the jurisdiction to modify the powers and office of the Commissioner of the Yukon in that those powers are constituted through the federal Parliament's *Yukon Act*.

The office consolidation of the Yukon's *Legislative Assembly Act* is also included in this chapter. It is largely procedural in nature, outlining eligibility to sit, conflict of interest for members, and pay schedules.

A distinction between the jurisdiction of the *Legislative Assembly Act* and similar statutes of the provinces, is that it is subordinate to the federal *Yukon Act*. The Assembly's role and numbers can be modified by the Parliament of Canada without input from the Territory, whereas, the constitutional base for the legislatures in the provinces -- their Assembly legislation as protected by the *Constitution Act, 1867* -- cannot be modified without the agreement of the respective legislature.

## HUMAN RIGHTS ACT, YUKON

*The Human Rights Act is considered progressive in relation to similar legislation of the provinces. It is an important part of the Yukon's constitutional framework in that it provides for important protection to the individual in society. The full text of the Act is provided.*

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### STATUTES OF YUKON 1987, Chapter 3

#### HUMAN RIGHTS ACT

(Assented to February 12, 1987)

Recognizing that respect for human rights is a fundamental part of Canada's heritage,

That Canada is a party to the United Nations' Universal Declaration of Human Rights and other international undertakings having as their object the improvement of human rights in Canada and other nations of the world,

That the Yukon Government has a responsibility to encourage an understanding and recognition of human rights that is consistent with Canada's international undertakings and with the initiatives taken by Canada and the provinces, and

That it is just and consistent with Canada's international undertakings to recognize and make special provision for the unique needs and cultural heritage of the aboriginal peoples of the Yukon,

The Commissioner of the Yukon Territory, by and with the advice and consent of the Legislative Assembly, enacts as follows:

#### *Objects*

1. (1) The objects of this Act are
  - (a) to further in the Yukon the public policy that every individual is free and equal in dignity and rights,
  - (b) to discourage and eliminate discrimination,
  - (c) to promote recognition of the inherent dignity and worth of the equal and inalienable rights of all members of the human family, these being principles underlying the Canadian Charter of Rights

and Freedoms and the Universal Declaration of Human Rights and other solemn undertakings, international and national, which Canada honours.

- (2) This Act does not affect rights pertaining to aboriginal peoples established by the Constitution of Canada or by a land claims agreement.

*Multi-cultural heritage*

2. This Act shall be interpreted in a manner consistent with the preservation and enhancement of the multi-cultural heritage of the residents of the Yukon.

**PART 1**

**BILL OF RIGHTS**

*Right to freedom of religion and of conscience*

3. Every individual and every group shall, in accordance with the law, enjoy the right to freedom of religion, conscience, opinion, and belief.

*Right to freedom of expression*

4. Every individual and every group shall, in accordance with the law, enjoy the right to freedom of expression, including freedom of the press and other media of communication.

*Right to freedom of assembly and association*

5. Every individual and every group shall, in accordance with the law, enjoy the right to peaceable assembly with others and the right to form with others associations of any character.

*Right to enjoyment and disposition of property*

- 5.1 Every individual has a right to the peaceful enjoyment and free disposition of his or her property, except to the extent provided by law, and no one shall be deprived of that right except with just compensation.

**PART 2**

**DISCRIMINATORY PRACTICES**

6. It is discrimination to treat any individual or group unfavourably on any of the following grounds:
- (a) ancestry, including colour and race,
  - (b) national origin,
  - (c) ethnic or linguistic background or origin,
  - (d) religion or creed, or religious belief, religious association, or religious activity,
  - (e) age,
  - (f) sex, including pregnancy, and pregnancy related conditions,
  - (g) sexual orientation,
  - (h) physical or mental disability,

- (i) criminal charges or criminal record,
- (j) political belief, political association or political activity,
- (k) marital or family status,
- (l) actual or presumed association with other individuals or groups whose identity or membership is determined by any of the grounds listed in paragraphs (a) to (k).

*Duty to provide for special needs*

7. (1) Every person has a responsibility to make reasonable provisions in connection with employment, accommodations, and services for the special needs of others where those special needs arise from physical disability, but his duty does not exist where making the provisions would result in undue hardship.
- (2) For the purposes of subsection (1) "undue hardship" shall be determined by balancing the advantages and disadvantages of the provisions by reference to factors such as
- (i) safety,
  - (ii) disruption to the public,
  - (iii) effect on contractual obligations,
  - (iv) financial cost,
  - (v) business efficiency.
- (3) This Act does not apply to structures which at the commencement of this Act were existing and complied with the applicable requirements of the *Building Standards Act* and regulations under that Act.

*Prohibited discrimination*

8. No person shall discriminate
- (a) when offering or providing services, goods, or facilities to the public,
  - (b) in connection with any aspect of employment or application for employment,
  - (c) in connection with any aspect of membership in or representation by any trade union, trade association, occupational association, or professional association,
  - (d) in connection with any aspect of the occupancy, possession, lease, or sale of property offered to the public,
  - (e) in the negotiation or performance of any contract that is offered to or for which offers are invited from the public.

*Reasonable cause*

9. It is not discrimination if treatment is based on
- (a) reasonable requirements or qualifications for the employment,
  - (b) on a criminal record or criminal charges relevant to the employment,
  - (c) sex, so as to respect the privacy of the people to whom accommodations or a service or facility is offered, or
  - (d) other factors establishing reasonable cause for the discrimination.

*Exemptions*

10. (1) It is not discrimination for a religious, charitable, educational, social, cultural, or athletic organization to give preference to its members or to people the organization exists to serve.
- (2) It is not discrimination for individuals to give preference to members of their family.
- (3) Section 8 does not apply to
  - (a) the employment of a person to provide services in a private home or in any exclusively religious, charitable, educational, social, cultural or athletic organization,
  - (b) the choice by an occupant of a private home of a boarder or tenant to occupy part of the home.

*Systemic discrimination*

11. Any conduct that results in discrimination is discrimination.

*Special programs and affirmative action*

12. (1) Special programs and affirmative action programs are not discrimination.
- (2) Special programs are programs designed to prevent disadvantages that are likely to be suffered by any group identified by reference to a prohibited ground of discrimination.
- (3) Affirmative action programs are programs designed to reduce disadvantages resulting from discrimination suffered by a group identified by reference to a prohibited ground of discrimination.

*Harassment*

13. (1) No person shall
  - (a) harass any individual or group by reference to a prohibited ground of discrimination,
  - (b) retaliate or threaten to retaliate against an individual who objects to the harassment.
- (2) In subsection (1), "harass" means to engage in a course of vexatious conduct or to make a demand or a sexual solicitation or advance that one knows or ought reasonably to know is unwelcome.

*Equal pay for work of equal value*

14. (1) This section applies only to the Government of the Yukon and municipalities and their corporations, boards, and commissions.
- (2) It is discrimination for an employer to establish or maintain a difference in wages between employees who are performing work of equal value, if the difference is based on any of the prohibited grounds of discrimination.



- (3) In assessing the value of the work performed the criterion to be applied is the composite of the skill, effort, and responsibility required and the working conditions.
- (4) For the purposes of this section, "wages" means any form of payment for work performed by an individual, and includes salaries, commissions, vacation pay, dismissal wages, bonuses, value for board, rent, housing, lodging, payments in kind, employer contributions to pension funds or plans, employer contributions to long-term disability plans, employer contributions to any forms of health insurance plans, and any other advantage received directly or indirectly from the individual's employer.
- (5) An employer shall not reduce wages in order to comply with this section.

### PART 3

#### YUKON HUMAN RIGHTS COMMISSION

15. (1) There shall be a Yukon Human Rights Commission accountable to the Legislature and the commission shall
  - (a) promote the principle that every individual is free and equal in dignity and rights,
  - (b) promote the principle that cultural diversity is a fundamental human value and a basic human right,
  - (c) promote education and research designed to eliminate discrimination,
  - (d) promote a settlement of complaints in accordance with the objects of this Act by agreement of all parties,
  - (e) cause complaints which are not settled by agreement to be adjudicated, and at the adjudication adopt the position which in the opinion of the commission best promotes the objects of this Act.
- (2) The commission shall conduct education and research on the principle of equal pay for work of equal value in the private sector.

#### *Appointment of commission*

16. (1) The commission shall consist of a minimum of three and a maximum of five members who shall be appointed for a term of three years by the Legislature.
- (2) A member of the commission may only be removed from office by resolution of the Legislature.

#### *Annual report of commission*

17. In each fiscal year the commission shall deliver to the Speaker of the Legislature a report about the administration of this Act. The report shall not publish any names of individuals or businesses in which a complaint was dismissed or has not yet been dealt with.

*Director of Human Rights*

18. There shall be a Director of Human Rights responsible to the commission for
- (a) ensuring that complaints are dealt with in accordance with this Act,
  - (b) carrying out, in accordance with the commission's policies and directives, the administration of this Act.

**PART 4**

**COMPLAINTS**

19. (1) Any person believing that there has been a contravention of this Act against him or her may complain to the commission who shall investigate the complaint unless
- (a) the complaint is beyond the jurisdiction of the commission,
  - (b) the complaint is frivolous or vexatious, or
  - (c) the victim of the contravention asks that the investigation be stopped.
- (2) A complaint must be made within six months of the alleged contravention.

*Disposition of complaints by commission*

20. After investigation, the commission shall
- (a) dismiss the complaint, or
  - (b) try to settle the complaint on terms agreed to by the parties, or
  - (c) ask a board of adjudication to decide the complaint.

*Panel of adjudicators*

21. (1) There shall be a panel of adjudicators to be called upon as required to adjudicate complaints.
- (2) The panel of adjudicators shall consist of not less than three members, one of whom shall be designated Chief Adjudicator, who shall be appointed for a term of three years by the Legislature.
- (3) A member of the panel may only be removed from the panel by resolution of the Legislature.
- (4) When the commission asks that a complaint be adjudicated, the Chief Adjudicator shall establish a board of adjudication and determine its membership.

*Fundamental justice*

22. The board of adjudication shall conduct its hearings in accordance with the principles of fundamental justice and may exercise all the powers of a board appointed under the Public Inquiries Act.

*Where complaint established*

23. (1) If the complaint is proven on the balance of probabilities the board may order the party who discriminated to
- (a) stop the discrimination,
  - (b) rectify any condition that causes the discrimination,
  - (c) pay damages for any financial loss suffered as a result of the discrimination,
  - (d) pay damages for injury to dignity, feelings, or self-respect,
  - (e) pay exemplary damages if the contravention was done maliciously,
  - (f) pay costs.
- (2) No order made under this section shall contain a term
- (a) requiring an individual to be removed from employment if the individual accepted the position in good faith, or
  - (b) requiring an occupant of a dwelling to leave if the occupant obtained possession of the dwelling in good faith.

*Costs of adjudication*

24. If the board of adjudication concludes that the complaint was frivolous or vexatious or that the proceedings have been frivolously or vexatiously prolonged the board may order the commission to pay to the respondent
- (a) part or all of the respondent's costs of defending against the complaint, and
  - (b) damages for injury to the respondent's reputation.
- 24.1 If the board of adjudication concludes that the complaint was based on information that the complainant knew to be false the board may order the complainant to pay to the respondent
- (a) part or all of the respondent's costs of defending against the complaint, and
  - (b) damages for injury to the respondent's reputation.

*Enforcement of adjudication orders by court*

25. An order of the board of adjudication may be filed in the Supreme Court and it shall then be enforceable as an order of the Supreme Court.

*Appeals*

26. (1) Any party to a proceeding before a board of adjudication may appeal final decisions of the board to the Supreme Court by filing notice of appeal with the court within thirty days after the order of the board of adjudication is pronounced.
- (2) The procedure for the appeal shall be the same as for an appeal in the Court of Appeal.

- (3) An appeal under this section may be made on questions of law and the court may affirm or set aside the order of the board and direct the board to conduct a new hearing.
- (4) The only proceeding that may be taken to set aside or vary decisions of the board is the right of appeal given by this Act.

## PART 5

### OFFENCES

#### *Obstruction*

27. Every person who willfully obstructs or interferes with any person acting under the authority of this Act commits an offence.

#### *Retaliation*

28. It is an offence for a person to retaliate or threaten to retaliate against any other person on the ground that the other person has done or proposes to do anything this Act permits or obliges them to do.

#### *False reports*

- 28.1 Any person who reports to the commission information that the person knows to be false commits an offence.

#### *Penalties*

- 29 A person who commits an offence under section 27, 28, or 28.1 is liable on summary conviction to a fine of up to \$2,000.

## PART 6

### MISCELLANEOUS

30. If a complaint has been made to the commission or a prosecution has been commenced, a judge of the Supreme Court may grant a temporary injunction restraining any conduct alleged to be in contravention of this Act, or requiring the respondent or accused to comply with this Act until the complaint proceedings or prosecution have been completed.

#### *Disclosure*

31. (1) If a judge of the Supreme Court is satisfied that a request for disclosure of a document has been refused and that there are reasonable grounds to believe that the document is relevant to the investigation of a complaint, the judge may order the person who has the document to produce it for inspection and copying by the commission's investigator.

- (2) Personal information under the control of the commission shall not, without the consent of the individual to whom it relates, be disclosed or be used except
- (a) in proceedings under this Act or for any other purpose for which the commission obtained the information or a purpose consistent with that purpose, or
  - (b) in accordance with an order or rules of procedure of a court or other adjudicative tribunal.

### *Acts of employees*

32. Employers are responsible for the discriminatory conduct of their employees unless it is established that the employer did not consent to the conduct and took care to prevent the conduct or, after learning of the conduct, tried to rectify the situation.

### *Regulations*

33. After consultation with the commission, the Commissioner in Executive Council may make regulations
- (a) establishing the procedures of the commission and boards of adjudication,
  - (b) regarding the hiring of people by the commission and the terms and conditions of their employment or service,
  - (c) prescribing remuneration and expenses that may be paid.

34. In this Act

"physical disability" means any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and includes epilepsy, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, and physical reliance on a seeing eye dog or on a wheelchair or other remedial appliance or device;

"mental disability" means any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, or learning disability;

"person" includes a partnership, an unincorporated organization or association, and a trade union;

"sexual orientation" means heterosexual, homosexual or bi-sexual and refers only to consenting adults acting within the law.

### *Act binds Government of the Yukon Territory*

35. This Act is binding upon the Government of the Yukon Territory and its corporations, boards, and commissions.

*Paramountcy*

36. This Act supersedes every other Act, whether enacted before or after this Act, unless it is expressly declared by the other Act that it shall supersede this Act.

*Fair Practices Act*

37. The Fair Practices Act is repealed.

*Coming into force*

38. (1) Subject to subsection (2), this Act comes into force on July 1, 1987 or an earlier date to be fixed by the Commissioner in Executive Council.
- (2) In respect of municipalities and their corporations, boards, and commissions, section 14 comes into force on December 10, 1987.

## EXECUTIVE COUNCIL ACT, 1982

*It is unusual to include documents which have not been brought into force. However, as with the Meech Lake Constitutional Accord, it is important to include the Executive Council Act which did not receive assent from the Commissioner.*

*What this document represents is the continued subordinate role the Yukon's Assembly and Cabinet play with respect to the Government of Canada. Whereas the provinces are secure in their constitutional relationship with Canada, and have control over modifications to their provincial constitutional legislation, the Yukon's legislative and executive institutions are still subordinate to the Parliament and Executive of Canada.*

*The arguments made by the federal Minister as to why the legislation could not be assented to appear to be legitimate. The point of importance here, however, is that the distinctions between the provinces and the Yukon are real and do have an impact on the Yukon's ability to govern its own affairs, to manage its own constitutional base. From this perspective the Yukon Government is in fact an agent of the Parliament of Canada, dependent on the Parliament's good will to maintain its constitutional, legislative and executive authority.*

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### STATUTES OF THE YUKON TERRITORY

1982, Chapter 16

#### EXECUTIVE COUNCIL ACT

The Commissioner of the Yukon Territory, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. (1) This Act may be cited as the "Executive Council Act".

2. (1) This Act shall be construed, notwithstanding anything in this Act to the contrary, so as not to affect or to purport to affect any provision of the *Yukon Act* (Canada).

3. (1) For purposes within the legislative authority of the Legislature, there shall be an Executive Council composed of such members of the Legislative Assembly as the Commissioner may appoint.

*Executive Council membership.*

(2) The Commissioner shall appoint one of the members of the Executive Council to be the president of the Executive Council.

4. (1) The appointment of a member of the Legislative Assembly to be a member of the Executive Council, upon being announced by the Commissioner, is effective until the earlier of

*Duration of membership.*

- (a) the announcement of the appointment of a new Executive Council following the next general election,
- (b) the receipt by the Commissioner of the member's written resignation from office,
- (c) the cessation of the member to be a member of the Legislative Assembly, or
- (d) the announcement by the Commissioner of the removal of the member from office.

5. (1) The Commissioner in Executive Council may assign to a member of the Executive Council responsibility for the exercise of powers under any Act, and the Act shall be specified in the order making the assignment.

*Powers of member.*

(2) For purposes related to the fulfillment of responsibility assigned to a member of the Executive Council by the Commissioner in Executive Council, the member has authority to execute on behalf of the Government of Yukon

- (a) any agreement authorized under an Act responsibility for the administration of which is assigned to him under subsection (1), and
- (b) an agreement for the expenditure of Territorial funds in relation to any matter in respect of which he has been named as the responsible member of the Executive Council by the Commissioner in Executive Council.



6. (1) The Commissioner in Executive Council may transfer to another member of the Executive Council or rescind any of the responsibilities of a member of the Executive Council indefinitely, for any period of time or until the happening of any event.

*Transfer of  
member's powers.*

7. (1) The Commissioner in Executive Council may appoint any member of the Executive Council to act in the place of another member of the Executive Council who is absent from the seat of government or is unable from illness or any other reason to perform the duties of his office.

*Transfer of  
member's powers.*

(2) Subject to sections 5 and 6, where a member of the Executive Council expects to be absent from the seat of government for any period of less than 30 days, he may, with the consent of the president of the Executive Council, name another member of the Executive Council to act in his place while he is absent, and he may name different members of the Executive Council to act in his place with respect to his various duties and responsibilities.

8. (1) For all purposes within the legislative competence of the Legislature, every power of the Commissioner shall be exercised by him only with the advice and consent of the Executive Council as signified to him by the president of the Executive Council or a member of the Executive Council acting in the place of the president.

*Commissioner  
acting only with  
Executive Council.*

(2) Subject to subsection (1), wherever a power of the Commissioner within the legislative competence of the Legislature is expressed in an Act as a discretionary power, the power shall be exercised by him promptly upon receipt from the Executive Council of its advice that the power be exercised.

(3) Subsections (1) and (2) do not apply to this Act or the *Legislative Assembly Act*.

9. (1) This Act comes into force on May 1, 1982.

This Bill was passed in the First Sitting of the Fifth Session of the Twenty-Fourth Legislative Assembly which was dissolved on April 21st, 1982. On that date, prior to dissolution, the Administrator reserved assent to the Bill.

*Note*

## LEGISLATIVE ASSEMBLY ACT

*The Legislative Assembly Act is an integral part of an understanding of the constitution of the Yukon. It provides the foundation for representative government in the territory. This copy of the Act is from the Revised Statutes of the Yukon, 1986 with all subsequent amendments included.*

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### CHAPTER 102

#### LEGISLATIVE ASSEMBLY ACT

##### *Interpretation*

1. In this Act,

"Government Leader" means the recognized leader of the party or coalition that forms the Government;

"leader of a party" means the recognized leader of a party;

"Leader of the Official Opposition" means the recognized leader of the party with the largest number of members in opposition to the party or coalition that forms the government;

"member" means a member of the Legislative Assembly;

"party" means a registered political party as defined in the Elections Act which has one or more members who identify themselves with that party in the Legislative Assembly;

"recognized leader" means the member who is recognized, by the other members who identify themselves with a party, as being the leader of that party in the Legislative Assembly.

##### *Composition*

2. The Legislative Assembly shall be composed of members elected in the manner provided by the Elections Act one to represent each of the electoral districts established by the Electoral District Boundaries Act.

*Duration*

3. At the prorogation of a Legislative Assembly it is not necessary to name any day to which it is prorogued, nor to issue a proclamation for a meeting of the Legislative Assembly, unless it is intended that the Legislative Assembly meet for the dispatch of business.

*Qualifications*

4. Any person who would be entitled to vote at an election of members of the Legislative Assembly pursuant to the Elections Act shall be eligible for nomination and election as a member of the Legislative Assembly, unless disqualified under this or any other Act.

*Disqualifications*

5. (1) A member of the Senate or of the House of Commons of Canada or of the legislative assembly of any province is not eligible to be a member of the Legislative Assembly.

(2) A member of the Legislative Assembly who sits or votes as a member of the Senate or the House of Commons of Canada or of the legislative assembly of any province becomes ineligible to be a member of the Legislative Assembly or to sit or vote in the Legislative Assembly.

*Disqualifications and exemptions*

6. (1) For the purposes of this section and section 7, "Government" includes any department, ministry, branch, board, commission or agency of the government.

(2) Subject to subsection (3), a person who accepts or holds any office, commission or employment in the service of, or at the nomination of, Her Majesty, the Government of Canada or the Government of the Yukon is not eligible to be a member of the Legislative Assembly or to sit or vote in the Legislative Assembly.

(3) Nothing in this Act renders a person ineligible to be a member of the Legislative Assembly by reason only that he,

- (a) accepts or holds the office of Speaker or Deputy Speaker of the Legislative Assembly,
- (b) accepts, or holds a position as member of the Executive Council or the Advisory Committee on Finance,
- (c) receives any indemnity, expense allowance, salary, reimbursement or other payment to which he is entitled pursuant to this Act,
- (d) is or becomes an active member of the Canadian Forces as a consequence of war,
- (e) is or becomes a member of the militia or other reserve of the Canadian Forces other than in a position to which is attached a full-time salary,
- (f) accepts or holds a position which a member of the Legislative Assembly is expressly authorized to hold by resolution of the Legislative Assembly or by any Act as long as no salary or

- other profit is received by the person other than as provided for in or pursuant to the resolution or Act,
- (g) attends any meeting or event as a representative of the Legislative Assembly, the Speaker or the Government of the Yukon in his capacity as a member of the Legislative Assembly and receives only reimbursement of his travelling and living expenses therefor,
  - (h) accepts or holds the office of justice of the peace, coroner or notary public,
  - (i) receives a pension or other benefit in respect of previous service to Her Majesty, the Government of Canada or the Government of the Yukon,
  - (j) is or becomes employed by the Government of the Yukon as a casual employee within the meaning of the Public Service Commission Act, or
  - (k) is or becomes a member of a board, commission or other body created by an Act and he holds office as a member at the nomination of the Commissioner in Executive Council.

#### *Disclosure of members' interests*

7. (1) The purpose of this section in general is to promote full public disclosure by the members of the private interests, which may be or may appear to be in conflict with their duties as members, and in particular but without limiting the generality of the foregoing, the purpose of this section is to promote full public disclosure of

- (a) any direct or indirect interest of a member or his family, alone or with another, or by the interposition of a trustee, corporation or third party, in any contract with the Government of the Yukon,
- (b) any substantial benefits received directly or indirectly by a member or his family for or in respect of any contract with the Government of the Yukon,
- (c) any substantial benefit or gift received by a member of his family that may have been or may appear to have been received in respect of the actual or anticipated discharge by the member of his public duties,
- (d) any debt or other obligation of a member that may influence or appear to influence the discharge by the member of his public duty,
- (e) all of the business interests of a member and his family including directorships held by the member or his family, and
- (f) the arrangements made by the members and their families to ensure that no real, apparent or potential conflict of interest exists or will arise between their personal and business affairs and their public duties.

(2) Every member shall, on or before April 30 in each year, file with the clerk of the Legislative Assembly, a disclosure statement setting forth

- (a) a full description of the sources of all income received by the member or his family in the immediately preceding calendar year.
- (b) a full description of all real property in the Yukon in which the member or his family has an interest, or has had an interest in the immediately preceding calendar year.

- (c) a full description of the corporations, associations, partnerships and societies in which the member or his family has an interest, or has had an interest in the immediately preceding calendar year,
- (d) a description of assets of the member and his family, other than assets referred to in paragraph (b) and (c) and family assets within the meaning of the Family Property and Support Act,
- (e) where a member or his family has received any benefit under any contract or agreement with the Government of the Yukon, a full description of the nature and value of that benefit,
- (f) subject to paragraph (d), such other information as may be required by the regulations, and
- (g) such other information or particulars as the member may include to comply with the purpose of this section or to show what he has done to avoid conflicts between his present interests and his duties as a member.

(3) In this section, "family" means dependant relatives of the member residing in the same household as the member and includes his spouse.

(4) Every member shall from time to time file with the clerk of the Legislative Assembly such amendments to his disclosure statement as may reasonably be required to comply with the purpose of this section.

(5) Every disclosure statement or amendment filed with the clerk of the Legislative Assembly under this section shall be open for inspection by the public during the normal office hours of the office of the clerk of the Legislative Assembly.

(6) Where an interest or benefit is received, held or enjoyed by a member in common with other members of the public or a class of the public under a statutory right, other than one that is subject to the exercise of a power of discretion by a member of the public service, and the member receives, holds or enjoys no special preference not available to other members of the public or members of the class, the interest or benefit need not be set forth in the disclosure statement by the member.

(7) Notwithstanding subsections (1) and (2), a member need not set forth in his disclosure statement an interest in which he has no beneficial interest and that is held by him as an executor, administrator or trustee.

(8) Section 3 of the Summary Convictions Act does not apply in respect of this section.

#### *Loss of eligibility to vote as an elector*

8. No person is eligible to be a member of the Legislative Assembly or to sit or vote in the Legislative Assembly at any time that he would not be entitled to vote at an election of members of the Legislative Assembly pursuant to the Elections Act.

*Election of disqualified person*

9. If a person is disqualified or ineligible to be a member of the Legislative Assembly by this or any other Act at the time of his election and is nevertheless elected and returned as a member-elect, his election and return are null and void unless he has declared the grounds for disqualification or ineligibility and, within 30 days of his election and return, divested himself of the grounds for his disqualification in the manner provided in the Elections Act.

*Determination of disqualification*

10. (1) No disqualification or ineligibility arising under section 6 on any ground existing before an election shall be held to affect the right of a person to be a member of the Legislative Assembly or to sit or vote in the Legislative Assembly until such has been duly declared and held by a court hearing the issue pursuant to the Controverted Elections Act.

(2) Subsection (1) shall not be construed so as to limit any power the Legislative Assembly may have to suspend or expel a member.

*Duration, effect and enforcement of disqualification*

11. (1) A person who by or pursuant to this or any other Act is disqualified from being, made ineligible to be, or declared to be ineligible to be a member of the Legislative Assembly shall remain so ineligible and shall not sit or vote in the Legislative Assembly, during the term of the then current Legislative Assembly.

(2) A person who is declared to be disqualified from being or ineligible to be a member of the Legislative Assembly

(a) by a court pursuant to the Controverted Elections Act, or  
(b) by the Legislative Assembly on a ground arising under this Act and who sits or votes therein after having been declared to be so disqualified or ineligible, is subject to a penalty of \$200 for every day on which he sits or votes.

(3) Any person who would be entitled to vote at an election under the Elections Act who has grounds to believe that a member is subject to a penalty under subsection (2) may commence an action in his own name in the Supreme Court for an order that the penalty should be paid by the member to the Yukon Consolidated Revenue Fund.

(4) While an action under the provisions of this section is pending and is being duly prosecuted in good faith, no other action of the same nature shall be brought against the same person.

(5) Where an action under the provisions of this section is brought and judgment in the action rendered against the defendant, no proceeding shall be commenced or continued in any other action against the same person for any offence under this section committed before the time of notice to him of the judgment.

*Seat of disqualified member becomes vacant*

12. When a member becomes ineligible to be a member of the Legislative Assembly or to sit and vote in the Legislative Assembly by reason of any provision of this or any other Act, the seat of the member forthwith becomes vacant.

*Resignation of member*

13. (1) A member of the Legislative Assembly may resign his seat,
- (a) by declaring openly in his place in the Legislative Assembly his wish to resign, in which case the seat of the member shall forthwith become vacant,
  - (b) by causing to be delivered to the Speaker a written statement signed by him and attested by two witnesses declaring his wish to resign, and upon receipt thereof by the Speaker the seat of the member shall forthwith become vacant, or
  - (c) if at the time the Legislative Assembly is not sitting and there is no Speaker, the Speaker is absent from the Yukon or the member wishing to resign is the Speaker, by causing to be delivered to the Deputy Speaker or, in his absence, to two members, a written statement signed by him and attested by two witnesses declaring his wish to resign, and upon receipt thereof by the Deputy Speaker or the two members, the seat of the member shall forthwith become vacant.

(2) Where a member resigns pursuant to subsection (1), the clerk shall record the resignation in the journals of the Legislative Assembly.

*Writ of election following resignation*

14. Where a member resigns by open declaration in the Legislative Assembly, the clerk of the Legislative Assembly shall submit a copy of the record of the resignation to the Commissioner, who shall issue a writ for an election to fill the vacancy pursuant to the Elections Act.

*Writ of election following resignation*

15. Where a member executes a written form of resignation, the Speaker, the Deputy Speaker, or the two members upon receiving the resignation shall forthwith address a signed and sealed warrant to the clerk of the Legislative Assembly who shall transmit the warrant to the Commissioner, who shall issue a writ for an election to fill the vacancy pursuant to the Elections Act.

*Member may not resign until sworn in*

16. No person shall be deemed to be a member of the Legislative Assembly so as to be entitled to resign pursuant to this Act until he has been declared elected and taken an oath of allegiance.

*Notice to clerk of vacancy other than by resignation*

17. When a vacancy in the representation of any electoral district is created in any way other than by resignation, the Speaker or any two members of the Legislative Assembly may give notice of the vacancy to the clerk of the



Legislative Assembly, who shall record the vacancy in the journals of the Legislative Assembly and transmit the notice to the Commissioner, who shall issue a writ to fill the vacancy pursuant to the Elections Act.

*No by-election prior to general election*

18. Notwithstanding sections 14, 15 and 17 no new writ shall issue to fill a vacancy that occurs within six months of the expiry of the time limited for the duration of the Legislative Assembly.

*Effect of general election on by-election*

19. Where the Legislative Assembly is dissolved after the issue of a new writ to fill a vacancy and before the election held pursuant to it, the writ shall thereupon be deemed to have been superseded and withdrawn.

*Effect of resignation on election proceedings*

20. The resignation of a member shall not affect the conduct or result of any proceedings in respect of that member or his election that are pending or that may thereafter be taken under this Act, the Controverted Elections Act or the Elections Act.

*Election of Speaker*

21. The Legislative Assembly, on its first assembling after a general election, shall proceed with all practicable speed to elect one of its members to be Speaker.

*Replacement of Speaker*

22. In case of a vacancy happening in the office of the Speaker by death, resignation or otherwise, the Legislative Assembly shall proceed with all practicable speed to elect another of its members to be Speaker.

*Deputy Speaker*

23. The Legislative Assembly may elect a Deputy Speaker, and in any case where the Speaker, from illness or other cause, finds it necessary to leave the chair during any part of the sittings of the Legislative Assembly in any day, he may call upon the Deputy Speaker or in his absence upon any member of the Legislative Assembly to take the chair and act as Speaker during the remainder of the day, or a part thereof, unless the Speaker himself resumes the chair before the close of the sittings of that day, and the Deputy Speaker or member so called upon shall take the chair and act as Speaker accordingly.

*Absence of the Speaker*

24. Where the Legislative Assembly is informed by the clerk at the table of the absence of the Speaker, the Deputy Speaker, if present, shall take the chair and shall perform the duties and exercise the authority of the Speaker in relation to all proceedings of the Legislative Assembly until the meeting of the Legislative Assembly on the next sitting day.

*Absence of the Speaker and Deputy Speaker*

25. Where the Legislative Assembly is informed by the clerk at the table of the absence of the Speaker and the Deputy Speaker, the Legislative Assembly shall elect a member to take the chair and act as Speaker for the day or for such longer period during the continuing absence of the Speaker and the Deputy Speaker as the Legislative Assembly may determine.

*Validity of proceeding in the absence of the Speaker*

26. Where, at any time during a session of the Legislative Assembly, the Speaker is absent from the Legislative Assembly and the Deputy Speaker or a member thereupon performs the duties and exercises the authority of the Speaker as hereinbefore provided, or pursuant to a resolution of the Legislative Assembly, every act done and proceeding taken in or by the Legislative Assembly in the exercise of its powers and authority is as valid and effectual as if the Speaker himself were in the chair.

*Standing orders*

27. The Legislative Assembly may adopt standing orders for the orderly conduct of its business, and may amend the standing orders from time to time.

*Decisions by majority vote*

28. Questions arising in the Legislative Assembly shall be decided by a majority of votes cast, and the Speaker shall not vote except as provided in section 29.

*Speaker's casting vote*

29. When the number of votes cast for and against a motion are equal, the Speaker shall give a casting vote.

*Offence*

30. No member of the Legislative Assembly shall receive or agree to receive any fee, compensation or reward, directly or indirectly, either alone or with another, for services rendered or to be rendered to any person, either by himself or another, in relation to the drafting, preparation or promotion of any bill, resolution, question, petition, proceeding, controversy, charge or other matter before the Legislative Assembly or a committee thereof, or in order to influence or to attempt to influence any member of the Legislative Assembly or a committee thereof.

*Penalty*

31. (1) A member violating section 30 is subject to a penalty of \$1,000 and the amount or value of the fee, compensation or reward received or agreed to be received by him.

(2) Any person who would be entitled to vote at an election under the Elections Act who has grounds to believe that a member is subject to a penalty under subsection (1) may commence an action in his own name in the Supreme Court for the penalty, and one-half of the penalty shall belong to the person

bringing the action and one-half shall belong to the Yukon Consolidated Revenue Fund.

### *Effect of offence*

32. (1) If judgment is recorded against a member under section 30, or if by resolution of the Legislative Assembly it is declared that a member has been guilty of a violation of section 30, the seat of the member shall thereupon become vacant.

(2) A member whose seat becomes vacant pursuant to subsection (1) shall be ineligible to be elected to or sit or vote in the Legislative Assembly during the term of the then current Legislative Assembly.

### *Immunity of members*

33. No member of the Legislative Assembly is liable to any civil action or prosecution, arrest, imprisonment or damages by reason of any matter or thing brought by him before the Legislative Assembly or any committee thereof by petition, bill, resolution, motion or otherwise, or anything said by him before the Legislative Assembly or any committee thereof.

### *Privilege of copies of reports*

34. In any civil proceedings or prosecution against a person for or on account of or in respect of the publication of any copy of any debates, journals, votes and proceedings or reports printed by or under the authority of the Legislative Assembly, the defendant at any stage of the proceedings may lay before the court

(a) the debates, journals, votes and proceedings or reports and the published copy, and

(b) a statutory declaration verifying the debates, journals, votes and proceedings or reports and declaring the copy to be a true copy,

and the court upon being satisfied as to the correctness of the statutory declaration shall immediately stay the civil proceedings, and the proceedings and every writ or process issued thereon shall thereupon terminate.

### *Publishing of extracts of reports*

35. (1) Upon the trial of an action against a person for publishing an extract from or an abstract of any debates, journals, votes and proceedings or reports by or under the authority of the Legislative Assembly,

(a) the debates, journals, votes and proceedings or reports may be given in evidence under the general issue or denial, and

(b) it may be shown that the extract or abstract was published bona fide and without malice.

(2) If in the opinion of the court the extract or abstract was published bona fide and without malice, judgment shall be rendered or a verdict shall be entered for the defendant.

*Evidence*

36. In the proceedings referred to in sections 34 and 35 a copy of the debates, journals, votes and proceedings or reports of the Legislative Assembly printed or purporting to be printed by its order shall be admitted as evidence of the debates, journals, votes and proceedings or reports and of their contents by the court without any proof being given that the copies were so printed.

*Exemption from jury duty*

37. During a session of the Legislative Assembly or the 20 days preceding and the 20 days following the session,

- (a) all officers and employees of the Legislative Assembly, and
- (b) all witnesses summoned to attend before the Legislative Assembly or a committee thereof,

are exempt from serving or attending as jurors before any court of justice in the Yukon.

*Administration of oaths and affidavits*

38. Every member of the Legislative Assembly is ex officio a commissioner empowered to administer oaths and take and receive affidavits, declarations and affirmations in or outside the Yukon for use in the Yukon.

*Allowances and Salaries**Indemnities and expense allowances*

39. (1) Each member appointed to the Executive Council or to the Advisory Committee on Finance, or to both, shall be paid an indemnity of \$24,512 per annum and an expense allowance of \$12,256 per annum. (amended 1987, Spring Sitting, c. 15, s.2)

(2) An indemnity of \$24,512 per annum and an expense allowance of \$12,256 per annum shall be paid to each member to whom subsection (1) does not apply and who represents one of the following electoral districts:

- (a) Campbell;
- (b) Faro;
- (c) Hootalinqua;
- (d) Klondike;
- (e) Kluane;
- (f) Mayo;
- (g) Old Crow;
- (h) Tatchun;
- (i) Watson Lake. (amended 1987, Spring Sitting, c. 15, s.2)

(3) An indemnity of \$24,512 per annum and an expense allowance of \$10,701 per annum shall be paid to each member of the Legislative Assembly to whom subsection (1) does not apply and who represents one of the following electoral districts;

- (a) Whitehorse North Centre;
- (b) Whitehorse Porter Creek East;
- (c) Whitehorse Porter Creek West;
- (d) Whitehorse Riverdale North;
- (e) Whitehorse Riverdale South

- (f) Whitehorse South Centre;
- (g) Whitehorse West. (amended 1987, Spring Sitting, c. 15, s.2)

(3.1) The indemnities and expense allowances of members of the Legislative Assembly shall be adjusted on April 1 of each year after this subsection comes into force in accordance with the percentage change in the average annual Consumer Price Index for Canada over the previous two calendar years. (amended 1987, Spring Sitting, c. 15, s.2)

(4) The expense allowances referred to in subsections (1), (2) and (3) are provided to pay for the expenses of that member incident to the discharge of his duties as a member.

(5) For the purpose of computing the amount of any allowances payable pursuant to this section, a member shall be deemed to have been a member from the polling day on which he was elected up to and including the earlier of

- (a) the day preceding the polling day following the dissolution of the Legislative Assembly of which he is a member, or
- (b) the day on which he dies, resigns, is disqualified or otherwise ceases to be a member.

(6) From the indemnity payable to a member under this section a deduction of \$100 shall be made

- (a) for each day the member is absent from a sitting of the Legislative Assembly, and
- (b) for each day the member is absent from a sitting of a committee of which he is a member, where his absence is not excused by the rules of the committee providing for another member of the Legislative Assembly to take the place of the absent committee member.

(7) No deduction shall be made under subsection (6) in respect of any absence resulting from

- (a) the sickness of the member,
- (b) a sickness or death in the immediate family or the member,
- (c) any cause beyond the reasonable control of the member as determined by the Speaker, or
- (d) the attendance of the member at any meeting or event as a member of the Executive Council, as a representative of the Government of the Yukon or as a representative of the Legislative Assembly.

#### *Speaker and Deputy Speaker*

40. (1) In addition to the amounts provided in section 39, there shall be paid

- (a) to the member elected Speaker, a salary of \$7,420 per annum,
- (b) to the member elected Deputy Speaker, a salary of \$5,565 per annum, and
- (c) Repealed. (amended 1987, Spring Sitting, c. 15, s.3)

(2) For the purpose of computing the amount of salary payable under this section, a Speaker shall be deemed to occupy the position up to and including the earlier of

- (a) the day preceding the date fixed by proclamation for the beginning of the next sitting of the Legislative Assembly after the Legislative Assembly of which he is a member is dissolved, or
- (b) the day on which he dies, resigns, is disqualified or otherwise ceases to occupy the position.

(3) For the purpose of computing the amount of salary payable under this section, a Deputy Speaker shall be deemed to occupy the position up to and including the earlier of

- (a) the day preceding the polling day following the dissolution of the Legislative Assembly of which he is a member, or
- (b) the day on which he dies, resigns, is disqualified or otherwise ceases to occupy the position.

#### *Executive Council and Advisory Committee on Finance*

41 (1) In addition to the amounts provided in section 39, there shall be paid to each member appointed to the Executive Council or to the Advisory Committee on Finance, or to both, a salary of \$22,260 per annum.

(2) For the purpose of comparing the amount of salary payable under this section, each member appointed to the Executive Council shall be deemed to occupy his position on the Executive Council from and including the day of his appointment up to and including the earlier of

- (a) the day on which his appointment is terminated, or
- (b) the day on which he dies, resigns, is disqualified or otherwise ceases to occupy the position.

(3) For the purpose of computing the amount of salary payable under this section, each member appointed to the Advisory Committee on Finance shall be deemed to occupy his position on the committee from and including the day of his appointment up to and including the earlier of

- (a) the day of the dissolution of the Legislative Assembly of which he is a member, or
- (b) the day on which he dies, resigns, is disqualified or otherwise ceases to occupy the position.

#### *Government Leader*

42. (1) In addition to the amounts provided in sections 39 and 41, the Government Leader shall be paid a salary of \$8,236 per annum. (amended 1987, Spring Sitting, c. 15, s.4)

(2) For the purpose of computing the amount of salary payable under this section, the Government Leader shall be deemed to occupy his position for the period that he is

- (a) the recognized leader of the party or coalition that forms the government, and
- (b) a member of the Executive Council.

*Leader of the Official Opposition*

43. (1) In addition to the amounts provided in section 39, the Leader of the Official Opposition shall be paid a salary of \$22,260 per annum. (amended 1987, Spring Sitting, c. 15, s.5)

(2) Every leader of a party, other than the Government Leader and the Leader of the Official Opposition, shall be paid, in addition to the amounts provided in section 39, a salary of \$4,452 per annum. (amended 1987, Spring Sitting, c. 15, s.5)

(3) For the purpose of computing the amount of salary payable under this section, a leader of a party, other than the Government Leader, shall be deemed to have occupied his position from the later of the polling day on which he was elected a member and the day on which he becomes leader, up to and including the earlier of

- (a) the day preceding the polling day following the dissolution of the Legislative Assembly of which he is a member, or
- (b) the day on which he resigns, dies, is disqualified or otherwise ceases to occupy the position.

*Payment of indemnities, etc.*

44. The indemnities, expense allowances and salaries mentioned in sections 39, 40, 41, 42 and 43 are payable every 14 days.

*Accommodation and travel expenses*

45. (1) Every member who is absent from his normal place of residence in order to attend a sitting of the Legislative Assembly, a meeting of a committee of the Legislative Assembly or any meeting or event as a representative of the Legislative Assembly, of the Speaker or of the Government of the Yukon, in his capacity as a member shall be

- (a) reimbursed for his actual expenditures for accommodation, and
  - (b) paid an allowance for meals, incidental expenses and travelling expenses at the rate in force at the time for the public service.
- (2) A member representing the electoral district of
- (a) Campbell,
  - (b) Faro,
  - (c) Hootalinqua,
  - (d) Klondike,
  - (e) Kluane,
  - (f) Mayo,
  - (g) Old Crow,
  - (h) Tatchun, or
  - (i) Watson Lake

who is absent from his normal place of residence in order to attend a meeting of the caucus of a party or to attend any meeting or event in his capacity as a member during a period when the Legislative Assembly is not sitting shall be paid an allowance for meals and incidental expenses at the rate in force at the time for the public service, and shall be reimbursed for his actual expenditures for accommodation.

(3) The maximum amount payable to a member under subsection (2) in each fiscal year is \$8,800. (amended 1987, Spring Sitting, c. 15, s.6)

(4) A member who is absent from his normal place of residence under subsection (2) shall be paid an allowance in respect of travelling expenses incurred at the rate in force at the time for the public service.

(5) An allowance may be paid to a member pursuant to subsection (4) in respect of not more than 48 return trips in each fiscal year. (amended 1987, Spring Sitting, c. 15, s.6)

(6) A reimbursement of allowance is payable to a member under this section only in respect of his time necessarily spent in attendance under subsection (1) or (2) and his time necessarily spent in travel.

(7) For the purposes of this section, every member of the Executive Council or of the Advisory Committee on Finance shall be deemed to reside in the City of Whitehorse. (amended 1988 Spring Sitting, Miscellaneous Statute Law Amendment Act, 1988, s. 5)

#### *Whitehorse residence costs*

46. (1) A member who qualifies for reimbursement of actual expenditures for accommodation under section 45 or 47 may be reimbursed for renting or leasing accommodation in the City of Whitehorse and shall be reimbursed under this section by delivering a notice in the prescribed form to the clerk of the Legislative Assembly. (amended 1987, Spring Sitting, c. 15, s.7)

(2) Where a member is reimbursed under this section, the member is entitled to receive the amount certified to have been paid by him or her to the maximum prescribed by the Commissioner in Executive Council upon the recommendation of the Members' Services Board of the Legislative Assembly. (amended 1987, Spring Sitting, c. 15, s.7)

(3) Where a member is reimbursed under this section, the maximum amount payable to him in each fiscal year for meals and incidental expenses under subsection 45(3) is \$4,400. (amended 1987, Spring Sitting, c. 15, s.7)

#### *Visits to electoral districts*

47. (1) A member representing the electoral districts of

- (a) Campbell,
- (b) Faro,
- (c) Hootalinqua,
- (d) Klondike,
- (e) Kluane,
- (f) Mayo,
- (g) Old Crow,
- (h) Tatchun, or
- (i) Watson Lake

who has been appointed to the Executive Council or to the Advisory Committee on Finance, or to both, when visiting his electoral district in his capacity as a member, shall be paid an allowance for meals and incidental expenses at the rate in force at the time for the public service, and shall be reimbursed for his actual expenditures for accommodation.



(2) The maximum amount payable to a member under subsection (1) in each fiscal year is \$4,400. (amended 1987, Spring Sitting, c. 15, s.8)

(3) A member who visits his electoral district under subsection (1) shall be paid an allowance in respect of his travelling expenses at the rate in force at the time for the public service.

(4) An allowance may be paid to a member pursuant to subsection (3) in respect of not more than 24 return trips in each fiscal year. (amended 1987, Spring Sitting, c. 15, s.8)

#### *Exceptions respecting excess trips*

47.1 A member may be paid an allowance in respect of travelling expenses for more than the number of return trips allowed by subsections 45(5) and 47(4), but the allowance for the excess trips must be deducted from the amount the member would otherwise be entitled to under subsection 45(2) and 47(1). (amended 1987, Spring Sitting, c. 15, s.9)

#### *Dissolution of Legislative Assembly*

48. (1) No reimbursement or allowance is payable to a member of the Legislative Assembly under section 45, 46 or 47 in respect of expenditures made or expenses incurred between the dissolution of a Legislative Assembly and the day of the official addition of the votes pursuant to the Elections Act at the next ensuing general election.

(2) Notwithstanding subsection (1), a member is entitled to be paid a reimbursement or an allowance under section 45, 46 or 47 where the expenditures were made and the expenses incurred in respect of an absence or visit begun before the dissolution of Legislative Assembly, but in no event shall any reimbursement or allowance be paid in respect of the prolongation of an absence or visit after the member becomes aware of the dissolution.

#### *Speaker and Deputy Speaker*

49. In respect of travel in the performance of their duties, the Speaker and Deputy Speaker shall be paid an allowance for meals, incidental expenses and travel at the rate in force at the time for the public service, and shall be reimbursed for their actual expenditures for accommodation.

#### *Recognized leaders*

49.1 (1) In respect of travel within the Yukon in the performance of their parliamentary duties as recognized leaders, the Government Leader, the Leader of the Official Opposition and the leader of a party receiving a salary pursuant to subsection 43(2) shall be paid an allowance for meals and incidental expenses at the rate in force at the time for the public service, and shall be reimbursed for actual expenditures for accommodation. (amended 1987, Spring Sitting, c. 15, s.10)

(2) The maximum amount payable to a recognized leader under subsection (1) in each fiscal year is \$2,200. (amended 1987, Spring Sitting, c. 15, s.10)

(3) A recognized leader who is absent from his or her normal place of residence under subsection (1) shall be paid an allowance in respect of travelling expenses incurred at the rate in force at the time for the public service. (amended 1987, Spring Sitting, c. 15, s.10)

(4) An allowance may be paid to a recognized leader pursuant to subsection (3) in respect of not more than 12 return trips in each fiscal year. (amended 1987, Spring Sitting, c. 15, s.10)

#### *Workers Compensation Act*

50. Every member of the Legislative Assembly shall be deemed to be a worker within the meaning of the Workers Compensation Act while carrying out his duties as a member, travelling in connection with the business of, or representing the Legislative Assembly or a committee thereof, the caucus of a party, the Executive Council or the Advisory Committee on Finance and any compensation to which the member becomes entitled shall be paid by the Workers' Compensation Board.

#### *Forms*

51. The Commissioner in Executive Council may prescribe forms for the purposes of this Act.

#### *Annual report*

52. The Commissioner in Executive Council shall, within six months after the end of each fiscal year, prepare a report summarizing the activities and affairs of each department of the Government of the Yukon in that year and he shall transmit the report to the Government Leader who shall immediately table the report in the Legislative Assembly if it is sitting, and otherwise he shall table the report in the Legislative Assembly within 15 days after the commencement of the next sitting.

## 6

## AGREEMENTS AND FEDERAL/ TERRITORIAL RELATIONS

As noted in earlier chapters, the Yukon's constitutional relationship with Canada is strongly linked with the federal government, and specifically the Minister of Indian and Northern Affairs. A number of documents relating to this relationship are provided in this Chapter.

The *Department of Indian Affairs and Northern Development Act* provides jurisdiction to the federal Minister to manage the affairs of the North. This in many ways is a companion to the *Yukon Act* which is the subject of Chapter 2. Other key documents which have an impact on the relationship between the federal and Yukon governments are the Formula Financing Agreement, the Memorandum of Understanding on Devolution, and the Northern Accord Agreement in Principle. The documents either have or will have a significant impact on the financial security of the Yukon. They are key pieces in understanding the distinction between the Yukon and the provinces as these jurisdictions relate fiscally and economically to Canada.

There are three other topics addressed in this chapter which are interesting statements on the Yukon and its place in Canada.

The first relates to official bilingualism in the Yukon. Starting in 1984 the Yukon negotiated an understanding with the federal government respecting the federal *Official Languages Act* and how it would apply to the Territory. Ultimately an agreement was reached, but the history surrounding the negotiations is indicative of the degree to which the Yukon is still subject to the federal government and its policies and legislation.

The second topic relates to the Yukon's ability to hold membership in key federal-provincial and inter-provincial senior committees of Ministers. Specifically a letter of rejection from the Council of Ministers of Education, Canada (CMEC) to the Yukon's Deputy Minister of Education is included explaining why the Yukon is not able to hold membership in the Council.

The third topic is the Catholic agreement with the Yukon Government over the establishment of denominational schools in the Territory. The question of

denominational schools played a key role in the constitutional development of Canada and the entrance of new provinces. Today it continues to be the center of much debate in some provinces. For instance, the Newfoundland Government has established a Royal Commission to review the impact of denominational schools on the efficiency and effectiveness of the education system in that province. The existence of Catholic schools in the Yukon has added a curious footnote to the history of the Territory. Not only is it part of the Yukon's social development, but actually served to prevent British Columbia from absorbing the Territory into that province; this interesting history will be described later in this chapter.

There is other federal legislation that deserves note and possibly a place in this chapter, but due to limitations on space, other documents and statutes are not included in the compendium. Specifically, the *Quartz Mining Act*, the *Placer Mining Act*, and the *Territorial Lands Act* (and supporting legal instruments) reflect the federal government's jurisdiction over mining, land and water resources in the Territory. Whereas in the provinces the provincial governments hold Crown right over most public land and have jurisdiction over resource exploration and extraction from those lands, the Yukon is subject to federal legislation and regulations in this area. This has an impact on the degree to which the Yukon can manage the development of land and related resource use. It also restricts the effectiveness of the Territory in setting effective environmental policy which is becoming an increasingly important topic of public policy. Those interested in examining these pieces of legislation will find copies in the Whitehorse Public Library, the Law Library, and the Yukon Public Legal Education Association Library. Requests can be made at community libraries for copies of these statutes. The community Resource Management Officers and Mining Recorder Offices can in most cases provide copies of the *Territorial Lands Act* and mining legislation.

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## THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT ACT

*Federal authority over the Yukon has been exercised by a number of departments and Ministers since its establishment in 1898. In most cases the legislative base for the Minister's role has been briefly stated in acts whose main purpose is something other than jurisdiction over the North. For instance, the 1936 The Department of Mines and Resources Act, gives jurisdiction to the federal Minister in section 10, "The Minister shall have the control and management of (a) the affairs of the Northwest Territories, and of the Yukon Territory...". This is the only reference to the Minister's role respecting the two territories.*

*In 1949 The Department of Resources and Development Act gives Northern jurisdiction to the Minister through section 6. The wording for this section is identical to that in the the 1936 statute. The tie of Northern responsibilities to what are primarily resource development-focussed statutes is to a large degree indicative of the federal attitude toward the place of the North in Canada at that time.*

*In 1966 the focus shifted from resources to the relationship between northern governments and the native population in the North. In the Government Organization Act, 1966 (sections 15 through 20), the Department of Indian Affairs and Northern Development was established with its own Minister and defined responsibilities. In 1970 the first Department of Indian Affairs and Northern Development Act was enacted. There have been revisions to that statute, culminating in the 1985 Act, the text of which is provided below.*

*Of particular note is section 4 of the Act which outlines the jurisdiction of the Minister of Indian Affairs and Northern Development. It is clear from this that the Minister's role is subordinate to all other departments, boards or public agencies which have legal jurisdiction in the North. In interviews held in preparation for this book, on this topic it is clear that this subordinate role has been a source of frustration to the federal Department in that its responsibilities over the welfare of the North are jeopardized by competing interests of other departments and agencies of the Government of Canada. The issue surrounding the Official Languages Act (described later in this chapter) is indicative of this problem.*

*The Department of Indian Affairs and Northern Development Act can be found in the Revised Statutes of Canada, 1985.*

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## CHAPTER I-6

An Act respecting the Department of Indian  
Affairs and Northern Development

## Short Title

1. This Act may be cited as the *Department of Indian Affairs and Northern Development Act*, R.S., c. I-7, s.1. *Short title*

*Establishment of the Department*

2. (1) There is hereby established a department of the Government of Canada called the Department of Indian Affairs and Northern Development over which the Minister of Indian Affairs and Northern Development appointed by commission under the Great Seal shall preside. *Department established*

(2) The Minister holds office during pleasure and has the management and direction of the Department. R.S., c. I-7, s.2. *Minister*

3. The Governor in Council may appoint an officer called the Deputy Minister of Indian Affairs and Northern Development to hold office during pleasure and to be the deputy head of the Department. R.S., c. I-7, s.3. *Deputy head*

*Powers, Duties and Functions of the Minister*

4. The powers, duties and functions of the Minister extend to and include all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relating to *Powers, duties and functions of Minister*

- (a) Indian affairs;
- (b) the Yukon Territory and the Northwest Territories and their resources and affairs; and
- (c) Inuit affairs. R.S., c. I-7, s. 4; R.S., c. 14(2nd Supp.), s. 31; SI/79-89; 1984, c. 40, s. 38.

5. The Minister shall be responsible for *Idem*

- (a) coordinating the activities in the Yukon Territory and the Northwest Territories of the several departments, boards and agencies of the Government of Canada;

- (b) undertaking, promoting and recommending policies and programs for the further economic and political development of the Yukon Territory and the Northwest Territories; and
- (c) fostering, through scientific investigation and technology, knowledge of the Canadian north and of the means of dealing with conditions related to its further development. R.S., c. I-7, s. 5.

6. The Minister has the management, charge and direction of all lands situated in the Yukon Territory and the Northwest Territories belonging to Her Majesty in right of Canada except those lands therein that were immediately before October 1, 1966 under the management, charge and direction of any minister, department, branch or agency of the Government of Canada other than the Minister of Northern Affairs and National Resources or the Department of Northern Affairs and National Resources. R.S., c. I-7, s.6.

*Administration*

*Annual Report*

7. The Minister shall, on or before January 31 next following the end of each fiscal year or, if Parliament is not then sitting, on any of the first five days next thereafter that either House of Parliament is sitting, submit to Parliament a report showing the operations of the Department for that fiscal year. R.S., c. I-7, s. 7.

*Annual report*

## FORMULA FINANCING AGREEMENT

*Through the Constitution Act, 1982, all provinces take part in an equalization plan which ensures that the "have-not" provinces (those not well off) are given support through transfers from the stronger provincial and the national economies. The Yukon is not part of this arrangement, and indeed some have argued that if the Yukon were included in the equalization program it would be considered a "have" territory given the relatively high per capita incomes of many Yukoners.*

*In any event, the cost of government in the Yukon is expensive on a per capita basis when all government operations and services are considered. The revenue base in the Yukon is not sufficient to cover the level of expenditures required to provide for these operations, and therefore, the federal government and the Yukon have established financing arrangements under a Formula Financing Agreement different from equalization for the provinces. This arrangement is an important part of the federal government's commitment to assisting the territories in strengthening their economic position and indirectly their support for the constitutional development of the territory.*

*The 1985 Agreement is included here (without attachments), along with a 1989 letter of commitment from the federal Minister of Finance for a new Agreement which will provide financing in the early 1990s (at the time of printing the new Agreement was not finalized, and therefore could not be included in the compendium).*

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1985 Formula Financing Agreement

THIS MEMORANDUM OF AGREEMENT made this

10 Day of May, 1985

BETWEEN

The Government of Canada, represented herein by the Minister of Finance, (hereinafter called "Canada").

OF THE FIRST PART,

AND

The Government of Yukon, represented herein by the Commissioner of Yukon and the Executive Council Member responsible for Finance, (hereinafter called "Yukon"),

OF THE SECOND PART.

WHEREAS pursuant to Treasury Board approval for inclusion in Indian Affairs and Northern Development Vote 35 of the Estimates for the fiscal years ending March 31, 1986, 1987 and 1988 Canada is authorized to make certain payments to Yukon in accordance with an agreement entered into by the Minister of Finance on behalf of the Government of Canada and the Commissioner of Yukon and the Executive Council Member responsible for Finance on behalf of the Government of Yukon with the approval of the Governor-in-Council;

AND WHEREAS the Commissioner-in-Council has authorized the Commissioner of Yukon to enter into this Agreement;

AND WHEREAS the approval of the Governor-in-Council has been obtained for the entry by Canada into this Agreement;

AND WHEREAS it is understood that neither Canada nor Yukon shall be deemed by reason of having entered into this Agreement to have surrendered, abandoned or given over to the other any of the powers, rights, privileges or authorities vested in them under the Constitution Acts 1867 to 1982 and the Yukon Act, as the case may be, or otherwise, or to have impaired any of such powers, rights, privileges or authorities;

NOW THEREFORE THIS AGREEMENT WITNESSETH that the parties hereto in consideration of the Covenants and Undertaking herein contained covenant and agree as follows:

*Interpretation*

- 1) In this agreement, unless the context otherwise requires:

"Base Period" means the 1982-83 Fiscal year.

"Base Period Rates" means the tax, revenue and recovery rates in effect as of March 31, 1985.

"Base Period Gross Expenditures" means the sum of Federal grants, transfer payments, recoveries, own revenues, and mutually agreed upon base year adjustments as identified in Appendix A, Annex A.

"Eligible Revenues" means the sum of transfer payments, hypothetical own revenues and recoveries and excludes those items identified in Appendix A, Annex B.

"Failsafe" means the adjustment of income taxes, established programs financing payments and other eligible revenues, in the event that the final determination is less than or greater than the estimated amounts used in determining the grant.

"Fiscal Year" means the period of twelve months commencing on the 1st day of April and ending the 31st day of March next following.

"Formula Financing" or "Formula" means the fixed tax rate formula funding mechanism which is used to calculate the annual grant to Yukon as outlined in the Appendix A Operating Procedures.

"Grant" means the payment by Canada to Yukon referred to in the Federal Estimates for the Fiscal Year 1985/86 to 1987/88 on which Vote 35 is based.

"Gross Expenditure Base" means the base period gross expenditures and subsequent year adjustments escalated by the P-L escalator to any given year.

"Growth Rate of Provincial-Local Expenditures (P-L escalator)" means a three year moving average of the percentage change in the aggregate municipal and provincial government annual expenditures.

"Hypothetical Revenues and Recoveries" means the yield of base period rates applied to current bases of Yukon revenues and recoveries.

"Income Tax" means a tax imposed upon the income of an individual or a corporation and includes:

- (i) a tax upon the income from an office or employment,
- (ii) a tax upon the income from a business or property, and
- (iii) a poll or head tax based on income.

"Operating Procedures" means the methodology which will govern the calculation of the formula funding grant, as outlined in Appendix A hereto attached which shall form part of this agreement.

*Covenant by Canada*

- 2) In respect of the 1985-86 to 1987-88 fiscal years, Canada shall pay to Yukon, a grant subject to the terms and conditions set out in this

agreement, the annual Implementation Agreement, set out in Section 4, and subject to appropriation by Parliament, based on the Formula calculation. More specifically the grant will represent the difference between:

- (a) base period gross expenditures escalated by the growth rate of Provincial-Local expenditures and;
  - (b) eligible revenues.
- 3) For the term of the financing agreement the 1982-83 base period gross expenditures will be \$159,037,000, as calculated in Appendix A, Annex A.
  - 4) An annual Implementation agreement substantially in the form annexed hereto as Appendix B to be entered into by the Minister of DIAND and the Member of the Yukon Executive Council responsible for Finance shall embody the estimated eligible revenues, the estimated P-L escalator, and any mutually agreed to adjustments to the gross expenditure base, upon which the grant will be determined.
  - 5) Payments on account of the grant will be made in such instalments as are mutually agreed to by Canada and Yukon in the annual Implementation Agreement.
  - 6) The operation of the formula including the method and timing for grant adjustments in subsequent fiscal years will be governed by the operating procedures as set out in Appendix A. The operating procedures may be amended from time to time as mutually agreed to by Canada and Yukon.
  - 7) Meetings will be convened not less than twice per fiscal year for Canada and Yukon to discuss and review fiscal arrangements and financial issues of interest to Canada and Yukon.
  - 8) It is understood and agreed that funds in addition to those which will flow from the application of the formula will be provided to Yukon by the federal government to cover significant costs arising out of new federal initiatives or unforeseen events that create new responsibilities for Yukon and are beyond the powers of Yukon to control or to absorb. Any extraordinary costs of this nature identified by Yukon will require appropriate approvals. Yukon may seek, through the Minister of DIAND, cabinet approval of policy funding.

#### *General*

- 9) Nothing contained in this Agreement shall be deemed to vary or terminate any of the rights or obligations of Yukon or Canada under any agreement heretofore entered into between them or to limit their authority to enter into any further agreement in addition to or by way of amendment to this Agreement.
- 10) (a) This agreement shall come into force on the first day of April 1985 and shall terminate subject to paragraph (b), on the 31st day of March 1988, or on an earlier date if the parties mutually agree in writing.

- (b) (i) By mutual written consent between the parties this agreement may be extended for additional periods but will not continue beyond the 31st day of March 1990.
- (ii) Section 6 shall survive the termination of the Agreement and shall remain in force until the provision contained in the said section, Appendix A and the annual Implementation Agreement have been complied with or have been declared to be no longer in force by mutual written agreement between the parties hereto.

11) No member of the House of Commons or Senate shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

IN WITNESS whereof the Minister of Finance, has hereto set his hand on behalf of Canada, and the Commissioner and the Executive Council Member responsible for Finance has hereunto set their hand on behalf of Yukon.

Signed on behalf of Canada by the Honourable Erik Nielsen, Deputy Prime Minister of Canada, and the Honourable Michael Wilson, Minister of Finance

Signed on behalf of Yukon by Commissioner D. L. D. Bell, Commissioner of Yukon, and by the Honourable Willard Phelps Executive Council Member responsible for Finance

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*1989 Federal Letter of Commitment*

Mr. Piers McDonald  
Minister of Finance  
Government of the Yukon  
P.O. Box 2703  
Whitehorse, Yukon  
Y1A 2C6

Dear Mr. McDonald:

We are writing to inform you of the federal government's decision on the future of Formula Financing arrangements. When federal ministers of Finance and Indian and Northern Affairs last wrote you in February 1988 on this topic it was to offer an extension of the financing arrangements until March 31, 1990, and to outline our intentions for the immediate future. As was indicated at that time, we viewed the extension as an opportunity to undertake a more comprehensive review of issues involving the Formula Financing arrangements, a review which would carry us beyond 1990. Consequently, we identified the need to assess whether the territorial governments' fiscal dependence on the federal government could be reduced gradually over time.

During the intervening period, a great deal of time and effort has been put into the development and examination of changes to the current financing arrangements by officials at both levels of government. Furthermore, your

personal involvement has permitted us as Ministers of the Crown to better understand and appreciate your specific concerns with the proposals advanced by federal officials. I want to assure you that these discussions and the additional information provided have influenced, and are reflected in our decision.

First and foremost, we would like to indicate to you that we remain committed to the basic concept of Formula Financing. We view the arrangements to have been a success in meeting our common commitment to balancing territorial fiscal responsibility and accountability. We also recognize, because of the particular economic and geographic circumstances in the North, that the high level of transfers to the territorial government relative to those made to provinces are justified, and should continue into the foreseeable future. Subject to annual Parliamentary appropriations, we will therefore extend Formula Financing for a further five years. The extension will be made with the modifications outlined in the attached technical annex and an interim review will be made during the third year. The changes that will be made will, we believe, improve the durability and integrity of the formula, while gradually reducing the fiscal dependence of your government on the federal government.

Briefly, the modifications we will make incorporate into the formula, factors which recognize the difference in the population growth rate in the territories vis-a-vis the rest of Canada and the necessity of employing revenue yield adjustment factors as discussed with your officials and described in the letter of September 29, 1989 from the chairman of the Senior Financial Arrangements Committee (SFAC) to your Deputy Minister of Finance.

In light of the concerns which you have expressed about this adjustment, we have decided to phase it in over two years. This will significantly reduce its impact in 1990-1991, and should therefore be of considerable assistance to you. As you know, the factor will also be adjusted downward by 15 percent in recognition of the special circumstances in the North. A floor provision will also ensure that these changes will not result in a decrease in the overall funding available in the first two years.

We should emphasize that the grants will continue to grow year over year, albeit at a somewhat slower pace than if no adjustments had been made.

Under the new formula, as under the old, the grant will not be directly affected by territorial expenditure or tax policies. Your government retains all the tax revenue that it raises and bears full responsibility for its expenditure decisions.

A number of administrative proposals outlined in the original federal position paper that were acceptable to all parties will also be discussed with your officials over the next several months before a final decision is taken on these items.

Kindly consider this letter as a response to any of your recent correspondence to us that is still outstanding relating to the renewal of Formula Financing.

Yours Sincerely,

---

Pierre H. Cadieux  
*(Indian and Northern Affairs)*

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Michael H. Wilson  
*(Finance)*

## ANNEX 1

*Changes to Formula Financing to be  
introduced in fiscal year 1990-91*

- In order to make the formula more responsive to changes in territorial population vis-a-vis the provinces, a population adjustment to the P-L expenditure escalator will be introduced to put the formula's Gross Expenditure Base on a per capita basis. This change will provide the formula with additional sensitivity on the expenditure side. The GDP cap on the P-L escalator, introduced after the 1986-87 interim review, will continue to be applied, but before adjustment of the P-L escalator by the population adjustment factor.
- A further modification to the formula involves the introduction of two revenue yield adjustment factors, based on national average trends in taxation by provincial and local governments. The first or revenue "rebasings" factor will be derived from the representative tax system adjusted downward by 15 percent to reflect the unique nature of northern economies. This adjustment will mitigate its impact on Territorial Government finances.

This revenue rebasing measure will be introduced in a phased manner as follows.

In 1990-91, the 85 percent revenue rebasing factor will be further adjusted downward by 50 percent of its value in excess of one. In 1991-1992, the factor will be reduced by 25 percent of its value in excess of one.

The second revenue yield adjustment factor -- the annual adjustment factor -- designed to measure changes in provincial-local revenue raising effort relative to the 1987 base year, will be introduced beginning in 1990-1991.

- To ensure that these changes will not result in a decrease in the overall funding available to the territorial government, a floor provision for the first two years of the extension period will be introduced, whereby the sum of the grant and territorial revenues as determined under the current formula, would not fall below the 1989-1990 Gross Expenditure Base level. (For the purpose of determining the floor level of the grant, the 1989-1990 Gross Expenditure Base would be adjusted for any new program transfers.) Although we do not believe that this guarantee will be triggered, it will ensure the funding stability required to deliver public services to territorial residents.
- Details of these changes, with the exception of the phase-in outlined above, were provided in a letter to your Deputy Minister of Finance on September 29, 1989.

## PROGRAM DEVOLUTION

*Program devolution from the federal to the Yukon government is an important part of the Yukon's process of maturity. There are a number of services and responsibilities for which provinces hold jurisdiction. The territorial governments have not been in a position to establish institutions to exercise provincial-type jurisdiction in all associated areas. It is through the devolution process that these provincial-type responsibilities are being transferred to the territorial governments.*

*The topic is complex in that there are different kinds of transfers being negotiated. In some cases, responsibility of health services being a good example, the Yukon has jurisdiction, but the federal government delivers the services. This was due to a federal interest in integrating medical services for Indians and the non-native community in the Yukon during the 1950s. The specific trigger was the crisis of a polio epidemic in 1954 which resulted in exorbitant costs for the territorial government. Negotiations in this area, therefore, are not centered on transfer of jurisdiction, but on the appropriate levels of funding and facilities required for effective delivery by the Yukon government.*

*In other instances, negotiations relate to territorial delivery without the transfer of jurisdiction, an example being fisheries.*

*Finally, there are those areas where negotiations involve the devolution of jurisdiction and service delivery.*

*In 1988 a Memorandum of Understanding between the federal and territorial governments was signed. It establishes the basic framework within which negotiations will take place.*

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**MEMORANDUM OF UNDERSTANDING ON DEVOLUTION**

This Agreement made this 22nd day of September, 1988

**BETWEEN**

The Department of Indian Affairs and Northern Development (DIAND)

and

The Government of Yukon (the Yukon)

To facilitate the transfer of remaining provincial-type responsibilities to the Government of Yukon.

WHEREAS Canada is committed to provide Yukon residents with opportunities to develop and implement their own economic, political, constitutional and social approaches to achieve their aspirations, and

WHEREAS an Act respecting the Department of Indian Affairs and Northern Development R.S.C. 1970 C. I-7 provides that the Minister of Indian Affairs and Northern Development is responsible for coordinating the activities, in the Yukon Territory of the several departments, branches and agencies of the Government of Canada, and

WHEREAS the Yukon is committed to continue progress toward fully responsible government by providing Yukon residents with opportunities to develop and implement their own economic, political, constitutional and social approaches to achieve their aspirations, and

WHEREAS both parties desire the establishment of an on-going comprehensive process to meet these commitments.

NOW THEREFORE the parties hereby agree as follows:

1. The respective Guidelines for program transfers as approved and revised from time to time by Canada and the Yukon will be attached to and form part of this agreement and will be used as the context for the transfer of all remaining provincial-type programs and responsibilities.
2. DIAND will act as a focus for information and coordination of program transfers throughout the federal system. DIAND will provide advice and assistance to other departments and agencies and participate in the negotiation of transfers as appropriate.
3. Transfer of programs and responsibilities ultimately depends on territorial priorities and willingness to assume the same. Yukon will, in consultation with DIAND, set schedules and priorities which will be attached as appendices to this Agreement, as approved and revised from time to time.
4. Provincial type programs or responsibilities will not be transferred outside of the context of this agreement and appendices hereto without prior consultation with the Yukon.



5. Consultation will occur with Yukon Indian people in order to address concerns they may have with transfers. Such consultation will make use of existing or future mechanisms including the Constitutional Development and Program Devolution Working Group. Transfers must take into account Indian claims and be consistent with land claims agreements ratified by all parties and with Indian land claims settlements.
6. Nothing in this agreement precludes either party from carrying out normal consultations with Yukon Indian people.
7. Any standardized mechanisms developed to assist the transfer process respecting personnel, finance or communications may be attached to and form part of this agreement with the consent of both parties.
8. The parties will establish joint consultations as appropriate:
  - a) To identify and review the powers and responsibilities to be transferred to the Yukon in accordance with the commitments described above.
  - b) To identify interim or continuing residual federal responsibilities consistent with Land Claims and other federal obligations.
  - c) To consider alternative arrangements necessary to meet financial and other obligations to be assumed by the Yukon in connection with transfer of powers or responsibilities in a) above.
9. It is recognized that during and following devolution, there will be a need to review the Yukon's relationship with the Government of Canada. DIAND agrees to develop, in coordination with other departments, agencies and institutions of government, and in consultation with the Yukon, alternatives for federal-territorial relations to take effect as DIAND relinquishes its residual responsibilities for the territories.
10. The Minister of Indian Affairs and Northern Development and the Government Leader, Yukon shall meet on a regular basis to review overall implementation of this Agreement, and as required, to consider problems arising therefrom or in respect to specific transfer negotiations. The review will include issues or concerns arising from the Constitutional Development and Program Devolution Working Group.

Bill McKnight  
Minister of Indian Affairs  
and Northern Development  
Government of Canada

Tony Penikett  
Government Leader  
Government of Yukon

## Attachment

**GUIDELINES FOR FEDERAL PROGRAM TRANSFERS  
TO THE TERRITORIAL GOVERNMENTS**

The federal government shall, in transferring programs to the territories, be guided by the following principles:

1. The timing, conditions and nature of transfers of federal programs or federal control and administration of resources (e.g. forestry) shall be developed in concert with territorial governments and shall reflect territorial government priorities. DIAND shall provide a focus for information and coordination for such transfers.
2. Full consultation with native groups shall occur with the intent to resolve concerns they may have with respect to transfers.
3. Program transfers shall take into account native claims and must be consistent with claims agreements ratified by all parties and with native claims settlements.
4. There shall be developed, within the transfer process, appropriate measures for public information and communications.
5. The federal government will ensure that the total resources devoted to programs to be transferred (including capital and regional office/Ottawa Program Service Costs) are identified and made known prior to and/or during the negotiation process, and that those required to maintain the program will be transferred; and
  - a) Crown owned employee housing normally associated with the program will be identified and transferred;
  - b) Existing capital infrastructure associated with the program, as well as historic and current capital forecasts and expenditures shall be disclosed;
  - c) Once negotiations on the transfer of a program have commenced with a territorial government and a date for transfer established, the federal government shall not diminish the resources dedicated to such program before the established date of transfer without prior consultation with the territorial government;
  - d) While it is recognized that the quality of service associated with a transferred program may increase through local delivery, it is not the intention that the cost-base of the program and its delivery will be increased upon transfer. Post-transfer costs for enhancement of the program being transferred will be the responsibility of the Territorial Government;
  - e) As the transfer parties agree, and where it can be proven necessary, there may be one-time only additional expenditures occasioned by a program transfer to the territorial governments. Any such expenditures will be negotiated between the two parties.

6. The federal government shall, as a first priority in every instance, seek guarantees from territorial governments that all federal public servants appointed pursuant to the *Public Service Employment Act* and affected by transfer actions will be offered positions with similar levels of compensation by the territorial governments. For those employees who do not accept such positions, the federal government shall attempt through established employee assistance program(s) to find alternative placements within the federal public service.
7. Information will be made available on transfer processes to all affected personnel and their duly recognized bargaining authorities at the earliest possible date. Full consultation will occur between federal officials and the respective bargaining authorities on the best procedures for dealing with affected personnel.
8. The federal government shall undertake to identify and expeditiously enact all appropriate authorities and legislation prior to final transfers and will identify prior to the finalization of any transfers, any residual federal responsibilities which remain, as well as overlapping or joint responsibilities, if any. Upon completion of a program transfer, the program will become the responsibility of the transferee.
9. A program transfer will not be construed in any manner to prejudice further constitutional development for the Territories.

#### *YTG GUIDELINES FOR PROGRAM TRANSFERS*

1. The timing, conditions and nature of transfers of federal programs or federal control and administration of resources (e.g. forestry) shall be developed in concert with territorial governments and shall reflect territorial government priorities. DIAND shall provide a focus for information and coordination for such transfers.
2. Full consultation with native groups shall occur with the intent to resolve concerns they may have with respect to transfers. (The Constitutional Development and Program Devolution Working Group as established pursuant to the November 85 Memorandum of Understanding approved by the Yukon and Council for Yukon Indians shall be used as the primary vehicle for consultations and terms of reference of the Working Group shall be applicable to such consultations.)
3. Program transfers shall take into account native claims and must be consistent with claims agreements ratified by all parties and with native claims settlements. (As agreed in the Memorandum of Understanding and January 1986 Letter of Understanding, no claims agreement shall be altered or affected by any program or constitutional devolution without agreement of the CYI.)
4. The federal and territorial governments shall develop within the transfer process, appropriate measures for public information and communications.
5. The federal and territorial governments will ensure respectively that the total resources devoted to programs to be transferred, (including capital and

regional office/Ottawa Program Service Costs) are identified and made known prior to and/or during the negotiation process, and that those required to maintain the program will be transferred; and

- 5A. Crown owned employee housing normally associated with the program will be identified and subject to transfer.
  - 5B. Both governments will disclose existing capital infrastructure associated with the program, as well as historic and current capital forecasts and expenditures.
  - 5C. Once negotiations on the transfer of a program have commenced with the territorial government and a date for transfer established, the federal government shall not diminish resources dedicated to such a program before the established date of transfer, without prior consultation with the territorial government.
  - 5D. The funding transferred to the Yukon in connection with a program transfer must be sufficient to allow the Yukon to carry out that responsibility at a level of service adequate to the full and proper functioning of a program, and at a minimum, on a basis comparable to similar provincial programs.
6. All federal public servants appointed pursuant to the *Public Service Employment Act* and occupying positions identified for transfer will be offered positions by the territorial government. For those employees who do not accept such positions, the federal government shall attempt through established employee assistance program(s) to find alternative placements within the federal public service. Both governments will work together to deal equitably with all affected personnel with respect to levels of compensation, benefits and other matters. Without prejudice to existing federal management responsibilities, the Yukon Government will be allowed or invited to participate in recruitment/selection activities subsequent to the commencement of transfer negotiations.
  7. Information will be made available on the transfer process to all affected bargaining authorities at the earliest possible date. Full consultation will occur between federal and territorial officials and their respective bargaining authorities on the best procedures for dealing with affected personnel.
  8. The transfer parties shall undertake to identify and expeditiously enact all appropriate authorities and legislation prior to final transfers and will identify prior to the finalization of any transfers any residual federal responsibilities which remain, as well as overlapping responsibilities, if any. Upon completion of a program transfer the program will become the responsibility of the transferee.
  9. Program transfers will not be construed in any manner to prejudice further constitutional development for the Yukon.

## THE NORTHERN ACCORD

*The September, 1988 "An Enabling Agreement Between the Government of Canada and the Government of the Yukon Respecting Oil and Gas Resource Management and Revenues" (commonly referred to as the Northern Accord) is an important document which may set the foundation for the Yukon to develop greater economic self-sufficiency. The Northern Accord will afford the Government the opportunity to take an active part in the management of oil and gas development in the northern Yukon and off-shore in the Beaufort Sea. Furthermore, it will allow the Yukon to benefit from resource rents realized due to that development.*

*Some rough costings undertaken by the Yukon Government suggest that if a pipeline is built along the Dempster highway corridor through to northern B.C., the Yukon could gain sufficient revenues from that source alone to pay its own annual operating and capital expenditures.*

*It is this kind of fiscal freedom that would set the stage for the Yukon to argue its constitutional case from a position of economic stability. An often heard argument from southern Canadians is that when the Yukon cuts its dependency on the Government of Canada for the cost of running the Yukon's government, they will look more positively toward talk of provincial status. The Northern Accord may move the Yukon a step closer to this solid economic footing.*

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An Enabling Agreement Between the Government of Canada and the  
Government of the Yukon Respecting Oil and Gas Resource  
Management and Revenues

NORTHERN ACCORD  
AGREEMENT IN PRINCIPLE

*Agreement to Negotiate*

This agreement identifies principles acceptable to the Government of Canada and the Government of the Yukon for negotiating a Northern Accord.

*Purposes of an Accord*

1. To achieve the orderly development of oil and gas resources for the benefit of Canada as a whole and the Yukon Territory in particular;
2. To provide a stable and fair oil and gas management regime for the industry;

3. To increase the economic self-sufficiency of the Yukon;
4. To protect any oil and gas related aboriginal rights and interests flowing from claims settlements; and
5. To advance the political development of the Yukon consistent with the structure of Canadian federalism.

#### *Agreement Area*

1. This agreement applies to the Yukon Territory and the Beaufort Sea.

#### *Principles*

1. The Government of Canada agrees to the phased transfer to the Government of the Yukon of the administrative and legislative powers to manage oil and gas resources onshore in the Yukon Territory including:
  - a) the disposition and administration of oil and gas rights;
  - b) the determination and administration of oil and gas resource revenues, including royalties, bonus payments, rentals and license fees;
  - c) the regulation of oil and gas exploration, development and production activities; and
  - d) the management of Territorial benefit programs.
2. The Government of the Yukon agrees that the existing legislative regime onshore will be the *Canada Petroleum Resources Act* and the *Oil and Gas Production and Conservation Act* and that the eventual territorial onshore oil and gas legislative regime would be modelled after existing regimes in Canada and compatible with the offshore regime.
3. The Government of Canada and the Government of Yukon agree to share offshore oil and gas management in the Beaufort Sea under an agreed administrative regime.
4. The Government of Canada and the Government of the Yukon agree that the Government of the Northwest Territories may also participate in managing oil and gas resources in the Beaufort Sea commensurate with their interests.
5. The Government of the Yukon agrees that the initial joint legislative regime for shared management offshore will be within the framework of the *Canada Petroleum Resources Act* and the *Oil and Gas Production and Conservation Act*.
6. The Government of Canada agrees to discuss formally with the Government of the Yukon, the sharing of offshore legislative responsibility in the Beaufort Sea. The form of sharing will be finalized after there has been experience with significant offshore development.

*Revenues and Expenditures*

1. The Government of Canada agrees that all oil and gas resource revenues from the onshore Yukon Territory except those committed to aboriginal claims settlements, shall be for the use and benefit of the Government of the Yukon.
2. The Government of the Yukon agrees to negotiate an agreement with the Government of the Northwest Territories, commensurate with their interest, for sharing oil and gas resource revenues and administration costs with respect to the Beaufort Sea prior to finalization of an Accord.
3. The Government of Canada agrees that all oil and gas resource revenue from the Beaufort Sea shall be for the use and benefit of the Government of the Yukon and the Government of the Northwest Territories according to their agreement.
4. The Government of the Yukon agrees that as oil and gas revenues become available, federal assistance under the Formula Financing Agreement or successor agreements will be reduced.
5. The Government of Canada agrees that reduction in federal assistance will be less than the oil and gas revenues received, recognizing that the Government of the Yukon should receive a financial incentive from increased production.
6. The Government of the Yukon agrees that if revenues paid to the territories achieve a particularly high level, to be determined, an increasing portion of any incremental revenues would be retained by the Government of Canada.
7. The Government of Canada agrees to share the ongoing costs of the joint offshore administration.

*Phased Implementation*

1. The Government of Canada and the Government of the Yukon agree that onshore administration and legislative responsibility for oil and gas management will be transferred in agreed stages to the Government of the Yukon under agreed terms. Joint agreements will be put in place to share decisions regarding onshore management for responsibilities of areas where transfers have not yet been made.
2. The Government of Canada and the Government of the Yukon agree that shared offshore administrative and legislative responsibility for oil and gas management will be implemented in agreed stages under agreed terms.
3. The Government of Canada agrees to transfer from the Department of Indian Affairs and Northern Development, oil and gas administration funds and person years to the Government of the Yukon commensurate with its increased responsibilities.
4. The Government of Canada and the Government of the Yukon agree to cooperate within the spirit of the Accord to the extent possible throughout its implementation.

*Aboriginal Rights*

1. Nothing in an Accord shall identify or define any aboriginal right of title nor shall it abrogate or derogate from any aboriginal right or title.
2. The Government of the Yukon agrees to develop, with the participation of aboriginal groups, an effective means of protecting aboriginal interests related to oil and gas resource management.

Signed at Whitehorse, this 22nd day of September, 1988.



## BILINGUALISM IN THE YUKON

*In the Introduction to this Book attention is given to the vulnerable status of the Yukon's constitutional base. A revealing example of this vulnerability was reflected in the 1984 introduction of "An Act to amend the Northwest Territories Act and the Yukon Act" by the Minister of Indian Affairs and Northern Development which was intended to provide for official bilingualism in the two territories. The bill was drafted and tabled without prior discussion with either territorial government due to what was seen by the federal Minister as an emergency requiring immediate action. The Minister's reasons are articulated in a Press Release dated March 21, 1984 as provided below.*

*Following tabling of the bill, officials from the two levels of government entered discussions on territorial implementation of bilingual services in the territory. The Northwest Territories reached agreement with the federal government, but the Yukon did not. As a consequence, in June 1987, the federal government tabled an amendment to the Official Languages Act which expressly excludes the Northwest Territories from application of the Act, but which is silent respecting the Yukon. If passed, it is argued that the Yukon would have had to implement full bilingual public services in the Yukon. That Bill, though not expressly stating so, implied that the Yukon was an institution of the federal government.*

*Subsequent negotiations resulted in an accommodation between the two levels of government, and as a consequence, in June 1988, the amended Bill C-72 specifically excluded the Yukon as an institution of the federal government.*

*In April, 1988 Canada and the Yukon entered into an agreement for the provision of levels of services not only in respect to French language but also to aboriginal languages services, and subsequently territorial legislation was put in place to enforce the Agreement.*

*This series of events from 1984 through 1988 is of great significance in revealing the degree to which some federal government departments and agencies still see the Yukon as a part of the federal jurisdiction. The agreement was, ultimately, a positive step for the Yukon in that services for Yukon aboriginal people were recognized and supported along with French services in the final agreement and legislation.*

*This series of events is of importance to an understanding of the relations between the federal and Yukon governments, and therefore this section of Chapter 6 will include all documents (or appropriate sections) relating to this issue: the 1984 federal Press Release; the 1984 Bill for amending the Yukon Act; the 1987 Bill C-72 and final 1988 legislation amending the Official Languages Act; the 1988 Canada-Yukon Language Agreement; and the 1988 Languages Act (Yukon).*

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1984 Federal Press Release

Ottawa, March 21, 1984

**LEGISLATION TO PROVIDE FOR BILINGUALISM IN THE  
YUKON AND NORTHWEST TERRITORIES GIVEN FIRST READING**

Today, a bill was introduced for first reading on behalf of the Honourable John Munro to apply the official languages provisions of the Charter of Rights and Freedoms and the Official Languages Act to the Yukon and Northwest Territories. The provisions would be embodied in the two Acts which form the constitutions of these Territories. Such a step was necessitated by a recent Yukon court case which challenged a traffic violation on the grounds that it was in English only. Although the Territories are under Federal jurisdiction, the legal analysis required for the case revealed that official languages protections likely do not apply in the Territories. In order to be fully consistent with the Federal position on official languages in other parts of Canada, action was required prior to the court case, which is to be heard before the Yukon Supreme Court March 22-23.

The sudden emergence of this court challenge to the official languages protections in the Territories has cut short normal processes of consultation with the Territorial governments, although the desire for improvements in bilingual services has been a topic of discussions over the past several years.

Mr. Munro indicated, following talks with the Territorial Executive Councils over the past few days, that he would like to see an approach taken which would be consistent with the devolution of authority to the Territorial governments and yet would achieve the same objective. "The approach of introducing immediate amendments to the Territorial Acts is a second best choice, forced on the federal government by the circumstances of the court case", he said. "The government would prefer to take advantage of an opportunity to negotiate a different way of achieving the same objective, one that would be fully consistent with the principle of responsible government in the North."

Mr. Munro indicated that he would delay detailed debate on the Federal bill, to provide the opportunity for the Territorial Executive Councils to consider and bring forward their own ordinances on provision of bilingual services. These could then be affirmed through changes to the Territories' Acts, incorporating them into the constitutions of the two Territories. The Territorial Executive Councils could work out with the Federal government feasible implementation schedules for provision of bilingual protections and services, which will affect a very small part of the population in any case.

"We would hope to see an approach worked out which preserves the national principle of bilingualism and which makes French-speaking Canadians feel at home in the North without causing major disruptions in the process of government", Mr. Munro said. He added: "We continue to recognize the vital importance of the native languages in the North". "As recently as March 8, the Federal government proposed a resolution to give constitutional recognition to native languages. We intend to pursue efforts to support the use of these languages."

Mr. Munro asserted: "Nothing we have done today changes our overall policy of fostering responsible government in the North and of supporting native languages as a vital part of the Northern heritage".

1984 Draft Amendments to the Yukon and  
Northwest Territories Acts Respecting Bilingual Services

Second Session, Thirty-second Parliament, 32-33 Elizabeth II, 1983-84

THE HOUSE OF COMMONS OF CANADA

An Act to amend the Northwest Territories Act and the Yukon Act

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

PART I

Northwest Territories Act  
*[Not included]*

PART II

Yukon Act

2. The *Yukon Act* is amended by adding thereto, immediately after Part II thereof, the following Part:

"PART II.1

Official Languages

*General*

45.1 (1) English and French are the official languages of the Territory and have equality of status and equal rights and privileges as to their use in all institutions of the Council and government of the Territory.

*Official languages  
of Territory*

(2) Nothing in this Part limits the authority of the Commissioner in Council to advance the equality of status of use of English and French.

*Advancement of  
status and use*

45.2 Everyone has the right to use English or French in any debates and other proceedings of the Council.

*Proceedings of Council*

45.3 Ordinances of the Commissioner in Council and records and journals of the Council shall be printed and published in English and French and both language versions are equally authoritative.

*Ordinances, records and journals*

45.4 Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by the Commissioner in Council.

*Proceedings in Courts*

45.5 Any member of the public in the Territory has the right to communicate with, and to receive available services from, any head or central office of an institution of the Council or the government of the Territory in English or French, and has the same right with respect to any other office of any such institution where

*Communications by public with institutions of Territory*

- (a) there is a significant demand for communications with and services from that office in such language; or
- (b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.

45.6 Nothing in sections 45.1 to 45.5 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of those sections with respect to any language that is not English or French.

*Continuation of existing rights or privileges*

#### *Application of Official Languages Act*

45.7 (1) The *Official Languages Act* applies, with such modifications as the circumstances require, to the Territory.

*Application of the Official Languages Act*

(2) For the purposes of subsection (1), wherever in the *Official Languages Act* the expression "Parliament" occurs, there shall be substituted the expression "Council", except

*Substitution of certain expressions*

- (a) in sections 3 and 7 of that Act, where there shall be substituted the expression "Commissioner in Council";

- (b) in sections 15, 17 and 34 of that Act, where there shall be no substitutions;
- (c) in section 33 of that Act, where there shall be substituted the expression "Parliament and the Council"; and
- (d) in the expression "Act of the Parliament of Canada", for which there shall be substituted the expression "ordinance" but where the expression "Act of the Parliament of Canada" occurs in section 24 of that Act, there shall be no substitution.

(3) For the purposes of subsection (1), wherever in the *Official Languages Act* the expression "Government of Canada" occurs, there shall be substituted the expression "government of the Territory". *Idem*

(4) For the purposes of subsection (1), there shall be substituted for the expression "official gazette of Canada" in sections 4 and 6 of the *Official Languages Act* the expression "official gazette of the Territory". *Idem*

(5) For the purposes of subsection (1), wherever in subsection 11(5) or in section 24, 33 or 35 of the *Official Languages Act* the expression "Governor in Council" occurs, there shall be substituted the expression "Commissioner", but wherever elsewhere in the Act the expression "Governor in Council" occurs, there shall be no substitution. *Idem*

(6) For the purposes of subsection (1), there shall be substituted for the expression "Clerk of the Privy Council" in subsection 31(2) of the *Official Languages Act* the expression "Commissioner of the Territory". *Idem*

(7) For the purposes of subsection (1), a report to the Council made by the Commissioner of Official Languages under section 33 of the *Official Languages Act* shall be made by being transmitted to the Speaker of the Council for tabling before the Council. *Report by Commissioner of Official Languages*

*Status of Previous Laws*

**45.8** (1) Any ordinance, and any rule, order, regulation, by-law or proclamation required by or under the authority of an ordinance to be published in the official gazette of the Territory, that is made before the coming into force of this Part is of no force or effect if it is not printed and published in both official languages before January 1, 1988.

*Previous laws*

(2) For greater certainty, before January 1, 1988, no ordinance, rule, order, regulation, by-law or proclamation made before the coming into force of this Part is without force or effect by reason only of its having been printed and published in only one official language.

*Idem*

*Orderly Adaptation to Part*

**45.9** (1) Where it is established to the satisfaction of the Commissioner that the immediate application of any provision of this Part to any department or other institution of the Council or government of the Territory (hereinafter in this section called an "authority") or in respect of any service provided or made available by it

*Authority to defer or suspend immediate application of Part*

- (a) would unduly prejudice the interests of the public served by the authority, or
- (b) would be seriously detrimental to the good government of the authority, employer and employee relations or the effective management of its affairs,

the Commissioner may by order defer or suspend the application of any such provision to the authority or in respect of any such service for such period, terminating no later than December 31, 1987, as the Commissioner deems necessary or expedient.

(2) Any order made under this section may contain such directions and be subject to such terms and conditions as the Commissioner deems appropriate to ensure the earliest possible application of any deferred or suspended provision provided for in the order, and in addition may prescribe different periods, terminating, in any

*Terms of order and directions*

case, no later than December 31, 1987, for different operations carried on or services performed or made available by the authority, to or in respect of which the application of any such provision is deferred or suspended.

(3) A copy of any order made under this section, together with a report thereon by the Commissioner setting forth concisely the reasons for its making, shall be laid before the Council within fifteen days after the making of the order or, if the Council is not then sitting, on any of the first fifteen days next thereafter that the Council is sitting.

*Order to be laid  
before Council*

(4) In relation to the appointment and advancement in employment of personnel the duties of whose positions include duties relating to the provision of services by authorities to members of the public, it is the duty of the authority concerned to ensure that, in the exercise and performance of the powers, duties and functions conferred or imposed on it by law, due account is taken of the purposes and provisions of this Part, subject always to the principle of selection of personnel according to merit.

*Duty in relation to  
appointment and  
advancement of  
personnel*

#### *Languages of Aboriginal Peoples of Canada*

45.91 Nothing in this Part shall be construed as preventing the Commissioner, the Commissioner in Council or the government of the Territory from granting rights in respect of, or providing services in, any languages of the aboriginal peoples of Canada."

*Languages of the  
aboriginal peoples  
of Canada*

### PART III

#### Commencement

3. This act shall come into force on a day to be fixed by proclamation.

*Coming into force*

Proposed Official Languages Act Amendment, June 1987

C-72

Second Session, Thirty-third Parliament,  
35-36 Elizabeth II, 1986-87

THE HOUSE OF COMMONS OF CANADA

BILL C-72

An Act respecting the status and use of the official languages of Canada

First reading, June 25, 1987

*[Sections 1 and 2 not included]**Interpretation*

3. (1) In this Act,

*Definitions*

"Commissioner" means the Commissioner of Official Languages for Canada appointed under section 48;

*"Commissioner"*

"Crown corporation" means

*"Crown corporations"*

- (a) a corporation that is ultimately accountable, through a Minister, to Parliament for the conduct of its affairs, and
- (b) a parent Crown corporation of a wholly-owned subsidiary, within the meaning of section 95 of the *Financial Administration Act*;

"department" means a department as defined in section 2 of the *Financial Administration Act*;

*"department"*



"federal institution" includes any of the following institutions of the Parliament or government of Canada:

- (a) the Senate,
- (b) the House of Commons,
- (c) the Library of Parliament,
- (d) any court,
- (e) any board, commission or council, or other body or office, established to perform a governmental function by or pursuant to an Act of Parliament or by or under the authority of the Governor in Council,
- (f) a department of the Government of Canada,
- (g) a Crown corporation established by or pursuant to an Act of Parliament, and
- (h) any other body that is specified by an Act of Parliament to be an agent of Her Majesty in right of Canada or to be subject to the direction of the Governor in Council or a Minister of the Crown,

but does not include

- (i) any institution of the Council or government of the Northwest Territories, or
- (j) any Indian band, band council or other body established to perform a governmental function in relation to an Indian band or other group of aboriginal people;

"National Capital Region" means the National Capital Region described in the schedule to the *National Capital Act*.

*"National Capital Region"*

(2) In this section and in Parts II and III, "courts" means any court, tribunal or other body that carries out adjudicative functions and is established by or pursuant to an Act of Parliament.

*Definition of "court"*

*[Parts I to III not included]*

Official Languages Act Amendment, July 1988

## 35-36-37 ELIZABETH II

## CHAPTER 38

An Act respecting the status and use of the official languages of Canada

[Assented to 28th July, 1988 ]

[Preamble not included]

*Interpretation*

3 . (1) In this Act,

*Definitions*

"Commissioner" means the Commissioner of Official Languages for Canada appointed under section 49;

"Commissioner"

"Crown corporation" means

"Crown corporations"

- (a) a corporation that is ultimately accountable, through a Minister, to Parliament for the conduct of its affairs, and
- (b) a parent Crown corporation of a wholly-owned subsidiary, within the meaning of section 95 of the *Financial Administration Act*;

"department" means a department as defined in section 2 of the *Financial Administration Act*;

"department"

"federal institution" includes any of the following institutions of the Parliament or government of Canada:

"federal institution"

- (a) the Senate,
- (b) the House of Commons,
- (c) the Library of Parliament,
- (d) any federal court,
- (e) any board, commission or council, or other body or office, established to perform a governmental function by or pursuant to an Act of Parliament or by or under the authority of the Governor in Council,

- (f) a department of the Government of Canada,
- (g) a Crown corporation established by or pursuant to an Act of Parliament, and
- (h) any other body that is specified by an Act of Parliament to be an agent of Her Majesty in right of Canada or to be subject to the direction of the Governor in Council or a Minister of the Crown,

but does not include

- (i) any institution of the Council or government of the Northwest Territories or the Yukon Territory, or
- (j) any Indian band, band council or other body established to perform a governmental function in relation to an Indian band or other group of aboriginal people;

"National Capital Region" means the National Capital Region described in the schedule to the *National Capital Act*.

*"National Capital Region"*

(2) In this section and in Parts II and III, "courts" means any court, tribunal or other body that carries out adjudicative functions and is established by or pursuant to an Act of Parliament.

*Definition of "court"*

*[Parts I to III not included]*

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Canada-Yukon Language Agreement, 1988

CANADA-YUKON LANGUAGE AGREEMENT

This Agreement made this 28th day of April, 1988.

**BETWEEN:**

**THE GOVERNMENT OF CANADA** as represented by the Minister of Justice (hereinafter called Canada"),

**OF THE FIRST PART,**

**AND:**

**THE GOVERNMENT OF THE YUKON TERRITORY**, as represented by the Government Leader (hereinafter called "The Yukon"),

**OF THE SECOND PART,**

WHEREAS Canada and the Yukon agree that it is desirable to provide for the protection and enhancement of French language rights and services and of aboriginal language rights and services in the Yukon;

AND WHEREAS by virtue of the constitution of Canada and the *Official Languages Act*, English and French are Canada's official languages, and Canada is committed to the full recognition of the equality of those languages, in the Yukon;

AND WHEREAS the Yukon recognizing that English and French are the official languages of Canada, wishes to extend the recognition of French language rights and to provide services in that language to the extent set out in this agreement;

AND WHEREAS Canada recognizes that the provision of French language rights and services will require funding being made available by Canada to the Yukon for this purpose;

AND WHEREAS Canada and the Yukon agree on the importance of further measures to preserve, develop and enhance aboriginal languages of the Yukon, to recognize the status of those aboriginal languages, and to provide for aboriginal language services in the Yukon;

AND WHEREAS Canada recognizes that the aim of preserving, developing and enhancing aboriginal languages will require funding being made available by Canada to the Yukon for this purpose;

AND WHEREAS Canada and the Yukon agree on the importance of developing, through appropriate implementation mechanisms, educational programs that respect the minority language educational rights entrenched in the

Constitution; and educational programs that respond to the linguistic needs of the aboriginal people of the Yukon;

AND WHEREAS Canada and the Yukon wish to arrive at a satisfactory arrangement for the provision of funding for French and aboriginal language rights and services;

NOW THEREFORE Canada and the Yukon, in consideration of the undertakings and commitments set out in this Agreement, mutually agree as follows;

1. Canada and the Yukon agree that the preservation, development and enhancement of aboriginal languages is an important goal to be achieved by Canada and the Yukon.
2. Canada and the Yukon agree that in order to preserve, develop, and enhance those languages, it will be necessary for Canada to make funding available to the Yukon.
3. Canada agrees to provide to the Yukon immediate funding of \$250,000, under a contribution agreement, in 1988-89, for the purposes of research, program development and planning for the preservation, development and enhancement of aboriginal languages.
4. Canada further agrees to provide funding to the Yukon, in the amount of \$4,000,000, under contribution agreements, for the ensuing 4 fiscal years for the purposes set out in clause 2 herein, commencing in the fiscal year 1989-90.
5. During the fiscal year 1992-93, Canada and the Yukon will enter into negotiations to determine the extent and application of funding for aboriginal languages for a period to be agreed upon by the parties herein, and to determine the future status of French and English in the Yukon.
6. The Yukon accepts that English and French are the official languages of Canada, and the Yukon and Canada agree that the measures set out in this agreement to protect and enhance French language rights and services constitute an important step towards the implementation of the principle of equality of status of English and French in the Yukon.
7. Canada and the Yukon further agree to review the implementation of the principle of equality of French and English as an element of the future negotiations contemplated by this agreement.
8. The Yukon agrees that it will seek to secure the adoption by the Legislative Assembly of the Yukon of a Bill respecting French and aboriginal languages rights and services, the main terms of which will be as specified in the schedule hereto, on or before December 31, 1988.
9. Canada shall provide funding, on an ongoing basis from year to year, under contribution agreements, to bear all the costs incurred in development, enhancing and implementing French language rights and services in the Yukon that will be required on the enactment of the Bill contemplated by clause 8, and shall provide for the translation of Ordinances and Regulations.

10. The Parties acknowledge that Canada will seek to amend the *Yukon Act* to provide that the Bill contemplated by clause 8, when enacted, may not be amended in a manner that diminishes language rights and services or repealed except where the amendment or repeal is concurred in by the Parliament of Canada.
  11. Nothing in this Agreement shall be construed as preventing the Government of the Yukon from granting rights in respect of, or providing services in, English and French or any languages of the aboriginal peoples of Canada, in addition to the rights and services provided for in the Bill contemplated by clause 8.
  12. Canada agrees that it will not proceed with any future amendment of the *Yukon Act* or take any other legislative initiative which would have the effect of amending or repealing the Bill contemplated by clause 8, when enacted, or any part thereof without prior consultation with the Yukon.
- 

*The Yukon's Languages Act*

LANGUAGES ACT

1988 Spring Sitting

An Act of Yukon

May, 1988

The Commissioner of the Yukon Territory, by and with the advice and consent of the Legislative Assembly, enacts as follows:

*Purpose*

1. (1) The Yukon accepts that English and French are the official languages of Canada and also accepts that measures set out in this Act constitute important steps towards implementation of the equality of status of English and French in the Yukon.

(2) The Yukon wishes to extend the recognition of French and the provision of services in French in the Yukon.

(3) The Yukon recognizes the significance of aboriginal languages in the Yukon and wishes to take appropriate measures to preserve, develop, and enhance those languages in the Yukon.

*Advancement of status and use*

2. Nothing in this Act limits the authority of the Legislative Assembly to advance the equality of status of English, French, or a Yukon aboriginal language.

*Proceedings of the Legislative Assembly*

3. (1) Everyone has the right to use English, French, or a Yukon aboriginal language in any debates and other proceedings of the Legislative Assembly.

(2) The Legislative Assembly or a committee of the Assembly, when authorized by resolution of the Assembly, may make orders in relation to the translation of records and journals of the Assembly, Hansard, Standing Orders and all other proceedings of the Legislative Assembly.

*Acts and regulations*

4. Acts of the Legislative Assembly and regulations made thereunder shall be printed and published in English and French and both language versions are equally authoritative.

*Proceedings in courts*

5. Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by the Legislative Assembly.

*Communication by public with institutions of the Government of the Yukon*

6. (1) Any member of the public in the Yukon has the right to communicate with, and to receive available services from, any head or central office of an institution of the Legislative Assembly or of the Government of the Yukon in English or French, and has the same right with respect to any other office of any such institution where

- (a) there is significant demand for communications with and services from that office in both English and French, or
- (b) due to the nature of the office, it is reasonable that communications with and services from that office be in both English and French.

(2) The Commissioner in Executive Council may make regulations prescribing circumstances in which for the purposes of subsection (1) significant demand shall be deemed to exist or in which the nature of the office is such that it is reasonable that communication with and services from that office be in English and French.

*Continuation of rights and privileges*

7. Nothing in this Act abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Act with respect to any language that is not English or French.

*Rights and services not affected*

8. Nothing in this Act shall be construed as preventing the Legislative Assembly or the Government of the Yukon from granting rights in respect of, or providing services in, English and French or any Yukon aboriginal language in addition to the rights and services provided in this Act.

*Enforcement*

9. Anyone whose rights under this Act have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

*Agreement for implementation of this Act*

10. The Government of the Yukon may enter into agreements with the Government of Canada or any person or body respecting the implementation of the provisions of this Act or any matter related to this Act.

*Services in aboriginal languages*

11. The Commissioner in Executive Council may make regulations in relation to the provision of services of the Government of the Yukon in one or more of the aboriginal languages of the Yukon.

*Regulations*

12. The Commissioner in Executive Council may make regulations
- (a) respecting any matter that the Commissioner in Executive Council deems necessary to implement section 5;
  - (b) as the Commissioner in Executive Council deems necessary for carrying out the provisions of this Act.

*Orderly adaptation to this Act*

13. (1) No Act or regulation made after December 31, 1990, will be of any force or effect if it has not already been published in English and French at the time of its coming into force.

(2) No Act or regulation made before December 31, 1990, will be of any force or effect if it has not been published in English and French before January 1, 1994.

(3) Subsections (1) and (2) come into force upon assent; the other provisions of this Act come into force on December 31, 1992 or such earlier date as may for some or all of them be proclaimed by the Commissioner in Executive Council.



## YUKON REPRESENTATION ON FEDERAL-PROVINCIAL AND INTER-PROVINCIAL COMMITTEES

*The Yukon Government has frequently attempted to gain full membership in a number of important federal-provincial and inter-provincial committees of Ministers such as First Ministers Conferences, and the Council of Ministers of Education, Canada (CMEC). In some cases the Yukon is given membership at the working Deputy Ministerial level, but is often rejected at the Ministers' level.*

*It is clear from rejections, such as that provided below, that the Yukon will not be able to take part in key committees which will continue to have a substantial impact on public policy in Canada until it enters the "provincial club".*

*The example provided is a letter of rejection from the Director General of the CMEC to the Yukon's Deputy Minister of Education in response to the Deputy's earlier inquiry on this point. A further attempt was made by the Yukon's Minister of Education in 1990 with the same result.*

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Council of Ministers of Education, Canada  
252 Bloor West, Suite 5-200 Toronto, Ontario, Canada M5S 1V5  
Telephone 416 964-2551

April 6, 1987

Mr. D.P. Odin  
Acting Deputy Minister  
Department of Education  
Box 2703  
Whitehorse, Yukon  
Y1A 2C6

Dear Mr. Odin,

Thank you for your letter of March 20, 1987 regarding the matter of financial support to the Council of Ministers of Education, Canada (CMEC).

Yukon and the Northwest Territories do not provide financial support to the CMEC since they are not members of the Council. Although the ministers from the territories attend Council meetings regularly, their official status is that of participant-observer.

The status of the territories on the CMEC has been discussed on several occasions by the members of the Council and, on each occasion the conclusion has been the

same: until the constitutional situation of the territories changes, their status with respect to the CMEC must remain that of participant-observer. This position was confirmed most recently by the Premiers when they considered the matter at their August 1985 conference, held in St. John's Newfoundland.

Funding for Council activities is provided by the provinces on the basis of provincial population.

I hope this information will be of use to you. Should you require further details, please contact me.

Yours truly,

H.K. Fisher  
Director General

## CATHOLIC SCHOOLS AGREEMENT

*The last document in this Chapter relates to an important cornerstone of constitutional relations in Canada, denominational schools. In Canada, at the time of Confederation and during subsequent debates leading to the introduction of new provinces in Canada, the matter of denominational schools was a significant part of the arrangements adopted by Canada and the provinces.*

*In the Yukon, Catholic schools were provided for early in its history, and this arrangement has ironically played an important role in stopping the annexation of the Yukon by British Columbia. In the late 1930s the Premier of BC, Duff Pattullo, entered into discussions with the federal government respecting the take-over of the Yukon. BC, in 1870 when it entered Confederation, did not address the denominational schools question, and as a consequence this remained a sensitive issue for all BC governments. The fact that the Yukon had in place denominational schools for Catholics forced Pattullo to shy away from his move toward annexation of the Yukon in that it would have highlighted this politically contentious issue for his government.*

*The document provided below is the 1962 agreement between the Yukon and the Catholic Episcopal Corporation providing for Catholic denominational schooling in the Territory.*

---

**THIS AGREEMENT** made this 30th day of April A.D. 1962

**BETWEEN**

**THE COMMISSIONER OF THE YUKON TERRITORY,**  
hereinafter referred to as the "Commissioner" in his own  
right and on behalf of the Council of the Yukon Territory

**AND**

**THE CATHOLIC EPISCOPAL CORPORATION OF  
WHITEHORSE** on behalf of and representing the Roman  
Catholic residents of the Yukon Territory, hereinafter  
referred to as the "Corporation"

**WITNESSETH THAT**

**WHEREAS** discussions have been held between the Parties hereto and other interested persons relating to the provision of facilities in the Yukon Territory for the education of children of Roman Catholic parents separate and apart from other children, which in this Agreement are referred to as "separate schools";

AND WHEREAS it is accepted that separate schools and residential accommodation for lay teachers therein should until school districts are established under Part II of the *School Ordinance* be provided out of the public revenues of the Government of the Yukon Territory subject to certain conditions and limitations so that equality of treatment and opportunity in educational matters will prevail between children of Roman Catholic parents and children of other parents;

AND WHEREAS it is accepted that separate schools, being publicly supported schools should have the same rights and responsibilities as non-separate publicly supported schools, should receive the same measure of financial support from the Government of the Yukon Territory and should observe all statutory and other lawful requirements;

AND WHEREAS it is accepted that it is not in the interests of the Yukon Territory or children of Roman Catholic parents in the Yukon Territory that separate schools containing less than two classrooms be established;

AND WHEREAS the Corporation with the assistance of public monies has constructed and is operating certain separate schools in Whitehorse and is prepared to transfer them in trust to the Government of the Yukon Territory;

AND WHEREAS the Parties are in accord that the covenants principles and conditions hereinafter set out are and ought to remain part of the policy of the Government of the Yukon Territory in respect of education in the Yukon Territory

#### THE PARTIES HERETO COVENANT AND AGREE AS FOLLOWS:

1. (1) In consideration of the premises and of the sum of \$206,001.00 of lawful money of Canada to be paid by the Commissioner to the Corporation in the manner and at the times hereinafter set out the Corporation agrees to sell to the Commissioner and the Commissioner agrees to purchase from the Corporation the lands described in the schedule hereto together with all buildings, appurtenances and fixtures thereon and all furnishings, furniture and equipment therein as more particularly described in the said schedule and commonly known as Christ the King Elementary School and Christ the King High School both located in Whitehorse.

(2) The Corporation will, at its expense, as soon as possible and in any event before the 1st day of September, 1962, give vacant possession of the said lands, premises and equipment to the Commissioner and execute and deliver such documents and assurances as may be necessary to vest title in trust to such lands in Her Majesty the Queen in right of Canada free and clear of all encumbrances.

(3) The purchase price will be paid on the delivery of vacant possession or on the vesting of title in Her Majesty, whichever event shall be the later.

(4) Time is of the essence of this Agreement.

2. (1) The Government of the Yukon Territory will establish, operate and maintain throughout the Yukon Territory, except in any portion thereof included in a separate school district set up pursuant to Part II of the *School Ordinance*, education facilities (in this Agreement referred to as "separate schools") for children of Roman Catholic parents separate and apart from children of non-

Roman Catholic parents as required by and in accordance with the terms and conditions set out in this section and subject to any enactments and money appropriations made, from time to time, by the Commissioner in Council of the Yukon Territory.

(2) With respect to grades one to nine, both inclusive, where three or more Roman Catholic parents, each of whom appears on the current assessment roll of the Yukon Territory or of a municipality in the Yukon Territory residing in an area of not more than twenty-five square miles petition the Commissioner for a separate school providing grades one to nine, both inclusive, for that area, and where the Commissioner is satisfied

- (a) that there are residing in that area not less than twenty-six children between the ages of five and sixteen years of Roman Catholic parents, who, in his opinion, will be eligible to attend and whose parents intend them to attend the separate school when it is established,
- (b) that the probability is that within four years of the date of the petition there will be at least 35 such children in that area, and
- (c) that the enrolment in any other school providing grades one to nine, both inclusive, in that area operated by the Government of the Yukon Territory for children regardless of the religion of their parents will not fall below twenty-six during the four years immediately following the date of the petition

the Commissioner shall, out of monies appropriated, from time to time, for that purpose by the Commissioner in Council of the Yukon Territory, establish, operate and maintain for that area a separate school providing grades one to nine, both inclusive.

(3) Where a separate school has been established pursuant to subsection (2) of this section and the Commissioner is satisfied that there are residing in the area for which the separate school was established children of Roman Catholic parents who, in his opinion are eligible to attend grades ten, eleven or twelve and whose parents wish them to be educated separate and apart from children of non-Roman Catholic parents the Commissioner may

- (a) where the number of such children is twelve or less arrange for their instruction in grades ten, eleven and twelve in the separate school which was established, or
- (b) where the number of such children is more than twelve, if it is not, in his opinion uneconomical to do so, establish, operate and maintain for that area a separate high school providing grades ten, eleven and twelve.

(4) The Government of the Yukon Territory will not impose any fee or levy any tax in respect of a separate school established under this section that is in excess of any similar fee or tax imposed or levied by the Government of the Yukon Territory under similar circumstances in respect of a non-separate school operated and maintained for the same area by the Government of the Yukon Territory.

3. (1) Subject to subsection (2) when a separate school district is established under Part II of the *School Ordinance* which includes the area of the Yukon Territory being served by a separate school established pursuant to section 2 of this agreement the Commissioner will transfer to the trustees of that separate school district the lands and premises comprising that separate school, and any residential accommodation for teachers maintained in connection therewith upon such terms and conditions as the Commissioner in Council of the Yukon Territory may approve but such terms and conditions shall not be less favourable to the said trustees than those that would prevail were the said trustees trustees for a public school district and the school being transferred a school established, operated and maintained for the children of non-Roman Catholic parents by the Government of the Yukon Territory.

(2) Where the separate school to be transferred pursuant to subsection (1) is a school which by this agreement is sold to the Commissioner by the Corporation no money consideration will be exacted from the trustees by the Commissioner in respect of the lands and premises being transferred.

4. (1) The Government of the Yukon Territory will provide in respect of separate schools established pursuant to section 2 of this agreement

- (a) additional classroom facilities
- (b) bus, or other transportation for pupils
- (c) equipment
- (d) furniture
- (e) landscaping
- (f) libraries
- (g) playgrounds and
- (h) residential accommodation for lay teachers

of a like standard and upon like terms and conditions to the users thereof as are or would be provided by the Government of the Yukon Territory in respect of schools established, operated and maintained by the Government of the Yukon Territory for children of non-Roman Catholic parents in the same area.

(2) Except with the consent of the Corporation in respect of particular instances residential accommodation provided pursuant to subsection (1) of this section shall be separate and apart from accommodation provided by the Government of the Yukon Territory for teachers in schools for children of non-Roman Catholic parents.

5. (1) The Commissioner shall, before engaging any teacher for a separate school established pursuant to section 2 of this agreement consult with the Corporation with a view to obtaining the Corporation's approval of the teacher's suitability to teach in a separate school.

(2) The Corporation shall undertake programs for the recruitment of teachers, including principals and vice-principals, for separate schools, and shall as occasion may require recommend to the Commissioner persons to be engaged as teachers for such schools.

(3) The teachers referred to in subsection 1 of this section may be either members of a Roman Catholic teaching order or competent lay teachers and the Commissioner shall, in order to keep at a minimum the cost of teacher

accommodation give preference to any such lay teacher residing in the community where the vacant teaching position exists.

6. The Corporation will not plan or construct in the Yukon Territory and will use its best endeavours to prevent Roman Catholic persons and organizations from planning or constructing in the Yukon Territory educational facilities for teaching grades one to nine, both inclusive, to children of Roman Catholic parents, separate and apart from children of non-Roman Catholic parents, which contain less than two full-sized classrooms.

7. (1) The Corporation shall be responsible for instructing and training the pupils attending separate schools established by the Government of the Yukon Territory pursuant to section 2 of this agreement in the Roman Catholic religion and morality and for this purpose will provide at no cost to the Government of the Yukon Territory all necessary instructors, religious books, whether hymn, prayer or otherwise, sacred objects and all other religious accessories, appointments, furnishings and paraphernalia.

(2) The instruction and training referred to in subsection (1) of this section shall be given only during the times prescribed by the *School Ordinance* for such instruction and training.

8. It is recognized and agreed by the parties that all separate schools established by the Government of the Yukon Territory pursuant to section 2 of this agreement shall be operated, maintained and governed in accordance with all laws, including the *School Ordinance* that may, from time to time, be in force in the Yukon Territory.

9. The Corporation may from time to time confer with the Commissioner with a view to arranging for the setting aside of suitable separate school sites in areas of the Yukon Territory where it is probable that in the future separate schools will have to be established pursuant to this Agreement.

## 7

## YUKON INDIANS AND THE LAND CLAIM

Yukon Indians make up over twenty percent of the population of the territory. Much of their present development as a peoples is linked to the development of the territory as a whole.

Yukon Indians were members of an organized society which occupied land in the Yukon long before European settlers asserted their claims. However, even though occupancy today is being given some weight in common law, Canada is predominantly governed according to statute law and therefore constitutional documents are used to define the type of relationship Yukon Indians have with the territory.

Constitutionally speaking, the legal basis for a relationship between Yukon Indians and the British Crown dates back to the Proclamation of 1763. (The entire document will be included in this chapter.) Simply put, this proclamation states that the British Crown is obliged to settle with Indians in a fair and just manner before expropriating their land. This obligation was transferred to Canada in 1867 when the *British North America Act, 1867* and section 91 (24) placed exclusive legislative authority in the hands of the Federal Government for all matters respecting Indians. The signing of the 1870 Order in Council admitting the territories to Canada required the Government of Canada to settle Indian land disputes or claims in a fair and equitable manner conforming to "equitable principles and to pay compensation."

In 1973 Canada entered negotiation with Yukon Indians to compensate them for their traditional lands. To this date the Yukon Indian land Claim is not settled. However, the Yukon Indians, Canada and the Yukon Territorial Government have tentatively agreed on a compensation package that, if implemented, will have a profound effect on the constitutional arrangement Yukon Indians have with the territory and Canada.

The end result of this settlement will be federal legislation which will provide land, money and political powers to Yukon Indians in exchange for the extinguishment of their aboriginal rights to non-settlement lands. Parts of this proposed legislation will be included among the following documents. In addition, all the rights and privileges (except self-government) that are agreed to



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in this settlement will be guaranteed to Yukon Indians by Section 35 of the *Constitutional Act, 1982*.

This chapter will identify the present and possible future constitutional arrangement of Yukon Indians to Canada by providing: the *Proclamation Act of 1763*; appropriate sections of the *Constitution Act, 1982*; parts of the Comprehensive Land Claim Umbrella Agreement between The Government of Canada, The Council For Yukon Indians and the Government of the Yukon; and The Inuvialuit Final Agreement.

## ROYAL PROCLAMATION, 1763

*The Royal Proclamation of 1763 created a large area of land, including what is today the Yukon Territory and reserved it for Indians as their hunting grounds. The Proclamation makes it clear that if the Crown wants to dispose of Indian land for settlement, there must be public negotiation and sale of land between the Indians and representatives of the Crown. This negotiation process in the Yukon is ongoing and presently taking place in the form of the Yukon Indian Land Claim.*

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1763, October 7.  
Establishing New Governments in America.

BY THE KING

A PROCLAMATION

GEORGE R.

Whereas We have taken into Our Royal Consideration the extensive and valuable Acquisitions in America, secured to Our Crown by the late Definitive Treaty of Peace, concluded at Paris the Tenth Day of February last;<sup>1</sup> and being desirous, that all Our loving Subjects, as well of Our Kingdoms as of Our Colonies in America, may avail themselves, with all convenient Speed, of the great Benefits and Advantages which must accrue therefrom to their Commerce, Manufacturers, and Navigation; We have thought fit, with the Advice of Our Privy Council, to issue this Our Royal Proclamation,<sup>2</sup> hereby to publish and declare to all Our loving Subjects, that We have, with the Advice of Our said Privy Council, granted Our Letters Patent under Our Great Seal of Great Britain, to erect within the Countries and Islands ceded and confirmed to Us by the said Treaty, Four distinct and separate Governments, stiled and called by the Names of Quebec, East Florida, West Florida, and Grenada, and limited and bounded as follows; viz.

First. The Government of Quebec, bounded on the Labrador Coast by the River St. John, and from thence by a Line drawn from the Head of that River through the lake St. John to the South End of the Lake nigh Pissin;<sup>3</sup> from whence the said Line crossing the River St. Lawrence and the Lake Champlain in Forty five Degrees of North Latitude, passes along the High lands which divide the Rivers that empty themselves into the said River St. Lawrence, from those which fall into the Sea; and also along the North Coast of the Baye des Chaleures, and the Coast of the Gulph of St. Lawrence to Cape Rosieres, and from thence crossing the Mouth of the River St. Lawrence by the West End of the Island of Anticosti, terminates at the aforesaid River of St. John.

Secondly. The Government of East Florida, bounded to the Westward by the Gulph of Mexico, and the Apalachicola River; to the Northward, by a Line drawn from that Part of the said river to the Atlantick Ocean, and the Gulph of Florida, including all Islands within Six Leagues of the Sea Coast

Thirdly. The Government of Grenada, comprehending the Island of that Name, together with the Grenadines, and the Islands of Dominico, St. Vincents', and Tobago.

And, to the End that the open and free Fishery of Our Subjects may be extended to and carried on upon the Coast of Labrador and the adjacent Islands, We have thought fit, with the Advice of Our said Privy Council, to put all that Coast, from the River St. John's to Hudsons' Streights, together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coast, under the Care and Inspection of Our Governor of Newfoundland.

We have also, with the Advice of Our Privy Council aforesaid, annexed to Our Province of Georgia all the Lands lying between the Rivers Attamaha and St. Marys'.

And whereas it will greatly contribute to the speedy settling Our said new Governments, that Our loving Subjects should be informed of Our paternal Care for the Security of the Liberties and Properties of those who are and shall become Inhabitants thereof; We have thought fit to publish and declare, by this Our Proclamation, that We have, in the Letters Patent under Our Great Seal of Great Britain, by which the said Governments are constituted, given express Power and Direction to Our Governors of Our said Colonies respectively, that so soon as the State and Circumstances of the said Colonies will admit thereof, they shall, with the Advice and consent of the Members of Our Council, summon and call General Assemblies within the said Governments respectively, in such Manner and Form as is used and directed in those Colonies and Provinces in America, which are under Our immediate Government; and We have also given Power to the said Governors, with the Consent of Our said Councils, and the Representatives of the People, so to be summoned as aforesaid, to make, constitute, and ordain Laws, Statutes, and Ordinances for the Publick Peace, Welfare, and Good Government of Our said Colonies, and of the People and Inhabitants thereof, as near as may be agreeable to the Laws of England, and under such Regulations and Restrictions as are used in other Colonies: And in the mean Time, and until such Assemblies can be called as aforesaid, all Persons inhabiting in, or resorting to Our said Colonies, may confide in Our Royal Protection for the Enjoyment of the Benefit of the Laws of Our Realm of England; for which Purpose, We have given Power under Our Great Seal to the Governors of Our said Colonies respectively, to erect and constitute, with the Advice of Our said Councils respectively, Courts of Judicature and and Publick Justice, within Our said Colonies, for the hearing and determining all Causes, as well Criminal as Civil, according to law and Equity, and as near as may be agreeable to the Laws of England, with Liberty to all Persons who may think themselves aggrieved by the Sentences of such Courts, in all Civil Cases, to appeal, under the usual Limitations and Restrictions, to Us in Our Privy Council.

We have also thought fit, with the Advice of Our Privy Council as aforesaid, to give unto the Governors and Councils of Our said Three New Colonies upon the Continent, full Power and Authority to settle and agree with the Inhabitants of Our said New Colonies, or with any other Persons who shall resort thereto, for such Lands, Tenements, and Hereditaments, as are now, or hereafter shall be in Our

Power to dispose of, and them to grant to any such Person or Persons, upon such Terms, and under such moderate Quit-Rents, Services, and Acknowledgments as have been appointed and settled in Our other Colonies, and under such other Conditions as shall appear to Us to be necessary and expedient for the Advantage of the Grantees, and the Improvement and Settlement of our said Colonies.

And whereas We are desirous, upon all Occasions, to testify Our Royal Sense and Approbation of the Conduct and Bravery of the Officers and Soldiers of Our Armies, and to reward the same, We do hereby command and impower Our Governors of Our said Three New Colonies, and all other Our Governors of Our several Provinces on the Continent of North America, to grant, without Fee or Reward, to such Reduced Officers as have served in North America during the late War, and to such Private Soldiers as have been or shall be disbanded in America, and are actually residing there, and shall personally apply for the same, the following Quantities of Lands, subject at the Expiration of Ten Years to the same Quit-Rents as other Lands are subject to in the Province within which they are granted, as also subject to the same Conditions of Cultivation and Improvement; viz.

To every Person having the Rank of a Field Officer, Five thousand Acres.—To every Captain, Three thousand Acres.—To every Subaltern or Staff Officer, Two thousand Acres.—To every Non-Commission Officer, Two hundred Acres.—To every Private Man, Fifty Acres.

We do likewise authorize and require the Governors and Commanders in Chief of all Our said Colonies upon the Continent of North America, to grant the like Quantities of Land, and upon the same Conditions, to such Reduced Officers of Our Navy, of like Rank, as served on Board Our Ships of War in North America at the Times of the Reduction of Louisbourg and Quebec in the late War and who shall personally apply to Our respective Governors for such Grants.

And whereas it is just and reasonable, and essential to Our Interest and the Security of Our Colonies, that the several Nations or Tribes of Indians, with whom We are connected, and who live under Our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to, or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds; We do therefore, with the Advice of Our Privy Council, declare it to be Our Royal Will and Pleasure, that no Governor or Commander in Chief in any of Our Colonies of Quebec, East Florida, or West Florida, do presume, upon any Pretence whatever, to grant Warrants of Survey, or pass any Patents for Lands beyond the Bounds of their respective Governments, as described in their Commissions; as also, that no Governor or Commander in Chief in any of Our other Colonies or Plantations in America, do presume, for the present, and until Our further Pleasure be known, to grant Warrants of Survey, or pass Patents for any Lands beyond the Heads or Sources of any of the Rivers which fall into the Atlantick Ocean from the West and North-West, or upon any Lands whatever, which not having been ceded to, or purchased by Us aforesaid, are reserved to the said Indians, or any of them.

And We do further declare it to be Our Royal Will and Pleasure, for the present as aforesaid, to reserve under Our Sovereignty, Protection, and Dominion, for the Use of the said Indians, all the Lands and Territories not included within the Limits of Our said Three New Governments, or within the Limits of the Territory granted to the Hudsons' Bay Company, as also all the Lands and Territories lying to the Westward of the Sources of the Rivers which fall into the Sea from the West and

North West, as aforesaid; and We do hereby strictly forbid, on Pain of Our Displeasure, all Our loving Subjects from making any Purchases or Settlements whatever, or taking Possession of any of the Lands above reserved, without Our especial Leave and Licence for that Purpose first obtained.

And We do further strictly enjoin and require all Persons whatever, who have either willfully or inadvertently seated themselves upon any Lands within the Countries above described, or upon any other Lands, which, not having been ceded to, or purchases by Us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such Settlements.

And whereas great Frauds and Abuses have been committed in the purchasing lands of the Indians, to the great Prejudice of Our Interests, and to the great Dissatisfaction of the said Indians; in order therefore to prevent such Irregularities for the future, and to the End that the Indians may be convinced of Our Justice, and determined Resolution to remove all reasonable Cause of Discontent, We do, with the Advice of Our Privy Council, strictly enjoin and require, that no private Person do presume make any Purchase from the said Indians of any lands reserved to the said Indians, within those Parts of Our Colonies where We have thought proper to allow Settlement; but that if, at any Time, any of the said Indians should be inclined to dispose of the said Lands, the same shall be purchased only for Us, in Our Name, at some publick Meeting or Assembly the said Indians to be held for that Purpose by the Governor or Commander in Chief of Our Colonies respectively, within which they shall lie: and in case they shall lie within the Limits of any Proprietary Government, they shall be purchased only for the Use and in the Name of such Proprietaries, conformable to such Directions and Instructions as We or they shall think proper to give for that Purpose: And We do, by the Advice of Our Privy Council, declare and enjoin, that the Trade with the said Indians shall be free and open to all our Subjects whatever; provided that every Person, who may incline to trade with the said Indians, do take out a Licence for carrying on such Trade from the Governor or Commander in Chief of any of Our Colonies respectively, where such Person shall reside; and also give Security to observe such Regulations as We shall at any Time think fit, by Ourselves or by Our Commissaries to be appointed for this Purpose, to direct and appoint for the Benefit of the said Trade; And We do hereby authorize, enjoin, and require the Governors and Commanders in Chief of all Our Colonies respectively, as well Those under Our immediate Government as those under the Government and Direction of Proprietaries, to grant such Licences without Fee or Reward, taking especial Care to insert therein a Condition, that such Licence shall be void, and the Security forfeited, in Case the Person, to whom the same is granted, shall refuse or neglect to observe such Regulations as We shall think proper to prescribe as aforesaid.

And We do further expressly enjoin and require all Officers whatever, as well Military as those employed in the Management and Direction of Indian Affairs within the Territories reserved as aforesaid for the Use of the said Indians, to seize and apprehend all Persons whatever, who, standing charged with Treasons, Misprisions of Treason, Murders, or other Felonies or Misdemeanors, shall fly from Justice, and take Refuge in the said Territory, and to send them under a proper Guard to the Colony where the Crime was committed of which they stand accused, in order to take their Tryal for the same.

Given at Our Court at St. James's, the Seventh Day of October, One thousand seven hundred and sixty three, in the Third Year of Our Reign.

**GOD SAVE THE KING.**

London: Printed by Mark Baskett, Printer to the King's most Excellent Majesty; and by the Assigns of Robert Baskett. 1763.

## CONSTITUTION ACT, 1982

*Section 25 of the Constitution Act, 1982 reinforces past Aboriginal rights protected in previous documents, ensuring that the Charter of Rights and Freedoms is not interpreted in a manner that would change or reduce those Aboriginal rights defined prior to 1982.*

*Subsections 37. (1) and (2) which were repealed in 1983 provided for a Conference of First Ministers in which Aboriginal matters were to be formally discussed. As a consequence of the 1983 First Ministers Constitutional Conference amendments were made to the Constitution Act, 1982 which resulted in subsections 35 (3) and (4) and section 35.1 being added to the Constitution.*

*Subsection 35 (3) extends the rights protection established in 1982 by projecting protection to future land claims agreements. Subsection (4) ensures that rights are applied equally to both genders.*

*Section 35.1 was considered critical by the participants in the 1983 Constitutional Conference in that it ensured further formal dialogue between First Ministers and Aboriginal people to address outstanding concerns such as "self-government". At the same time this section ensured that changes to the constitutional protections which they had gained through sections 25 and all of Part II "Rights of the Aboriginal Peoples of Canada" (section 35 and 35.1) could not be made without formal prior consultation between First Ministers and Aboriginal people.*

*The Constitutional Conferences held in 1985 and 1987 (these in keeping with the 1983 amendment) did not bring about resolution of outstanding Aboriginal issues.*

*Sections 25, 35 and 35.1 are found here. Though repealed in 1983, subsections 37 (1) and (2) are also included given their importance to the subsequent 1983 Constitutional amendment.*

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**Section 25, Constitution Act, 1982****General**

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

*Aboriginal rights  
and freedoms not  
affected by Charter*

- (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and
  - (b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired.
- 

**Section 37, Constitution Act, 1982**

37. (1) A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada within one year after this Part comes into force.

*Constitutional  
conference*

(2) The conference convened under subsection (1) shall have included in its agenda an item respecting constitutional matters that directly affect the aboriginal peoples of Canada, including the identification and definition of the rights of those peoples to be included in the Constitution of Canada, and the Prime Minister of Canada shall invite representatives of those peoples to participate in the discussions on that item.

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*Participation of  
Aboriginal peoples*



*Section 35 and 35.1, Constitution Act, 1982***RIGHTS OF THE ABORIGINAL PEOPLES OF CANADA**

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

*Recognition of existing and treaty rights.*

(2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Metis peoples of Canada.

*Definition of "aboriginal" peoples of Canada.*

(3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.

*Land Claims agreements.*

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

*Aboriginal and treaty rights are guaranteed equally to both sexes.*

35.1 The government of Canada and the provincial governments are committed to the principal that, before any amendment is made to Class 24 of section 91 of the "Constitution Act, 1867", to section 25 of this Act or to this Part,

*Commitment to participation in constitutional conference.*

(a) a constitutional conference that includes in its agenda an item relating to the proposed amendment, composed of the Prime Minister of Canada and the first ministers of the provinces, will be convened by the Prime Minister of Canada; and

(b) the Prime Minister of Canada will invite representatives of the aboriginal peoples of Canada to participate in the discussions on that item.

## YUKON COMPREHENSIVE LAND CLAIM UMBRELLA FINAL AGREEMENT

*The Yukon Comprehensive Land Claim Umbrella Final Agreement is a lengthy document that will have profound effect on the way the Yukon is governed. Most rights established by it will be protected by Section 35 of the Constitution Act, 1982. Even those parts that are not "constitutionally protected" such as self-government, will become a part of a statute that will have all the legal weight granted other Parliamentary statutes, such as the Yukon Act.*

*Chapter 2 of the proposed Final Agreement is included in this compendium. It will be sufficient to give the reader an understanding of the expansive scope of this agreement, and, if ratified, the impact it will have on the territory.*

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### CHAPTER 2 — GENERAL PROVISIONS

- 2.1.0                    *The Umbrella Final Agreement*
- 2.1.1                    In accordance with this Agreement, the Parties hereto intend to conclude Yukon First nation Final Agreements as soon as possible.
- 2.2.0                    *Settlement Agreements*
- 2.2.1                    Settlement Agreements shall be land claims agreements within the meaning of Section 35 of the *Constitution Act, 1982*.
- 2.2.2                    Except as provided in Transboundary Agreements, the Settlement Agreements shall not affect any aboriginal claim, right, title or interest of a Yukon First Nation claimed in British Columbia or the Northwest Territories.
- 2.2.3                    Settlement Agreements shall not affect the identity of aboriginal people of the Yukon as aboriginal people of Canada.
- 2.2.4                    Subject to 2.5.0, 5.9.0, 5.10.1 and 25.2.0, Settlement Agreements shall not affect the ability of aboriginal people of the Yukon to exercise, or benefit from, any existing or future constitutional rights for aboriginal people that may be applicable to them.

- 2.2.5 The Settlement Agreements shall not affect the rights of Yukon Indian People as Canadian citizens and their entitlement to all of the rights, benefits and protections of other citizens applicable from time to time.
- 2.2.6 Nothing in Settlement Agreements shall affect the ability of Yukon First nations or Yukon Indian People to participate in and benefit from, Government programs for status Indians, non-status Indians or native people, as the case may be. Benefits under such programs shall be determined by the general criteria for such programs established from time to time. Programs which apply to Yukon Indian People residing on a Reserve or on Land Set Aside shall not cease only by reason of the fact the land becomes Settlement Land pursuant to a Yukon First nation Final Agreement.
- 2.2.7 Except as provided in Yukon First Nation Final Agreements, Chapter 4 — Reserves and Lands Set Aside and Chapter 20 — Taxation, nothing in Settlement Agreements shall affect any rights or benefits Yukon First Nations or Yukon Indian People may have or be entitled to under the *Indian Act*.
- 2.2.8 The parties shall negotiate the processes for ratification of the Umbrella Final Agreement, and the ratification of those processes shall be sought at the same time as ratification of the Umbrella Final Agreement. Ratification of this Agreement by Yukon First Nations shall be sought prior to April 1, 1991.
- 2.2.9 Each Yukon First Nation and Government shall negotiate the processes for ratification of that Yukon First Nation's Final Agreement and ratification of those processes shall be sought at the same time as ratification of the Yukon First Nation Final Agreement.
- 2.2.10 The parties to a Transboundary Agreement shall negotiate the processes for ratification of that Transboundary Agreement, and the ratification of those processes shall be sought at the same time as ratification of the Transboundary Agreement.
- 2.2.11 The enactment of Settlement Legislation shall be a condition precedent to the validity of Settlement Agreements which are ratified at the same as the Umbrella Final Agreement is ratified.
- 2.2.12 The passing of an Order-in-Council shall be a condition precedent to the validity of Yukon First nation Final Agreements which are ratified subsequent to those Settlement Agreements referred to in 2.2.11.

- 2.2.13 Except as provided in Transboundary Agreements, nothing in the Settlement Agreements shall be construed to affect, recognize or provide any rights under Section 35 of the *Constitution Act, 1982* for any aboriginal peoples other than Yukon Indian People.
- 2.2.14 Subject to 2.2.12, no right provided in Settlement Agreements for the benefit of any Person who is not a Yukon Indian Person or a Yukon First Nation shall be construed as a right within the meaning of Section 35 of the *Constitution Act, 1982*.
- 2.2.15 Settlement Agreements shall be the entire agreement between the parties thereto and there shall be no representation, warranty, collateral agreement or condition affecting those Agreements except as expressed in them.
- 2.3.0 *Amendment*
- 2.3.1 Except where expressly provided elsewhere in this Agreement in respect of any amendment of this Agreement, this Agreement may be amended only with the consent of all the Parties.
- 2.3.2 Consent to any amendment pursuant to 2.3.1 may only be given on the part of:
- 2.3.2.1 Canada, by the Governor in Council;
- 2.3.2.2 the Yukon, by the Commissioner in Executive council; and
- 2.3.2.3 Yukon First Nations, by a process to be negotiated when the Parties negotiate the process for ratification of this Agreement.
- 2.3.3 Except where expressly provided in a Yukon First Nation Final Agreement, a Yukon first Nation Final Agreement may only be amended by the parties to that Yukon First nation Final Agreement.
- 2.3.4 Consent to any amendment pursuant to 2.3.3 may only be given on the part of:
- 2.3.4.1 Canada, by the Governor in Council;
- 2.3.4.2 the Yukon, by the Commissioner in Executive Council; and
- 2.3.4.3 a Yukon First Nation by a process set out in that Yukon First Nation's Final Agreement.
- 2.4.0 *Settlement Legislation*
- 2.4.1 Upon ratification of the Umbrella Final Agreement, and upon ratification of a Yukon First Nation Final Agreement, Canada shall recommend to parliament, and Yukon shall

recommend to the Yukon Legislative Assembly Settlement Legislation.

2.4.2 Prior to ratification of the Umbrella Final Agreement, the Parties shall negotiate guidelines for drafting Settlement Legislation that Canada will recommend to Parliament and the Yukon will recommend to the Yukon Legislative Assembly, which Settlement Legislation shall, among other things:

2.4.2.1 approve, give effect to and declare valid those Settlement Agreements which have been ratified at the same time as the Umbrella Final Agreement and enable subsequently ratified Settlement Agreements to be approved, given effect and declared valid by Order-in-Council.

2.4.2.2 acknowledge that a Settlement Agreement is a land claims agreement within the meaning of Section 35 of the Constitution Act, 1982;

2.4.2.3 provide that a Settlement Agreement is binding on third parties; and

2.4.2.4 provide that where there is any doubt in the meaning of Settlement Legislation, and Settlement Agreement may be examined as an aid to interpretation.

2.4.3 Government shall consult the Council for Yukon Indians during the drafting of Settlement Legislation.

## 2.5.0 *Certainty*

2.5.1 In consideration of the promises, terms, conditions and provisos of Settlement Agreements:

2.5.1.1 subject to 5.14.0, each Yukon First Nation and all persons who are eligible to be Yukon Indian People it represents, their heirs, descendants and successors, as of the Effective Date of that Yukon First Nation's Final Agreement, cede, release and surrender to Her Majesty the Queen in Right of Canada, all their aboriginal claims, rights, titles, and interests, in and to:

(a) Non-Settlement Land and all other land and water including the Mines and Minerals within the sovereignty or jurisdiction of Canada, except the Northwest Territories, British Columbia and Settlement Land;

(b) the Mines and Minerals within all Settlement Land;

(c) Fee Simple Settlement Land;

- 2.5.1.2 each Yukon First Nation and all persons eligible to be Yukon Indian People it represents, their heirs, descendants and successors, as of the Effective Date of that Yukon First Nation's Final Agreement, cede, release and surrender to Her Majesty the Queen in Right of Canada all their aboriginal claims, rights, titles and interests in and to Category A and Category B Settlement Land and waters therein, to the extent that those claims, rights, titles and interests are inconsistent or in conflict with any provision of a Settlement Agreement;
- 2.5.1.3 each Yukon First Nation and all persons eligible to be Yukon Indian People it represents, their heirs, descendants and successors, as of the Effective Date of that Yukon First Nation's Final Agreement, cede, release and surrender to Her Majesty the Queen in Right of Canada claims, rights or causes of action which they may ever have had, may now have or may have hereafter, under, or arising out of Treaty 11; and
- 2.5.1.4 neither a Yukon First Nation nor any person eligible to be a Yukon Indian Person it represents, their heirs, descendants and successors, shall, after the Effective Date of that Yukon First Nation's Final Agreement, assert any cause of action, action for declaration, claim or demand of whatever kind or nature, which they ever had, now have, or may hereafter have against Her Majesty the Queen in Right of Canada, the Government of any Territory or Province, or any person based on:
- (a) any aboriginal claim, right, title or interest ceded, released or surrendered pursuant to 2.5.1.1 and 2.5.1.2;
- (b) any aboriginal claim, right, title or interest in and to Settlement Land, lost or surrendered in the past, present or future; or
- (c) any claim, right or cause of action described in 2.5.1.3.
- 2.5.2 Nothing in this Agreement shall be construed as an admission or assertion by Yukon First Nations or Yukon Indian People that Treaty 11 has any application to or effect on Yukon First Nations or Yukon Indian Person on Settlement Land.
- 2.6.0 *Interpretation of Settlement Agreements and Application of Laws*
- 2.6.1 The Umbrella Final Agreement, Yukon First Nation Final Agreement and Transboundary Agreement applicable to each Yukon First Nation shall be read together.

- 2.6.2 Settlement Legislation shall provide that:
- 2.6.2.1 subject to 2.6.2.2 to 2.6.2.6, all federal, territorial and municipal Law shall apply to Yukon Indian People, Yukon First Nations and Settlement Land;
  - 2.6.2.2 where there is any inconsistency or conflict between any federal, territorial or municipal Law and a Settlement Agreement, the Settlement Agreement shall prevail to the extent of the inconsistency or conflict;
  - 2.6.2.3 where there is any inconsistency or conflict between the Umbrella Final Agreement and any Settlement Agreement, the Umbrella Final Agreement shall prevail to the extent of the inconsistency or conflict;
  - 2.6.2.4 where there is any inconsistency or conflict between a Yukon first Nation Final Agreement and any Transboundary Agreement, the Yukon First Nation Final Agreement shall prevail to the extent of the inconsistency or conflict;
  - 2.6.2.5 where there is any inconsistency or conflict between Settlement Legislation and any other Legislation, the Settlement Legislation shall prevail to the extent of the inconsistency or conflict; and
  - 2.6.2.6 where there is any inconsistency or conflict between the Inuvialuit Final Agreement in effect on the date of ratification of this Agreement by Yukon First Nations and a Settlement Agreement, the Inuvialuit Final Agreement shall prevail to the extent of the inconsistency or conflict.
- 2.6.3 There shall not be any presumption that doubtful expressions in a Settlement Agreement be resolved in favour of any party to a Settlement Agreement or any beneficiary of a Settlement Agreement.
- 2.6.4 Nothing in any Settlement Agreement shall be construed as an admission by Government that Yukon First Nations or Yukon Indian People have any aboriginal rights, title or interests anywhere within the sovereignty or jurisdiction of Canada.
- 2.6.5 Settlement Agreements shall be interpreted according to the *Interpretation Act* (Canada), with such modifications as the circumstances require.
- 2.6.6 Objectives in Settlement Agreements are statements of the intentions of the parties to a Settlement Agreement and shall be used to assist in the interpretation of doubtful or ambiguous expressions.
- 2.6.7 Capitalized words or phrases shall have the meaning as defined in this Agreement.

- 2.7.0 *Access to Information and Privacy*
- 2.7.1 Notwithstanding any other provision of the Settlement Agreements, Government shall not be required to disclose any information that it is required or entitled to withhold under any Legislation relating to access to information or privacy. Where Government has a discretion to disclose any information, it shall take into account the objectives of the Settlement Agreements in exercising that discretion.
- 2.8.0 *Remedies*
- 2.8.1 Neither Government, the Council for Yukon Indians, a Yukon First Nation, nor any Yukon Indian Person shall have a claim or cause of action in the event any provision of a Settlement Agreement or the Settlement Legislation is invalid.
- 2.8.2 Neither Government, the Council for Yukon Indians, a Yukon First Nation, nor any Yukon Indian Person shall challenge the validity of any provision of a Settlement Agreement or the Settlement Legislation.
- 2.8.3 If any provision of a Settlement Agreement or Settlement Legislation is found by a court of competent jurisdiction to be invalid, the parties thereto shall make best efforts to amend that Agreement or the Settlement Legislation to remedy the invalidity or replace the invalid provision.
- 2.9.0 *Internal Overlap and Transboundary Agreements*
- 2.9.1 Subject to 2.9.2, each Yukon First nation has provided to Government a map at a scale no smaller than 1:500,000 delineating its Traditional Territory within the Yukon.
- 2.9.2 Prior to the ratification of this Agreement by the Yukon First Nations, the Kluane Tribal Council and the White River First Nation shall provide maps, at a scale no smaller than 1:500,000, of their Traditional Territories, which Traditional Territories shall be delineated within the Traditional Territory map provided by the Kluane Tribal Council pursuant to 2.9.1.
- 2.9.3 Prior to the ratification of a Yukon First Nation Final Agreement by the Yukon First nation, any overlapping claim, right, title and interest, of other Yukon First nations within its Traditional Territory as delineated pursuant to 2.9.1 or 2.9.2 shall be resolved to the satisfaction of the parties to that Yukon First Nation Final Agreement.
- 2.9.4 Transboundary Agreements may be appended to the Final Agreement of any affected Yukon First Nation.



- 2.9.5 The Vuntut Gwitchin First Nation Final Agreement shall include provisions with respect to the overlapping interests of the Vuntut Gwitchin First Nation and the Inuvialuit.

*2.10.0 Representation and Warranty*

- 2.10.1 Each Yukon First Nation hereby represents and warrants to Government that it represents all Yukon Indian People who may have any aboriginal claims, rights, titles or interests in or to its Traditional Territory.
- 2.10.2 Each Yukon First Nation hereby indemnifies and forever saves harmless Her Majesty the Queen in Right of Canada from and against all suits and actions, causes of action, claims, demands, and damages, whether known or unknown, by any person eligible to be a Yukon Indian Person represented by the Yukon First Nation referred to in 2.10.1, which that person ever had, now has or may hereafter have against Canada or the Yukon relating to or in any way arising from the claims, rights, titles and interests described in 2.5.0, 5.9.0 and 5.10.1.

*2.11.0 General*

- 2.11.1 Any reference in a Settlement Agreement to Legislation or any particular Legislation shall include that Legislation as amended from time to time and any successor Legislation, except where expressly provided otherwise.
- 2.11.2 Successor Legislation includes territorial Legislation which replaces federal Legislation as a consequence of devolution of authority or responsibility from Canada to the Yukon.
- 2.11.3 For purposes of the application of this Agreement to a Yukon First Nation, each Yukon First Nation Final Agreement shall provide that the then existing name of that Yukon First Nation is to be substituted for the term "Yukon First Nation" wherever it appears in 2.5.0, 2.10.1, 5.9.0 and 5.10.1 of this Agreement.
- 2.11.4 Except as provided in 2.11.3, for purposes of the application of this Agreement to a Yukon First Nation, each Yukon First Nation Final Agreement and Transboundary Agreement shall name which of that Yukon first Nation's then existing legal entities is to be substituted for the term "Yukon First Nation" wherever it appears in this Agreement.
- 2.11.5 Any legal entity described in 2.11.4 must have all the capacities, rights, powers and privileges of a natural person, subject to such special provisions as may be set out in that Transboundary Agreement or Yukon First Nation Final Agreement.

- 2.11.6 The act of acquiring or the holding of any rights, liabilities or obligations by any entity described in 2.11.4, shall not be construed to affect any aboriginal right, title or interest of that Yukon First Nation, a Yukon Indian Person it represents or their heirs, descendants or successors.
- 2.11.7 Yukon first Nation Final Agreements may provide for that Yukon First nation to alter from time to time which of its legal entities shall hold rights, liabilities or obligations pursuant to 2.11.4.
- 2.11.8 Government may determine, from time to time, how and by whom any power or authority of Government or a Minister set out in a Settlement Agreement, other than the power to consent to an amendment pursuant to 2.3.0, shall be exercised.
- 2.11.9 The Supreme Court of the Yukon shall have jurisdiction in respect of any action or proceeding arising out of Settlement Legislation or a Settlement Agreement.
- 2.11.10 Nothing in a Settlement Agreement shall be construed to limit any jurisdiction the Federal Court of Canada may have from time to time.

#### *2.12.0 Boards*

- 2.12.1 In 2.12.0, "Board" means the entities which will be listed by the Parties pursuant to 2.12.3.
- 2.12.2 Unless otherwise provided in a Settlement Agreement, the following provisions shall apply to a Board:
- 2.12.2.1 a majority of the members nominated by Yukon First Nations or the Council for Yukon Indians, as the case may be, and a majority of the members nominated by Government shall be residents of the Yukon;
- 2.12.2.2 the Council for Yukon Indians or Yukon First Nations, as the case may be, and Government, shall put forward their nominees within 60 days of a request by the Minister;
- 2.12.2.3 appointments of Government nominees shall be made by the Minister as soon as practicable;
- 2.12.2.4 the Minister shall appoint as soon as practicable those persons nominated by Yukon First Nations or the Council for Yukon Indians, as the case may be;
- 2.12.2.5 in the event of a vacancy, the Board may discharge its duties with such members as have been nominated and appointed;

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- 2.12.2.6 a member shall not be deemed to be in a position of conflict of interest solely by virtue of being a Yukon Indian Person;
- 2.12.2.7 members may only be removed for cause, provided however that, in addition to the grounds for removal for cause recognized generally in Law, a Board, may specify additional grounds in its procedures;
- 2.12.2.8 each Board shall prepare an annual budget for review and approval by Government and the approved expenses of the Board shall be a charge on Government; and
- 2.12.2.9 each Board may adopt bylaws for its internal management and may make rules governing its procedures consistent with this Agreement and with any Legislation establishing the Board.
- 2.12.3 The Parties shall meet prior to the ratification of this Agreement by the Yukon First Nations to identify any changes or additions which should be made to 2.12.0, and to identify the Boards.

## INUVIALUIT FINAL AGREEMENT

*Section 12 of The Inuvialuit Agreement between the Committee for the Original Peoples Entitlement (COPE) of the Northwest Territories and Canada is included in this compendium because it has direct bearing on the Yukon. The Inuvialuit claim penetrates parts of the Yukon Territory and therefore structures were agreed upon in the Agreement which allow Inuvialuit peoples input in land and resource issues for designated parts of the Territory. For example, the Inuvialuit have communicated their intent to become involved in devolution discussions concerning Yukon Government jurisdictional powers and royalties over offshore oil in the Beaufort Sea.*

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### YUKON NORTH SLOPE

12. (1) For the purposes of this section, "Yukon North Slope" means all those lands between the jurisdictional boundaries of Alaska and the Yukon Territory and the Northwest Territories, north of the height of land dividing the watersheds of the Porcupine River and the Beaufort Sea, and including adjacent nearshore and offshore waters and islands.

#### *Principles*

12. (2) The Yukon North Slope shall fall under a special conservation regime whose dominant purpose is the conservation of wildlife, habitat and traditional native use.
- (3) Subject to subsections (5) to (15):
- (a) all development proposals relating to the Yukon North Slope shall be screened to determine whether they could have a significant negative impact on the wildlife, habitat or ability of the natives to harvest wildlife;
  - (b) other uses within the Yukon North Slope shall be considered and may be permitted if it is shown that there would be no significant negative impact on wildlife, habitat, or native harvesting.
  - (c) other uses within the Yukon North Slope that may have a significant negative impact on wildlife, habitat, or native harvesting shall be permitted if it is decided that public

convenience and necessity outweigh conservation or native harvesting interests in the area; and

- (d) development proposals relating to the Yukon North Slope that may have a significant negative impact shall be subject to a public environmental impact assessment and review process.

### *Disposal of Land*

12. (4) Subject to this section, the withdrawal from disposition under the *Territorial Lands Act* of certain lands described in the *Prohibition and Withdrawal of Certain lands from Disposal Order* (SOR/80-198, 27 March, 1980, as set out in Annex E-1), within the Yukon North Slope shall be maintained.

### *National Park*

12. (5) Canada agrees to establish, under the *Nations Parks Act*, the Settlement Legislation or such other legislation as may be appropriate or necessary, a National park comprising the western portion of the Yukon North Slope shown in Annex E and more particularly described as the area bounded to the south by the height of land being the watershed and to the east by the eastern shoreline of the Babbage River.
- (6) The planning for the National Park and the management thereof shall have as their objects to protect the wilderness characteristics of the area, maintaining its present undeveloped state to the greatest extent possible, and to protect and manage the wildlife populations and the wildlife habitat within the area.
- (7) Except as provided in subsection (14), the National Park shall be zoned and managed as a wilderness oriented park.
- (8) Development activities inconsistent with the purposes of the National Park shall be prohibited, and any change in the character of the National Park shall require the consent of the Inuvialuit.
- (9) The Wildlife Management Advisory Council established by subsection (46), in addition to its other duties and functions, shall advise the appropriate minister on park planning and management. The Council shall recommend a management plan for the National Park.
- (10) No lands forming part of the National Park shall be removed from national Park status without the consent of the Inuvialuit.
- (11) Canada agrees that prior to the establishment of the National Park, the lands comprising it shall be maintained in a manner that recognizes their future use and protects the land and its habitat for this purpose.
- (12) Nothing inconsistent with the provisions of this Agreement shall be permitted between the date of the execution of this Agreement and the coming into force of appropriate legislation creating the Park.

- (13) The rights provided to the Inuvialuit under this Agreement in respect of the National Park shall take effect as of the date of the coming into force of the Settlement Legislation. For greater certainty, the Government of the Yukon Territory shall retain its present jurisdiction until the creation of the national Park.
- (14) If it is determined pursuant to section 11 that an area identified in Annex E as Stokes Point is required for limited scale use and temporary use purposes in support of hydrocarbon development, the use shall be permitted on the following conditions:
  - (a) the land to be used does not exceed forty acres and any additional land that is required to satisfy the licensing requirements of the Yukon Territorial Water Board;
  - (b) the use of the land is such as not to prevent its restoration to the state it was in prior to such use; and
  - (c) the activity must not be on a scale and of a nature as to significantly derogate from the quality and character of the adjacent Park lands.
- (15) In subsection (14),
  - (a) "limited scale use" includes the storage of fuel and supplies, emergency repairs and maintenance facilities, transshipment depots, caches and similar uses; and
  - (b) "temporary use" means a period of active occupation that, in the aggregate, does not exceed six years.

#### *Territorial Park*

12. (16) The parties agree that Herschel Island is to be established as the Herschel Island Territorial Park and, in establishing that Park, the Government of the Yukon Territory will consult the Inuvialuit.
- (17) Except for the lands adjacent to Pauline Cove, the park regime on Herschel Island shall be no less stringent than that of the National Park pursuant to subsections (5) to (13).
- (18) Within the lands adjacent to Pauline Cove, the historic resources shall be protected in a manner no less stringent than that of the regime of a National Historic Park as set out in the *National Parks Act*.
- (19) Any development activity proposed within the lands adjacent to Pauline Cove shall be subject to the screening and review process set out in section 11: and
  - (a) the criteria set out in subsection (23) shall apply; and

- (b) the terms and conditions governing such development shall be no less stringent than those under the Territorial Land Use Regulations in force at the time.

*Area East of the Babbage River*

12. (20) The parties agree that the area east of the Babbage River extending to the jurisdictional boundary between the Yukon Territory and the Northwest Territories, but not including the adjacent nearshore and offshore waters, shall be designated as an area in which controlled development may take place, subject to the provisions of this Agreement and to laws of general application.
- (21) Any development activity proposed for the area referred to in subsection (20) shall be subject to the screening and review process set out in section 11.
- (22) Any development activity proposed for the adjacent nearshore and offshore waters shall be subject to the normal government process and the wildlife compensation provisions of section 13.
- (23) The appropriate review board shall take into account the following criteria in its consideration of any development proposal:
- (a) analysis of the significance of the part or parts of the Yukon Territory Slope proposed for development use from the standpoint of conservation and harvesting interests;
  - (b) evaluation of practical alternative locations and of the relative commercial and economic merits of and environmental impact on such locations compared to the part or parts of the area proposed for utilization in the application;
  - (c) evaluation of the environmental and social impacts of the proposed development;
  - (d) weighing of the interests of users, conservationists and harvesters in the Yukon North Slope against public convenience and necessity for development;
  - (e) evaluation of the ability of the applicant to demonstrate that he has, or will acquire, the proven capability to carry out the project in accordance with established standards of performance, safeguards and other requirements and to carry out the necessary environmental mitigation and restoration; and
  - (f) requirements for effective machinery to ensure that the development proceeds in accordance with any established terms and conditions.

*Inuvialuit Harvesting Rights*

12. (24) Subject to the laws of general application respecting public safety and conservation, the Inuvialuit right to harvest on the Yukon North Slope includes:

- (a) subject to the collective harvesting rights in favour of all native peoples under the Porcupine Caribou Management Agreement referred to in Annex L, the preferential right to harvest all species of wildlife, except migratory non-game birds and migratory insectivorous birds, for subsistence usage throughout the Yukon North Slope;
  - (b) the exclusive right to harvest furbearers and polar bear; and
  - (c) the exclusive right to harvest game within the National Park, the Territorial Park and adjacent islands.
- (25) Where harvesting rights are extended to other native peoples pursuant to subsection (33) and subsections 14 (17) and (18), their requirements as to subsistence usage shall be taken into account in setting subsistence quotas and the subsistence requirements of all native peoples shall be accommodated within conservation limits.
- (26) Sport fishing shall be permitted throughout the Yukon North Slope including the National Park and the Territorial Park.
- (27) Where, in the exercise of their exclusive right to harvest game within the National Park and the Territorial Park, the Inuvialuit wish to permit:
- (a) persons who are not beneficiaries of the Inuvialuit Settlement or adjacent land claims settlements to harvest any such game, prior approval of the appropriate minister is required and that minister may grant the privilege on any terms and conditions he stipulates; and
  - (b) persons who are beneficiaries of adjacent land claims settlements to harvest any such game, those persons, if so permitted, may harvest game on the same basis as the Inuvialuit.
- (28) Where, in the exercise of their exclusive right to harvest polar bear in the Yukon North Slope outside the National Park, the Inuvialuit permit persons who are not beneficiaries of the Inuvialuit Settlement or adjacent land claims settlements to harvest any such polar bear, the harvesting shall be regulated by the competent authority under the laws of general application.
- (29) Where, in the exercise of their exclusive right to harvest furbearers in the Yukon North Slope outside the National Park, the Inuvialuit permit non-Inuvialuit to harvest any such furbearers, the harvesting shall be subject to any approval or notification required by the appropriate government and shall be regulated by the competent authority under the laws of general application.
- (30) For greater certainty, the Inuvialuit shall make no gain or profit from the granting of permission to non-Inuvialuit to harvest furbearers except where it is part of a reciprocal arrangement with beneficiaries from an adjacent land claims settlement.



- (31) The Inuvialuit may trade and barter game products with other Inuvialuit beneficiaries in the Yukon North Slope.
- (32) Subject to the provisions of the *Migratory Birds Convention Act* and any regulations thereunder, the Inuvialuit may for subsistence usage sell game products to other Inuvialuit beneficiaries in the National Park.
- (33) Where native beneficiaries in adjacent land claims settlements acquire rights to game resources within the Yukon North Slope on the basis of traditional use and occupancy, those beneficiaries shall be entitled to exchange game products with the Inuvialuit on the same basis as that provided for the Inuvialuit under this Agreement.
- (34) Where, in the final settlement of the land claims of adjacent native groups, provision is made for the exchange of game products with the Inuvialuit, the right of the Inuvialuit to exchange amongst themselves shall be extended to those other native beneficiaries.
- (35) Subject to the provisions of the *Migratory Birds Convention Act*, any regulations thereunder and other similar laws of general application, the right to harvest includes the right to sell the non-edible products of legally harvested game.
- (36) The right to harvest game includes the right to use present and traditional methods of harvesting and the right to possess and use all equipment reasonably needed to exercise that right, subject to international agreements to which Canada is a party and to laws of general application respecting public safety and conservation. The right to harvest game includes the right to possess and transport legally harvested game within and between the Yukon Territory and the Northwest Territories.
- (37) Subject to subsection (38), the right to harvest game includes the right to travel and establish camps as necessary to exercise that right.
- (38) In the National Park referred to in subsection (5) and the Territorial Park referred to in subsection (16) the Inuvialuit have the right to use existing hunting, fishing and trapping facilities associated with their game harvesting activities and to establish new facilities after consultation with the management authority. The location of new facilities shall be determined on the basis of the parks' management objectives.
- (39) The Inuvialuit need not obtain permits, licences or other authorization to harvest game, but may be required to show proof of status as Inuvialuit beneficiaries. Where, for the purpose of conservation permits, licences or other authorizations are required by the appropriate minister or on the recommendation of the Wildlife management Board, the Inuvialuit shall have the right to receive such permits, licences or other authorizations from the local authority at no cost.

- (40) Nothing in this Agreement or the Settlement Legislation shall prevent any person from taking game for survival in an emergency.
- (41) Within their respective jurisdictions, governments shall determine the harvestable quotas for wildlife species based on the principles of conservation and the following procedures:
- (a) the Wildlife Management Advisory Council (North Slope) established by subsection (46) shall determine the total allowable harvest for game according to conservation criteria and such other factors as it considers appropriate. The Council shall make its recommendations to the appropriate minister, who shall, if he differs in opinion with the Council, set forth to the Council his reasons and afford the Council a further consideration of the matter;
  - (b) in determining the total allowable harvest, conservation shall be the only consideration. for greater certainty, where the Inuvialuit have the exclusive right to harvest, they shall be entitled to harvest the total allowable harvest;
  - (c) for the purposes of management and in order to protect the interest of the Inuvialuit harvesters, subsistence quotas for the wildlife referred to in paragraph (24)(a) shall be jointly established by the Inuvialuit and the governments having jurisdiction over species or species groups of subsistence value, as follows:
    - (i) within the total allowable harvest for game, the Wildlife Management Advisory Council (North Slope) shall determine the subsistence quotas according to the criteria and factors it considers appropriate in addition to those referred to in subparagraph (ii). The Council shall make its recommendations to the appropriate minister, who shall, if he differs in opinion from the Council, set forth to the Council his reasons and afford the Council further consideration of the matter, and
    - (ii) in determining the subsistence quota, the following criteria shall be taken into account by the Council or, where appropriate, by the Porcupine Caribou Management Board, and the appropriate minister:
      - (A) the food and clothing requirements of the Inuvialuit,
      - (B) the usage patterns and levels of harvest of the Inuvialuit,
      - (C) the requirements for particular wildlife species for subsistence usage,
      - (D) the availability of wildlife populations to meet subsistence usage requirements including the availability of species from time to time,

- (E) the projections for changes in wildlife populations, and
  - (F) the national and international obligations of Canada with respect to migratory game birds.
- (d) the allocation of the Inuvialuit quotas amongst themselves shall be the responsibility of the Inuvialuit.

### *Economic Benefits*

12. (42) The parties agree that the predominant number of persons employed in the operation and management of the parks referred to in subsections (5) and (16) should be Inuvialuit. The appropriate government shall provide training to assist the Inuvialuit in qualifying for such employment.
- (43) To the extent that the management regime of the parks provides for economic activities, the parties agree that opportunities should be provided to the Inuvialuit on a preferred basis.
- (44) The Inuvialuit shall be invited to participate in the planning process for any development on the lands available for development adjacent to Pauline Cove on Herschel Island, and in the economic opportunities arising out of such development. Subject to all applicable laws, the Inuvialuit shall have the right of first refusal with respect to any activities in the nature of guiding related to wildlife within the Yukon North Slope.
- (45) The Inuvialuit and the Council for Yukon Indians may enter into bilateral agreements, such as the agreement dated march 15, 1984 between the Council for Yukon Indians and the Inuvialuit, whereby the native groups may share in the rights, privileges and benefits afforded Inuvialuit beneficiaries in the Yukon North Slope.

### *Wildlife Management Advisory Council (North Slope)*

12. (46) In order to provide for joint planning by the native people and the governments in the Yukon North Slope with respect to the principles set out in subsections (2) and (3), a Wildlife Management Advisory Council shall be established as soon after the execution of this Agreement as is practicable.
- (47) The Council shall have as permanent members a Chairman and an equal number of native and government members.
- (48) The permanent members of the Council shall include at least one person designated by the Government of the Yukon Territory and one person designated by the Minister of the Environment of Canada.
- (49) In addition to permanent members of the Council representing government, temporary members may be co-opted from government departments as they may be required from time to time.

- (50) The permanent members of the Council appointed to represent the native interests shall include persons designated by the Inuvialuit, and, subject to agreements, by other native groups that have acquired harvesting rights in the Yukon North Slope under their land claims settlements.
- (51) The Chairman of the Council shall be appointed by the Government of the Yukon Territory, with the consent of the native members and Canada.
- (52) The permanent members of the Council shall each have one (1) vote. The Chairman shall have a vote only in case of a deadlock. Temporary members shall not have a vote.
- (53) The Council may establish rules and adopt by-laws regulating its procedures.
- (54) The Government of the Yukon Territory agrees to provide a secretariat to assist in meeting the administrative needs of the Council.
- (55) Each party shall pay the remuneration and expenses of the members of the Council that it appoints or designates.
- (56) The Council shall provide advice to the appropriate ministers on all matters relating to wildlife policy and the management, regulation and administration of wildlife, habitat, and harvesting for the Yukon North Slope and, without restricting the generality of the foregoing, the Council shall:
  - (a) provide advice on issues pertaining to the Yukon North Slope to the Porcupine Caribou Management Board, the Yukon Land Use Planning Commission, the Review Board and other appropriate groups;
  - (b) prepare a wildlife conservation and management plan for the Yukon North Slope for recommendation to the appropriate authorities as a means for achieving and maintaining the principles of conservation set out in subsections (2) and (3);
  - (c) determine and recommend appropriate quotas for Inuvialuit harvesting of game in the Yukon North Slope; and
  - (d) advise on measures required to protect habitat that is critical for wildlife or harvesting in the Yukon North Slope including those referred to in subsection 14 (3).

*Yukon North Slope Annual Conference*

12. (57) There shall be a Yukon North Slope Annual Conference, to be held once a year in the Yukon Territory, to promote public discussion among natives, governments, and the private sector with respect to management co-ordination for the Yukon North Slope.

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- (58) Each Yukon North Slope Annual Conference shall be attended by representatives of native groups with an interest in the Yukon North Slope, at least one senior official from each appropriate government department and representatives of other interested parties, as selected by the Chairman, including industry and special interest groups.
  - (59) A Chairman shall be named at each Yukon North Slope Annual Conference to hold office until the next Annual Conference. The first Chairman shall be appointed by the Government of the Yukon Territory, the second Chairman shall be appointed by the native groups that have an interest in the Yukon North Slope and, thereafter, the Chairman shall be appointed by those parties on an alternating basis.
  - (60) The Government of the Yukon Territory agrees to provide administrative support services for the Yukon North Slope Annual Conference.
  - (61) During the third Yukon North Slope Annual Conference, Canada, the Government of the Yukon Territory and the Inuvialuit shall collectively review the proceedings and results of past Conferences and determine whether the objective in having such Conferences warrants their continuation and, where the Conferences are continued, such a review shall be carried out every three years thereafter.

## CONCLUSION

Volumes 1 and 2 of *The Yukon's Constitutional Foundations* provide a comprehensive historical background on the constitutional development of the Yukon.

The purpose of this work is two-fold. On the one hand it provides a ready reference to politicians, public servants, historians, academics and others whose work relates to this topic with the history and documentation leading to the present status of the Yukon. At the same time its purpose is to give those Yukoners who do not have an indepth knowledge of the circumstances leading to present-day Yukon with a starting point for increasing their understanding of this important topic.

The future of the Yukon's continued development is by no means clear. Many factors -- economic, social, and political -- both within the Yukon and external to it, will have a bearing on that future. To ensure that the future development of the territory is consistent with the general interests of the people of the Yukon, it is critical that a consensus be formed by Yukoners on how they wish to see the Yukon within the Canadian fold.

There is a spectrum of options available to Yukoners.

The Yukon can stay essentially where it is now: a representative and responsible government with, loosely speaking, many of the authorities constitutionally enjoyed by the provinces.

Further expansion of government in the territory can take place through the continued devolution of provincial-type programs still administered by the federal government, as well as advancements in the transfers of Crown land to the territorial government. Much of this, of course, will depend on the ratification of the Land Claims Agreement with Yukon Indian people.

Ultimately, in terms of the administration of government programs and the ability for the territory to set policy for its affairs, the Yukon can become functionally a province in all but name.

Where legal certainty is concerned, once again a range of options are available. The present territorial government structure -- functionally a Lieutenant Governor in all but name; a party system of discipline in the Legislative Assembly; a Premier and Ministers appointed by him; government financial resources and administrative services controlled wholly by the elected legislative members holding executive offices -- can continue so long as the Parliament of Canada and

the federal Cabinet are prepared to allow this structure to remain in place. These arrangements can be given greater certainty through amendment of the Yukon's constitution, the *Yukon Act*. A further step would be some form of constitutional entrenchment through an amendment to Canada's *Constitution Act, 1982* stopping short of provincial status. And, of course, a final step could be provincial status with all of the guarantees and privileges enjoyed by provincial governments under the Canadian Constitution.

Within the context of these reforms and as noted in the Introduction to this book, it may be possible to work on new arrangements that go beyond the classical constitutional arrangements in place in Canada. Circumpolar affairs, new governing structures for Indian people consistent with the Land Claims Agreement are areas where innovative actions can be taken.

Overall, the Yukon stands with the provinces in Canada on the brink of substantive constitutional and political change. A strong voice representing a general consensus from Yukoners may go far in cementing the territory's interests in a new constitutional structure toward which the nation is moving.

## BIOGRAPHICAL NOTES

Kirk Cameron now works with the Department of Indian and Northern Affairs, Canada as Senior Advisor, Constitutional Affairs. Prior to his move to Ottawa, Mr. Cameron worked for two years with the Government of British Columbia in Regional Development and Education. Born and raised in the Yukon, he worked during most of the 1980s in various Departments in the Yukon Government including the Executive Council Office, Education and Economic Development. Having received his B.A. from the University of Victoria in English and History, Mr. Cameron took graduate studies at Queen's University in British Constitutional History.

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