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## GOVERNING THE YUKON

Linda Johnson

In recent years most Canadians have been content to complain about government red tape, but basically there has been little to excite the majority to consider the form and function of their governments - except of course Quebecois nationalists, or more recently, resource rich Albertans. Most of us were nurtured in the legend of Canada - colony to nation - believing that the fight for responsible and representative democratic government had been won in the era of Durham and Elgin, MacDonald and Cartier. It was with considerable incredulity that I discovered colonial government still functioning in Canada - here in the Yukon - when I arrived to work at the Yukon Archives from Toronto in 1974. Many of the same terms, conditions and complaints harkened back to pre-rebellion days in the old Canadas. Moreover as I began to organize the records of the Yukon Government I could see a complex interweaving of levels of government that added to my fascination with the question "How has the Yukon been governed?"

There are numerous articles and sources related to this topic, but for all that, it is not possible to gain a comprehensive understanding of the development of government in the Yukon from any one or even a combination of these sources. Much original research remains to be done, especially for the years 1918 to 1960. Only in the past few months have I had time to begin some research in this area; as a result, I am not able to offer you the results of extensive original research, instead I will be presenting a chronological outline of government in the Yukon, drawn largely from secondary sources and indicating the gaps in current literature.

The questions I hope to answer begin with the most basic one: what is government - and specifically, what types and levels of government have operated in the Yukon, and what interrelationships existed between

them? Secondly what interaction has occurred between government and the people served? Finally, what economic, social and political impact has government had in the Yukon which may explain particular trends, changes or events?

An article by C.E.S. Franks, entitled "How the Sabbath Came to the Yukon " first impressed upon me the unique situation of the Yukon. Although it deals with a very short time period, very early in the history of Euro-Canadian government here, it presents a number of themes that are central to this topic including: the difference between American and Canadian mores and political traditions, the question of federal vs territorial jurisdictions, liquor as a constitutional issue and source of taxation revenue, the difficulties of communication during Canadian westward expansion, and differences between Eastern and Western interpretation of events.

Before launching into the specifics of Yukon government I want to review briefly a few of the theoretical aspects of British parliamentary tradition which form the basis of Canadian democracy and are important to an understanding of Yukon's political development. The basic branches of government are the Executive, the Legislature, the Judiciary and the Administration. The relationship between these branches, the way in which power and authority is conferred on them, and the types of responsibility at each level are the result of long evolution in England, subsequent changes during the colonial period in Canada resulting in the B.N.A. Act, and its revision through usage and judicial interpretation. The two key principles which have evolved in this process are representative and responsible government - terms that have been central to the democratic debate since Magna Carta, and which are still at issue here in the Yukon. Representative government means that those who are governed have chosen people to represent them in a legislature which enacts laws governing their society. As you know, the freedom to participate in this selection process expanded very slowly from aristocratic classes in England to include males over a certain age - and in Canada the inclusion of females did not occur

until the end of W.W. I, and finally native people in 1960. Responsible government in both Britain and Canada is not defined in a written constitution as in the U.S., but rather is "found entirely in custom and usage"<sup>1</sup>. It concerns the control of the executive branch by the popularly elected legislature, and in the federal and provincial governments, and since 1979 in the Yukon<sup>2</sup>, this means that the cabinet or active component of the Executive branch is chosen from and led by the majority party in the legislature. The cabinet provides initiative and leadership in policy formulation, drafting of legislation and financial appropriations, determines dates of sitting of the legislature, and directs the administrative branch in carrying out the laws of the legislature.<sup>3</sup>

Although much of the theory and practice of representative and responsible government was worked out in centuries of struggle between monarch and Parliament in England, these principals were often slowly applied in the colonies. For a variety of political and economic reasons the colonial authorities maintained strict control over colonies by means of appointed governors and councils. In time colonial legislatures were established to represent local inhabitants, but governors and councils were not responsible to them, and the British Parliaments, with no colonial representatives, often passed legislation including taxation that affected colonials. This in simplest terms is what led to revolution in the American colonies and later to rebellions in Upper and Lower Canada. In the Canadas rebellion brought about Lord Durham's Report and, after additional years of struggle and compromise, fully responsible government paved the way for Confederation. However an important factor must be noted in that "responsible government ... could only be conceded at that time if it was placed squarely upon a separation of imperial and local affairs."<sup>4</sup> The Canadian colonies were still part of the British Empire, important to its overall economic and political strength, and it would take a further 60 years after Confederation to establish Canada as a sovereign nation free to decide all external and internal matters.

This situation of central control over broad issues and delegation of local authority is one of the themes repeated in Canada's expansion into

and colonization of the Northwest Territories. It was only three short years after Confederation that the new Canadian government acquired the vast areas known as Rupert's Land and the North Western Territory which had been granted to the Hudson's Bay Company in the 17th century. Section 146 of the B.N.A. Act gave the Ottawa government authority to assume this overwhelming new responsibility. The main concerns to be met were those of the H.B.C. which was paid \$300,000 for relinquishing title, plus certain guarantees respecting the fur trade. However, this was not an unoccupied wilderness - in addition to thousands of Indian people living traditionally in the more western and northern regions, there was an "existing social and political structure in Red River which was significant and in some respects sophisticated - but ignored by the Imperial government, the H.B.C. and the Canadian government in negotiating the land transfer and subsequent changes."<sup>5</sup> The Canadian Government passed The Temporary Government Act in 1869 providing for an Ottawa appointed Lieutenant Governor and Advisory Council, and the land transfer was effected on December 1, 1869 by the British Government. These developments were conveyed to Red River via unofficial and often inaccurate and disturbing newspaper accounts. The result was that the Red River settlers organized a powerful resistance, led by Louis Riel, but including both French and English settlers as well as Metis, and forced the Canadian Government to admit Manitoba as a province to Confederation, instead of establishing the proposed temporary form of government.<sup>6</sup>

The new province was limited to a small area surrounding the Red River settlements, the remainder of the vast area of the N.W.T. which included the remote Yukon, was once again organized by the Canadian government as a Territory to be governed by the Temporary Government Act of 1870. It provided again for an Ottawa appointed Lieutenant Governor and Council. A new department was created in Ottawa - the Department of the Interior - to manage Northwestern affairs. The first Minister referred to his position as "Secretary for the Colonies" - a term which was meant to imply the full measure of imperial control of a dependent territory.<sup>7</sup> The 1870's and 80's were busy decades for the new department and successive Lieutenant Governors of the N.W.T. as comprehensive land surveys and exploration raced to stay



ahead of the western flow of settlers and the railroad; Indian treaties were negotiated; schools, roads and other amenities had to be provided for the many far-flung but rapidly growing communities on the Prairies.

Initially most settlers came from Eastern Canada and it was not long before they began to agitate for the democratic institutions to which they were accustomed. Even with improving telegraph and mail communication, the Department of Interior decision-makers at Ottawa were often slow to respond or did not understand the local needs of the West, resulting in the familiar progression of demands for local autonomy plus representation in the federal Parliament. Ultimately the Northwest wanted provincial status but most local politicians agreed this should come with expanding population and economic resources. Nevertheless the central government was slow to respond to even basic local requests and needs, leading tragically to the second North West uprising led by Louis Riel in 1885. This time the federal government was stronger, the settlers far-flung and unsympathetic to radical Metis action, and the might of the central government prevailed. However many northwestern politicians felt the tragedy could have been averted if the Ottawa authorities had been more knowledgeable about the West and acceded to basic democratic institutions for the Territory. Slowly these reforms were made - in 1886 MP's and Senators were granted, a Legislative Assembly in 1888, an Executive Committee drawn from the Assembly in 1891, and full responsible government for local affairs in 1897, finally provincial status in 1905, minus control over natural resources which the federal government retained until the 30's.<sup>8</sup> The arguments advanced by the federal politicians for slow reform had a familiar imperial ring - too few people, too newly settled, original peoples not sophisticated enough, and the area was vital to national policy.

The same politicians who had fought for political reform in British North America perpetuated the imperial-colonial relationship in Western Canada. There was an alternative model operating very close to home - in the Northwest Ordinance of the United States which provided for a liberal, democratic and ordered means of obtaining statehood in new territories.

Once a certain number of settlers resided in a territory, they could petition for admission as a state equal to the rest in the Union.<sup>9</sup> The American example was raised repeatedly throughout the years of Parliamentary debate over the N.W.T. but successive governments, both Conservative and Liberal, maintained the slow, developmental approach adopted by Sir John A. MacDonald in the Temporary Government Act. Representative and responsible government would be delegated by the federal government when it felt it was warranted in the Territories - no set procedures, no timetable, no guarantees could be counted upon by local politicians. This difference between American and Canadian approaches to territorial development was much discussed as the turn of the century and the world's greatest Gold Rush brought tens of thousands of Americans to the most remote area of the old N.W.T.

Although remote these regions drained by the Yukon River were not unknown to the government in Ottawa, thanks to the work of the Yukon Expedition led by George M. Dawson in 1887, assisted by R.G. McConnell and William Ogilvie. Al Wright in Prelude to Bonanza has carefully documented the activities of the expedition which was to provide the first comprehensive Canadian survey and information on the area. The expedition was significant as well because Ogilvie's assignment required him to winter at Forty-Mile in 1887-88, the first Canadian government official to do so in the Yukon District. He subsequently relayed "pages of notes listing the problems and complaints of the miners and the changes they felt should be implemented . . . the principal complaint was the inadequacy of the mining regulations . . . formulated and administered by the Department of the Interior in far off Ottawa by men with no personal knowledge of the conditions".<sup>10</sup> Ogilvie recommended in his report that the Canadian government postpone establishing a formal presence in the area so as to encourage the few miners, especially Americans, to stay, fearing they would be discouraged by additional controls before the prospects of the country outweighed the hardships.

In the absence of official government authorities community matters



requiring regulation were settled by the famous miners' meetings, which dispensed impromptu justice through completely democratic if not always fair and impartial voting. As the number of miners, traders and missionaries increased, so did the problems however, and complaints were relayed to Ottawa along with fears that the majority American presence might threaten Canadian sovereignty. The result was the sending of Inspector Constantine of the N.W.M.P. to Fortymile in 1894, from which time the Canadian Government has been permanently represented in the Yukon. He outlined numerous problems of the area in his 1894 Report including the long standing complaint about the size of mining claims, the uncertainty regarding the Alaska boundary, need for mail service, schools for miners' children, control of the liquor traffic, and especially the need to curtail the sale of liquor to Indians. Constantine returned to establish these controls with a force of twenty-four N.W.M.P. the following summer, 1895. As officer commanding he was "Magistrate, Gold Commissioner, Land Agent and Collector of Customs as well as policeman."<sup>11</sup> He also had an Order In Council demarcating the Yukon as a separate district of the N.W.T.

Ogilvie also spent the winter of 1895-96 in the area, extending his earlier surveys and in the spring he was appointed to the International Boundary Commission which was to fix the Alaska boundary finally from the Pacific to the Arctic. While awaiting instructions, he completed surveys at Fortymile and Cudahy.<sup>12</sup>

In this summer of George Carmack's Bonanza, evidence of one year of Constantine's efficient administration was impressive: N.W.M.P. justice had replaced miners' meetings, regular mail service was contracted, changes were made in mining regulations and claims systematically were recorded and fees collected.<sup>13</sup> It was a modest frontier administration designed to establish law and order, plus the authority of the Canadian government, and it met the rudimentary requirements of the small white population. The Indian people of the area were already suffering ill effects from their brief exposure to the incoming culture but it was church missionaries, not government officials who were attempting to ameliorate their situation in the course of proselytizing activities.<sup>14</sup>

It was fortunate that the Canadian government had had several years of experience and a few knowledgeable officials in the Yukon for the stampede that followed in 1897-98 was of overwhelming proportions, both in the numbers of people and the many government responsibilities they created. Moreover this was a time of many perplexing problems for the new Laurier Cabinet in Ottawa which had been elected in June of 1896 and assumed office only on July 10th. Among their dilemmas were the deteriorating relations between French and English Canada enflamed by the Manitoba Schools question, the economic stagnation of MacDonald's national policy vs. the delicate issue of reciprocity with the U.S., and continuing pressures from British politicians for Imperial federation. Laurier's biographer Joseph Schull, says "he was engulfed by haste and bigness. The country dwarfed its men. The nation outraced its leaders, defying plan, reckless of ordered growth, tumultuous, not to be stayed."<sup>15</sup> In November 1896, Laurier appointed Clifford Sifton, a Manitoban Liberal as Minister of Interior and thereafter on Klondike matters, he deferred to Sifton's judgement because "They were in any case almost routine items among the nation's expanding affairs."<sup>16</sup>

The situation in the Klondike was far from routine however, even during the first winter of 96/97 when only the longtime prospectors in the area converged on Dawson. Ogilvie journeyed from Fortymile in January to "lay out the townsite and survey several other blocks."<sup>17</sup> He sent reports to Ottawa indicating this was by far the most significant strike to date, and predicting an influx of many thousands. He urged the government to act promptly in dispatching appropriate officials to administer the Klondike. By summer he had resigned his post and Thomas Fawcett was sent as Gold Commissioner and Dominion Land Agent responsible for recording claims, settling disputes and granting land. The fabulous news was worldwide excitement and though the majority of stampeders would not arrive till the following spring, Fawcett was already besieged with business and unable to keep abreast of either the quantity or complexity of demands. Meanwhile Sifton in Ottawa had been convinced of the importance of the Klondike and took steps to upgrade the Canadian administration there. Major James M. Walsh, formerly superintendent of the N.W.M.P. in the West during the 1870's

was appointed Chief Executive Officer of the Government of the Yukon Territory, the first time that term was used. T.H. McGuire was appointed Judge of the Court of the Yukon Provisional District, F.C. Wade as Registrar of Lands, and numerous other officials departed for the Klondike at the end of the summer, accompanied by the Minister himself as far as Skagway in a "display of the flag".<sup>18</sup> Indeed, the Canadian government had cause for concern as American stampeders were estimated to comprise 75% of the 40,000 who reached Dawson. In addition to appointing a policeman as Chief Executive Officer, the N.W.M.P. detachment in the Yukon was increased to 96 men in 1897, and the next year the Yukon Field Force of 200 men (1/4 of Canada's total militia) was dispatched.<sup>19</sup> The government attempted to open up an all Canadian route via the Stikine River to Teslin Lake but various plans for a wagon road and later a rail-road went awry causing embarrassment to the Liberals. Throughout this period there were rumours of Americans in Dawson plotting to overthrow the Canadian authorities and fears that the United States would be only too happy to annex the area.<sup>20</sup>

Revenue was the other major concern to Ottawa, to defray the fast mounting costs of administering the new area. To that end the placer regulations were changed to limit the size of claims, and imposing a royalty of 10 to 20% on gross output of gold.<sup>21</sup> Walsh declined to push on to Dawson after reaching Tagish at freeze-up, thus the unpopular new regulations had to be implemented by the ineffectual Fawcett. The winter produced increasing discontent as Fawcett's chaotic operations were further tainted with numerous charges of corruption, which were not alleviated by Walsh's actions upon his arrival in spring. He became implicated in a major scandal over some mining claims on Dominion Creek which led to his recall by Ottawa and replacement by William Ogilvie that same summer.

Of more significance however was Walsh's conflict with the official sent by the N.W.T. government at Regina to collect liquor revenues. It was part of the confrontation between Ottawa and Regina

that resulted in the passage of the Yukon Act creating a separate Territory and formally establishing the Yukon Government with executive, legislative and judicial institutions.

The Regina government had just won the long battle for responsible government in June and the territorial cabinet was anxious to defend its authority. As C.E.S. Franks explains: " Although only the organized southern regions of the territories sent representatives to the Legislative Assembly at Regina, the act granting responsible government made no distinction between them and the unorganized areas which included the Yukon, as far as executive authority was concerned."<sup>22</sup>

Briefly, the two governments disagreed as to which had jurisdiction over the licensing of the liquor trade in the Yukon.<sup>23</sup> Regulation of the liquor trade was one of the local matters under territorial control and also the largest local source of revenue for the Regina government.<sup>24</sup> The news of the Yukon Gold Rush was of obvious interest with potentially enormous revenues of this sort. The territorial government dispatched an agent to Dawson equipped with permits and instructions to establish a liquor commission. At the same time Major Walsh was at Tagish having been issued full powers of administration by Ottawa. Bulyea, the territorial agent, was the more energetic of the two, and had issued permits and nicely established his commission by the time Walsh arrived in Dawson, although Walsh had warned Bulyea as he passed through Tagish that his federal authority was supreme.

In fact, the federal government was in the process of drafting legislation to separate the Yukon from the N.W.T., having learned that the appointment of Walsh was extralegal since there was, legally, no Yukon Territory at the time he was appointed Chief Executive Officer. Bulyea's authority was confirmed when some of his permits were tested before the courts in Dawson, but by then the Yukon Act had been passed. Bulyea and the Regina government retired from Yukon politics with some welcome new liquor revenues, and perhaps even a little grateful that the headaches of the remote Klondike could be left to Ottawa in future.

Sifton had introduced the Yukon Bill as a tentative measure saying it would "clothe the Government with power to maintain order and administer the country for a year or two until we shall have a better opportunity of knowing what kind of community we shall have to provide for." <sup>25</sup>

The Act created an Executive Branch composed of the Commissioner appointed by Ottawa, and a Council of six, four to be appointed from the ranks of Department of Interior officials at Dawson and two more to be appointed by the Commissioner with ministerial approval. The Commissioner and the four Department of Interior councillors were to be paid out of federal monies, and the other two from territorial revenues - the beginnings of the separate federal and territorial administrations of today. The Commissioner was also responsible for the federal officials in the Yukon - employees of the Post Office, Public Works, Justice, Customs, the N.W.M.P. and Yukon Field Force.

Legislative powers were split between the Governor in Council at Ottawa to legislate for peace, order and good government generally, and the Commissioner in Council at Dawson to pass ordinances related to local matters:

" . . . direct taxation for territorial and local expenditure, establishment of territorial civic service, prisons, municipalities, licencing of saloons, taverns, auctioneers, ferries, etc. incorporation of companies, solemnization of marriage, imposition of punishments for infractions of ordinances and provision of educational facilities."

Thus to quote Morrison, " Unless the Cabinet decreed otherwise, the Commissioner in Council had authority to legislate on all topics that were normally provincial matters with the exception of the territorial constitution ( the Yukon Act ), the borrowing of money, the management and sale of public lands, and the construction of public works such as railways and canals."<sup>26</sup> However, all ordinances were subject to disallowance within two years by Ottawa.

The Judiciary established by the Act replaced the Court of the Yukon District with a superior court of record, the Territorial Court, with one or more judges and the same procedures as the N.W.T. Court. The Commissioner, councillors, judges and commissioned N.W.M.P. officers could be empowered as J.P.'s and all jurors were to be British subjects.

The new Yukon constitution was closely modeled on the N.W.T. Act of 1875, providing a local frontier administration, appointed and closely controlled by the central government. It differed in one important respect, for there was no provision for any locally elected representation. This reflected Ottawa's perception of the community as an American dominated mining camp that would be short lived at best.<sup>27</sup>

William Ogilvie was appointed as the first Commissioner, with four Councillors chosen from the Administration - the Legal Advisor, the Registrar of Lands, the Judge of the Territorial Court, and the Commanding Officer of the N.W.M.P. Ogilvie's position was taxing; in addition to all his federal and territorial functions he performed duties that would normally fall to a Dawson mayor, city engineer and fire chief. The problems of the new boom town were extreme. Ogilvie instituted a fire department and board of health, street improvements, school construction, and drainage system plus public funding for the church-run hospitals to care for the indigent sick. This latter problem required \$100,000 in 1898-99, or 48% of the total territorial expenditures; an acute problem that continued to plague future territorial governments since so many people rushed to the Klondike ill-prepared and had no family present to help them. Obtaining revenue to finance these necessities was also difficult since the federal government collected gold royalties, mining licence and timber fees, land sale revenues, plus customs duties. Liquor licence fees plus taxes for practising law, auctioneering, ferry operation, and music halls were instituted to provide money for territorial functions.<sup>28</sup>

While the government at Ottawa may have been satisfied that matters were now well in hand with the passage of the Yukon Act, people in the Yukon were not long in finding fault and in pressing for administrative and political reform. The imposition of the new mining regulations plus suspicions of corruption and incompetence in their enforcement, provided ample fuel for attacks in the Dawson newspapers and at frequent mass meetings which were a carry over from the earlier miners' meetings. Petitions and personal representations arising from these meetings led to some reform of the Yukon Act in 1899. Most important was a provision to allow for the election of two local councillors, but the federal government was slow to act on their amendments, resulting in more mass protest meetings at Dawson. A "Citizens' Committee" was formed to present the views of the meetings to Commissioner and Council and to urge them to intercede with the Minister to implement elected local representation. When instead the Council recommended a census be taken first, to establish the number of Canadian citizens and British subjects, the Citizens' Committee denounced this as a delaying tactic, and added to their protest a demand for two elected representatives in the federal Parliament.

In this climate, other issues became more odious and added fuel to subsequent mass meetings. Council was proposing to levy property and income taxes in Dawson, though the City was not incorporated and citizens had no representation. Of increasing annoyance, especially to the local newspapers, was the total secrecy in which the Council operated. Even in performing its legislative functions all meetings were closed and only the resulting laws were published. The complaints were carried to the House of Commons in Ottawa where Conservatives denounced the Laurier administration for denying Yukon people their political rights. Although the government equivocated, saying the community was very young and its cosmopolitan ( i.e. American) nature unstable, a few of the desired changes were made shortly thereafter. The Council began to legislate in open session , beginning in June 1900, and Ottawa passed an Order in Council permitting territorial elections for two Council seats after August 1900.<sup>29</sup>



Party politics had played little part in the mass meetings and protests earlier since men of both Conservative and Liberal persuasion were determined to see changes in the territory. However, the upcoming election was a different matter and provoked an energetic campaign. Although not drawn on formal lines, the political leanings of all candidates were known, and when the two candidates of the Citizens' Yukon Party ( which had grown out of the Citizens' Committee) defeated the two independents who were known Liberals, there was consternation among the appointed councillors, all loyal Liberals of course. They blamed the disaster on Ogilvie and called for his replacement by a Liberal who would be capable of providing effective leadership in the new political environment of Council. Ogilvie resigned in February 1901 and James Hamilton Ross was appointed, a former N.W.T. councillor well acquainted with frontier conditions and an influential federal Liberal. The elected councillors were sworn in on December 6, 1900, marking a major advance in Yukon's political development. They proceeded to press for the mining reforms their constituents desired and in part were successful. The new Commissioner proved supportive of many of the local demands and during his first year a municipal ordinance was passed providing for incorporation of towns to run community affairs. In 1902, Ross went to Ottawa to press the Yukon case for three additional elected councillors, plus representation in Parliament and was successful in both.

Satisfaction with these victories was soon completely swept away when Ottawa announced that vast sections of mining ground were to be set aside for the exclusive use of A.N.C. Treadgold, a mining promoter who proposed setting up a large scale hydraulic operation. Although it was true that much of the ground in the Klondike was no longer suitable for mining by individuals using simple placer techniques, the arbitrary allotment of so much ground to one corporation incensed the local miners who viewed it as a threat to their existence, and detrimental to the development of the area. The Treadgold Concession was the major issue in both the first federal election in the Yukon in 1902, and the territorial elections early in 1903. Ross resigned as Commissioner and was elected Yukon's first M.P.

Along with the five newly elected Councillors in Dawson, he was expected to act quickly to secure the cancellation of the Treadgold leases. Likewise, the new Commissioner, F.T. Congdon, but he soon made his views to Council known and they were not popular. Quoted in the Dawson News, he said: "Unless there is special need for it, there will be no session of Council until the estimates have been made in Ottawa. . . . Frequent sessions afford too great a danger for the passage of crank measures . . . ." <sup>30</sup> Furthermore, he said matters such as the Treadgold Concessions were the concern of Ottawa not Dawson. This was the attitude that greeted the five elected Councillors as they attempted to pass a variety of motions related to Yukoners' concerns. The appointed members outvoted them on several occasions leading ultimately to two elected members boycotting the Council, leaving it without a quorum. This impasse was followed by the Commissioner and appointed members proceeding to pass bills without a quorum and minus the elected members -- and a new storm of protest broke over Dawson. Although democracy had thus been thwarted by the Commissioner the Treadgold Concession issue ended satisfactorily so far as Yukoners were concerned when Treadgold could not secure financial backers due to continued public opposition, and the federal government cancelled his leases.

Congdon continued with his high handed tactics resulting in ongoing tumultuous battles and little political progress in 1904-05. His flagrant abuse of patronage succeeded in dividing even his own Liberal camp and fostered the organization of a Yukon Conservative Association. In Council, the elected members demanded further reforms such as an advisory council on finance to include elected members, plus other measures for more responsible government. These matters were drowned out by controversial Congdon actions including his suspension of the Dawson City municipal government. Despite bitter opposition to him by disaffected Liberals, he decided to run for Parliament in the 1904 election but was defeated by the Conservative candidate, a former elected councillor, Alfred Thompson. Congdon then lobbied Ottawa for a re-appointment as

Commissioner but his corrupt practices had been too well documented and Ottawa chose instead W.A.B. MacInnes.

The territorial election of 1905 was a bitterly contested fight as well between Conservatives and the two Liberal factions, with the Conservatives winning three and the Liberals two seats. The new Commissioner, the elected council members, and the M.P., Thompson, worked well together for the most part, so that additional mining reforms were drafted in Dawson and secured passage in Ottawa. Agitation for a wholly elected council continued and Thompson brought this matter before the House of Commons. The Liberal government took the position that this had not been warranted in the past but could be considered for the future.

MacInnes resigned in 1907 and the occasion provoked another flurry of controversy over who would be named to replace him. In the end, all of the local Liberal hopefuls were passed over and Alexander Henderson, a B.C. judge, was named. The tenor of Yukon politics and indeed the character of the community was changing. As large scale corporate mining activity increasingly replaced individual operations, the population had declined to less than 10,000. Federal subsidies were increasing as gold production declined too, along with sources of local taxation revenue. It was almost an anticlimax to the earlier raucous years of reform agitation when the Laurier government agreed to amend the Yukon Act to allow a fully elected Council.

The 1908 amendments brought this reform but did not give responsible government and in fact created a situation of total separation of powers between the Legislature and the Executive Branch. All ten members of the Council were now elected and the Commissioner was barred from sitting in Council. However, only the Commissioner could introduce money bills and no provision was made for members of the Legislature to form an advisory committee to assist in preparing estimates or to oversee other administrative matters. The Council did have the power to legislate over non-financial

matters but no ability to direct or finance the implementation of such measures. Moreover, the Commissioner could reserve or disallow such legislation and also had the power to dissolve Council and call new elections at any time. Council's sole power lay in being able to refuse to pass appropriations.

Despite these problems, there was only minor agitation for additional reform towards responsible government in the years between 1908 and 1911, mostly led by Goerge Black , a Conservative Councillor. The defeat of the Laurier Government in that year saw a rapid exodus of many of the Liberal appointed Yukon officials, preceeded a few months before by the resignation of Alexander Henderson. The Borden Conservatives named George Black to succeed him but despite his earlier reforming convictions, he did not introduce additional changes aside from instituting an annual address to the Council to report on administration activities. Like most of their countrymen, Yukoners were more preoccupied with the threatening signs of the coming war in Europe. When it began, Yukoners were in the forefront of patriotic contributors to the Imperial Defence, including the Commissioner and his wife and the famed Joe Boyle.

At the end of the war the Yukon population and economy had declined to such an extent ( population at 1921 census was 4,000 ) that the hardpressed Unionist Government in Ottawa decided upon drastic measures to streamline the territorial government. Arthur Meighen, the Minister of Interior, announced that the Yukon Council and the position of Commissioner would be abolished and the federal grant reduced from \$320,000 to \$185,000 in 1918 . An amendment was passed to the Yukon Act giving "the Governor in Council powers to abolish the present Council, to constitute an appointive body in its place, and to do away with any offices created under the provisions of the Act. "<sup>31</sup> Gone were all the hard won reforms for representative local government, let alone the never achieved goal of responsible government. After urgent messages from the Territorial Council, petitions from hastily arranged meetings in Dawson, and representations from

Yukon's M.P., Meighen relected to the extent of retaining a reduced elected Yukon Council of three members, but the other measures including financial reductions remained, as did the provision in the Act that the federal government could abolish the Council at any time in the future. Thus the Gold Commissioner replaced the Commissioner as Chief Executive Officer until 1932 when that position was further reduced to Comptroller.

The years between 1918 and 1960 have not been researched and analysed to date, so we have no detailed assessments of the activities of the Council or the Administration, nor of public reaction to their activities ( with the exception of McCandless' work on game management). There are detailed public accounts, plus the Votes and Proceedings and Ordinances of the Yukon Council, and a substantial series of administrative records at the Yukon Archives. They provide fascinating reading, but as well, a detailed analysis is needed of the policies and activities of the Ottawa officials of the Department of the Interior, and its successors, the Department of Northern Affairs and National Resources, and later the Department of Indian Affairs and Northern Development.

Another aspect of government in the Yukon which is virtually unknown is the Judiciary - again Territorial Court records are at the Archives waiting for examination and illumination.

The Twenties and Thirties were years of relative stability in the Yukon. The population remained at about the same size from 1921 to 1941<sup>32</sup> and there was little new economic growth<sup>33</sup> or government activity. The territorial administration was further reduced during the Depression years as a cost-saving measure by the federal government.

It was a new "boom" event that started a wave of economic activity leading eventually to political developments. The building of the Alaska Highway caused dramatic changes in almost every aspect of Yukon life - except, at the immediate time, the Yukon government.

Both the Canol Project and the Alaska Highway were directed almost entirely by Americans, with little planning or input of any kind by Canadians, and no significant consultation or communication with the territorial administration.<sup>34</sup>

Only after the war and after these major events had changed forever the character of the territory, did Ottawa initiate new policies and programs for the North. In 1948, a Commissioner was once again appointed after 30 years, and 1953 saw the passage of new acts for both the Yukon and N.W.T. The Prime Minister, Louis St. Laurent, commented at the time: " Apparently we have administered these vast territories of the North in an almost continuing state of absence of mind."<sup>35</sup> In the Yukon, the most significant and tangible sign of changing times was the removal of the Yukon administration from Dawson City , the Gold Rush capital, to Whitehorse, the Alaska Highway capital.

The post-war period saw Canadians looking to the North as a vast potential area for national economic expansion, but requiring concerted development of necessary transportation and service infrastructures. Social attitudes were changing also, and the plight of Northern native peoples became a major issue for the federal bureaucracy. Federal government expenditures in the Yukon had reached \$13,277,000 in 1961 while the private sector spending was estimated to be a meagre \$5,300,000 - less than half that amount. The overwhelming nature of government involvement was reflected in a combined federal and territorial civil service of 2,250 out of a total work force of 6,242.

The increased interest and especially the burgeoning federal presence in the Yukon re-awakened the Territorial Council and the pressure of issues soon showed the inadequacies of the 1908 amendments which had separated Council and Executive.

Hillson's thesis on Constitutional Development in Yukon concentrates on this period of the 1960's and the difficulties which Yukon politicians experienced, both in obtaining more powers for the territorial council and in understanding what course they could or should pursue to obtain responsible government.<sup>37</sup> The 1908 separation of legislature and executive remained in force. One glimmer of reform had been made in 1960 when amendments of the Act allowed the Commissioner to attend Council again but this was done only at Council's invitation. Councillors still had no power to introduce or amend any financial matter, as the budget was prepared by the Commissioner and the Administration in concert with Ottawa officials. However, the amendments did provide for a financial advisory committee to allow councillors some input to budget preparation. Initially, this measure was ineffective since Councillors were generally consulted after all decisions had been taken. As well, the lack of party structure meant that there was continuing competition among individuals and no ability to act as an embryonic cabinet on the way to more responsibility. In any event there was little incentive to take a strong stand, as Lotz has pointed out: "The Council was willing to rubberstamp any federal government expenditure since it provided jobs and money."<sup>38</sup>

Much of the acrimony and time consuming carping that had characterized the early 1900's political scene in Yukon was repeated during this period. The Council had no real part in the administration and therefore spent all its time dissecting and criticizing it since they had no responsibility for its actions. The Commissioner as head of the administration was most often the focal point for attacks, and as the senior, federally appointed civil servant he was, in theory, not supposed to engage in political activity. In fact, the position was highly political, and the appointment of former Councillor, James Smith, as Commissioner in 1966 marked the beginning of some positive movement towards reform.



Smith's tenure began with one of the most serious, and for the Yukon, most demoralizing episodes in Ottawa/Council relations. The Yukon's annual budget was decided through a series of negotiations each year in Ottawa during which both territorial tax revenues and federal subsidies were taken into account. The councillors who were part of the territorial Financial Advisory Committee journeyed to Ottawa to take part in these discussions. As a result of the Carr Report on Yukon's economy, which had indicated that Yukoners were not being taxed as heavily as other Canadians, the federal government insisted that local taxation be raised or else the federal subsidy would be reduced. There are many versions of the outcome of these negotiations, but when the budget was introduced to the Council, they refused to pass the bill as negotiated, and attempted to amend it by excluding the increased territorial taxes, a power they did not have. Despite much wrangling, public and private, the impasse was not resolved by the time of the territorial elections that fall. A number of the Councillors were defeated, apparently indicative of public feeling that their tactics had been unwarranted. The new Council then proceeded to try and maneuver a compromise - first passing the taxes with a proviso that a committee on constitutional development be appointed. This proposal was rejected by the Minister, Arthur Laing. Several more suggestions followed, all unacceptable to Laing, but finally he agreed to have the House of Commons Committee on Northern Affairs visit the Yukon, after he released a proposed "white paper" on the North. Council accepted this offer and passed the financial agreement, however, the Laing "white paper" never did appear. The legacy of the dispute was the feeling that what "meagre powers the Yukon Council did possess were ones which could. . . only be exercised in a way not to antagonize the federal government."<sup>39</sup> Moreover, Council had little public support or credibility.

There were Yukoners who felt the situation could be changed and who understood the evolutionary process of responsible government which was traditional in Canada. Yukon's M.P., Erik Nielsen, had proposed an autonomy plan in 1966 which called for gradual inclusion of councillors in a type of cabinet system to take responsibility for

the territorial administration but it required the leadership of someone with the authority and power to implement changes. By fits and starts a variety of such committees emerged during Commissioner Smith's administration and the process of negotiation between Ottawa and Yukon will someday make fascinating reading. The former Financial Advisory Committee consisting of three councillors sat as a Budget Programming Committee with three civil servants, the principal reform in this being that councillors were involved from the beginning rather than being asked to rubberstamp a completed budget. A Legislative Programming Committee had one councillor and five civil servants, thereby alleviating some of the problems of the past when the administration proposed legislation that Council then refused to pass. Finally, an Executive Committee was formed with two councillors and three civil servants to manage the overall affairs of the Yukon territorial administration, with elected members assigned responsibility for specific departments.

During the 70's the number of elected councillors on ExCom was increased and party politics began to emerge to complete the necessary requirements for a true cabinet system. As most of you will remember, the final practical steps in the process were taken in the fall of 1979 when the new Conservative government in Ottawa handed over the administration of the territorial government to the leader of the majority party in the Yukon Legislature, and relegated the Commissioner to a role more consistent with a provincial Lieutenant-Governor. The present Commissioner must still authorize much of the business of the Yukon Government because these changes were implemented by Order-in-Council. The Yukon Act had not been amended before the Conservatives were defeated, and presumably now must await the outcome of other national constitutional developments. In practice, the Yukon Government today acts as both a representative and responsible government in British parliamentary tradition, with respect to local affairs and excluding natural resources, ending a struggle begun at the turn of the century, reviving an idea which for many years seemed lost forever, and which required a change of government in Ottawa to achieve in practice.

As with any saga, there are many loose ends. In this Yukon story, one question is how Yukon native people will be represented in the future, as many do not consider that the Yukon Government does represent them. I have not dealt with Indian people in this paper because their involvement with government, especially the territorial government has been minimal until recent years. The fact that no treaties were signed with Indians in the Yukon in the 19th century means that future Yukon political development will very likely be different from the evolution of the Prairie provinces. Dependent upon the solutions that natives and non-natives arrive at here, is the question of how this territory will then fit into the new configuration of Canada in the future.

FOOTNOTES

1. R.M. Dawson, The Government of Canada, p. 18
2. The first wholly elected Executive Council of Yukon was inaugurated on October 22, 1979, in Whitehorse.
3. For a complete explanation and discussion of the powers and functioning of these levels of government in Canada, see Dawson, Canada.
4. Ibid, p. 19
5. See Lewis H. Thomas, The Struggle for Responsible Government in the North-West Territories 1870 - 97, pp. 5 - 16, 21 - 28.
6. See ibid., pp. 31 - 42
7. Ibid., p. 61
8. See ibid. for a full account of this period
9. See ibid., pp. 5 - 6
10. Allen A. Wright, Prelude to Bonanza, p. 211
11. Ibid., p. 268
12. See ibid., p. 278 - 279
13. See ibid., p. 280
14. See H.A. Cody, An Apostle of the North, pp. 253-273.
15. Joseph Schull, Laurier The First Canadian, p. 289
16. Ibid., p. 368.
17. Wright, Prelude, p. 298
18. See David R. Morrison, The Politics of the Yukon Territory, 1898-1909, pp. 10 - 12
19. Wright, Prelude, p. 298.
20. See the Robert Coutts Private Manuscript Collection at the Yukon Archives for newspaper sources pertaining to Americans in the Yukon.
21. Morrison, Politics, p. 11
22. See C.E.S. Franks, "How the Sabbath Came to the Yukon", p. 123
23. See ibid., pp. 123-135, for a complete discussion of this incident
24. Ibid., p. 124
25. Cited in Morrison, Politics, p. 19
26. Ibid., p. 20
27. Details about the Yukon Act were taken from ibid., pp. 19-22.
28. Ibid., p. 22
29. Information about the period from 1900-1918 was found in Morrison, Politics and Ed Bush, Commissioners of the Yukon.
30. Morrison, Politics, p. 52
31. Ibid., p. 96

Footnotes, continued. . .

32. Population figures for the Yukon taken from Canada Year Books:  
1921 - 4,157  
1931 - 4,230  
1941 - 4,687  
1951 - 9,096
33. The exception was the silver mining boom in the Mayo area. See Diane Johnston, Carrying the Territory. Silver-Lead Mining in Mayo District, November, 1980, manuscript available at the Yukon Archives.
34. See Richard Diubaldo, "The Canol Project in Canadian-American Relations", in Historical Papers 1977, The Canadian Historical Association, pp. 179-195.
35. J.D. Hillson, Constitutional Development of the Yukon Territory, p. 16.
36. See ibid., pp. 17-18.
37. All information about this period was taken from ibid.
38. Quoted in ibid., p. 40.
39. Ibid., p. 80.

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THE GREAT CONSTITUTIONAL CRISIS, 1966-1968

James Smith

I am very appreciative of Linda opening up the situation today. I think that she has really covered a tremendous period of time in a very few words. I have never been known to confine myself to a few words, so I'm going to cover a very short period of time. I'll just reverse the procedure for you, Linda.

I was lucky enough to be involved in the constitutional process of the Yukon from 1966 - 1976, when I was in the Commissioner's job, and for quite a few years before that. From time to time it seems to me that I still become involved in it. But, the time that I would like to bring to your attention this afternoon concerns the period of November, 1966 until the spring of 1968. What had gone on until the fall of 1966 and what has transpired since the spring of 1968 really pale by comparison as to what transpired in the 18 months that was inbetween those dates.

The situation that I found when I got into the Commissioner's office was that we had a constitutional crisis here in Yukon. I'm sure that if someone had published that particular headline in any of the local newspapers, he wouldn't have really stirred very many eyebrows. I don't think that the vast majority of the population really gave two hoots as to whether there was a constitutional crisis or whether there wasn't. The economy of the Territory was going forward at such a dramatic pace with the impact of the opening of the Clinton Creek mine, the mine which is now Whitehorse Copper, the Anvil Mine, the new operation at Carmacks, and the Arctic gold silver mine at Carcross, that frankly nobody gave two hoots as to whether or not the Yukon was having a constitutional crisis. The fact of the matter was that the Council of the day in its wisdom had essentially served notice on the Federal government that it would not pass the Territorial budget with the normal acquiescence which it had given to it for the previous 66 or 67 years. The problem was, how do you cope with this particular situation within the confines of the attitude of the Federal



government and the lack of any particular grass roots interest in the Yukon Territory.

Agreements between the Federal and Territorial governments for the continuation of the Territorial financial arrangements had normally been entered into for periods of, I believe, five years. I advised my Minister, Arthur Laing, early in 1967 that there was a possibility that the agreement might be approved for a shorter period of time. There were going to be riders attached to it, and one of these riders would undoubtedly be that there be some steps or timetable concerning the arrival of responsible government. Now I don't know how you convince a Minister that this was a highly essential matter when he had just finished sending you a document that almost changed the economic base of the Territory to one of practically full dependence on Ottawa to one in which independence was literally on the horizon, as a result of the Cyprus Anvil Agreement between Cyprus Anvil and Canada and a further agreement to be conducted between Cyprus Anvil and the Yukon Territory. Cyprus Anvil had an ore body that at that time was thought to have 20 years of ore in it. The economic spinoffs to the Territory were probably going to show more dollars and benefits to the Yukon in the course of that 20 years than probably everything that had happened in the previous 65! I won't say that Arthur Laing turned a deaf ear to my advice, but he admonished me that we should just look after the economy, and alot of the rest of these things would fall into place automatically. Well, I said to him, "It's all very well, Mr. Laing, but I'm afraid that this is going to have to be faced, and I think it would be much better if we faced it with some positive propositions as opposed to having something maybe forced upon us that might not be acceptable or might not be particularly good over the long haul."

Not too long after that Laing advised me that he had had a paper prepared within the department which essentially was going to propose a form of government for the Yukon that I question if any of you here in this room today have ever heard anything at all about. That paper said that Yukon should have regional government. I don't know who the

authors were. I have my suspicions, but they never signed documents in those days. Their proposal was for both the Yukon and the N.W.T.. Specifically, there would be a general election in which each constituency would elect a representative. When the representatives met, there would be a leader chosen or a president or a chairman chosen from among the group. That individual would then be the chairman or president of the regional government assembly. From that point on, any thoughts about moving towards normal provincial institutions or the forms of government that we are familiar with in the provincial areas of Canada would be quickly forgotten about, while the exercise of the authorities that were suddenly going to devolve upon this super city council would inflate the egos of those who were involved in it to such an extent that never again would we hear anything more about the cries for provincial status and representative and responsible government, legislatures with government in opposition and so on down the line. It was just a tremendous idea - this was the mother lode!

Well, I was given a copy of this paper early in January of 1968, and I remember the day very well. Gordon Gibson was there with Mr. Laing and we met in his constituency office in Vancouver. I was given this document and told that it would be best if I was to digest it in the course of that day because the Minister wanted to talk to me about it the following morning. I believe this was on a Saturday, and we were to meet on the Sunday morning to discuss it further. Well, I can't remember just exactly what followed in the course of the next hour or two, but I had an opportunity Saturday afternoon to digest the document. I got Gordon Gibson on the telephone and said to him, "Gordon, there is really very little point to me discussing this with the Minister because I'm afraid that the authors of this document and their ideas as to how this will be implemented and the tremendous enthusiasm with which they anticipate that it will be received are just a little bit removed from the realities in which I have to operate each day. I think it would be much better if this document was just taken back to Ottawa for the time being and just put away for a little while. I'll see what I can do in the meantime." I don't know what Gordon thought

about my comments at that time, but I give him credit, the document has never seen the light of day and when it does see the light of day, I hope that all those who authored it are long gone because it certainly would have been ill conceived under the very best of circumstances.

Having turned that down, I had then placed myself in what proved to be rather a difficult situation. It was up to me now to come back here and see what I could do to put something into place in the course of approximately three months that would have the net effect of getting the next Territorial budget passed through the Territorial Council. It seems to me that there was great difficulty in paying much attention to these kinds of things in the course of the working day. What seemed to happen was that you spent Monday through Friday looking after the day to day affairs of the Territorial Government and somehow or other Saturday's and Sunday's seemed to get devoted to the constitutional problems and related matters. As I remember and I see in the diaries in my office, practically all the meetings in connection with this constitutional problem took place either on Saturday or Sunday's. I can't see any of them that took place on Monday through Friday.

But, in the course of the month of January, 1968, I put together a memorandum that I'm sure has been well circulated in the Government of the Yukon over the years. I'm going to read it to you now because it was this document which set in motion the course of action that has resulted in responsible government coming here to the Yukon. Now this doesn't mean to say that there haven't been an awful lot of players and an awful lot of actors on the scene in the meantime and an awful lot of changes, but essentially this memo is what it was all about. I had set up at that time what was essentially an executive committee in my own office. It consisted of my two assistants and myself. This memorandum was sent over my signature to that committee in January of 1968:

At the present time the consultations that have been taking place between the Commissioner and the Financial Advisory Committee were set up in the amendments to the Yukon Act that were done I believe in 1961. These consultations that have been taking place between the Commissioner and the Financial Advisory Committee on the construction of the budget have to all intents and purposes not been getting

applied in a manner that appears to me as if it is the spirit of the law as it stands. The situation is that the budget has been compiled in its final aspects and then has been presented to the Financial Advisory Committee. While minor changes have been made as the result of consultations with the Committee, certainly the construction stage of the budget has long passed by the time the Committee was called in. I personally am of the opinion that the Commissioner sitting with three members of the Committee going into the budget construction process does not preclude the Commissioner having technical people available at this construction time and this is why I am proposing that we'll have a budget programming committee that will consist of three members of the Financial Advisory Committee of Council, three members of the Administration and the department head whose estimates are under review or question at the time. This will mean that there will always be seven people sitting and the chairman will be my executive assistant Mr. Fingland. As a means of guiding the Committee in their work it is desirable to place before them certain basic outlines of the confines within which our budget can be constructed. And this should consist of at least the following:

One, the total anticipated revenue for the year broken down into local taxation, recoveries from various federal participating programs, the deficit grant, other revenues and the capital grant available to us in the current fiscal year from the Federal government. (It is very interesting to note that that is still the first page in the budget of the Yukon Territory today.)

Secondly, a historical pattern of Territorial spending showing the average percentages that have been attributable to each department of government's actual spending, not estimates, for the past several fiscal years. I believe that this has already been accumulated for three or four years back.

And, thirdly, the historical pattern of lapsing balances.

The memorandum goes on to point out in considerable detail how I felt that the actual proceedings of this group might work. Then I go on to say,

Now as I see this after the Committee has gone through the estimates and presumably come up with their budgetary proposal that rests within the confines of money available, this will come forward to me as a recommendation. At that point, it will be up to the Commissioner of the day

to decide whether he is going to make any changes in these recommendations before the budget actually goes before Council. And I would note also that this budget would go before the Council in the form of or at least accompanied by or proceeded by a message from the Commissioner as required by the Yukon Act. I think this is the place where the Commissioner of the day will have his opportunity to state his case if he has seen fit to make any changes in the recommendations that have been made to him by this budget programming committee.

The last item, I think, is really the crunch of the whole matter and that is this budget programming committee is to meet at least once a month and necessarily on a day certain, to review the statement of allotments as presented by the Territorial Treasurer. There isn't much point in passing a budget and waiting for one year until the public accounts are published to see what the end result of your budget passage was. I think this committee should be reviewing the expenditures on a month to month basis seeing whether or not their budgetary expenditures are being exceeded or whether the spending is not coming up to the levels anticipated to give them a chance in the first instance if they see that expenditures are exceeding estimates, to decide where cut backs are going to be made, to keep their budget in balance or if they see that expenditures are not keeping up to the pace anticipated they will wish to see funds diverted into supplementary estimates to take care of items that had to be deleted from the budget making process in the first instance. If there are points that I have missed I'll be glad to hear about them. If not, I feel this paper should be used as a guide or a means of outlining the function that we anticipate the Budget Programming Committee is going to perform. In the first instance, I feel it is going to be part of the consultative process that the Commissioner is duty bound to have with members of Council in the construction of the budget and secondly it is going to be the watch dog for Council to see that in fact the monies available for the year are being expended along lines that were initially programmed in the budget as presented to Council by the Commissioner.

Essentially everything that has happened from that point on is now history. The question at this point was now what do we do? I had the concurrence of the three members of the Advisory Committee on Finance. I believe that George Shaw, John Dumes, and Ken McKinnon were the first

people who sat from the Advisory Committee on Finance on the Budget Programming Committee. On the Territorial government side there were Mr. Fleming, Mr. Fingland and Mr. McKenzie and the Territorial government department head whose estimates were up for review at that time. But the question now was what do we do in talking to the Federal government? How do we tell them that this is what we have done and hopefully advise that indeed the pressure is off or the heat is off as far as dealing with the Territorial finances are concerned. It appeared to me that any prior explanation to the people in Ottawa at the administrative level would fall on very very deaf ears. I felt that if they decided to tear this proposal apart and they got the ear of the Minister of the day, the first thing I would know, I might be getting an instruction from the Minister that this should not be done. So I felt that the smart thing to do was to go ahead and do it. If it didn't work, well, just great, we would never bother telling Ottawa about it. If it did work, there wouldn't be any need to tell them anyway. So it was proceeded with.

I heard from Ottawa from time to time from a man by the name of John Gordon who was the Assistant Deputy Minister and charged, I believe, with the disciplining of the Commissioner of the Yukon, if that's the right terminology. He was not very happy that he wasn't hearing from me as to alternative proposals to regional government. I explained to him one day that I thought that we were making out very well without this proposal and that in due time he would be hearing from me as to what the alternatives were. At that time, the Territorial Committee was sitting and going through the estimates and I was hearing from Frank Fingland that things were going along pretty well. I cornered Ken McKinnon one day in the hallway of the Federal Building, and I said "Ken, how is this exercise going?" He said, "Well, I don't like to be too optimistic, but it looks to me as if it is working." Coming from Ken McKinnon at this stage of the game when he was the hot headed rebellious young politician, I figured we had it won at that point.

Along came the Council session, and I had a telex from Ottawa. Essentially, the question was "How are you going to face this terribly rebellious Council in the face of all the admonitions that we have been

hearing about the last couple of years? The Minister is very concerned that there will be questions on the floor of the House of Commons, and he wants to be prepared to cope with them and so on down the line." Council went into session (1968) about the first week of March, if I remember correctly. The budget was the number one item. We had been going along for a couple of days, and it seemed to me as if this thing was going along pretty good. I sent a note to Ken, in fact I have the original note right here, it's written on the back of a little calendar pad put out by the Scott Mission, it's 1968 and I had said to Ken "How many days of Council do you feel the budget will take?" He wrote down at the bottom of it and passed it back to me, "I can't possibly see it being done in less than ten days." Well, budget sessions of Council prior to this time had been taking anywhere from six weeks to three months. Six working days after Council opened the budget was passed. So I picked up the telephone and talked to John Gordon, saying, "You'll be happy to know that the budget of the Yukon has been passed for next year." I don't remember whether or not he answered me. The fact of the matter is that what we had done here on our own had proven to be a workable solution to a very difficult situation. The document that Ottawa awarded me at that time which I'm sure has never seen the light of day but will one of these days was a elaborate, artistic, one-of-a-kind job, entitled "The Order of the Purple Bull Whip". This was the department's reward to me for having taken them all off of a very bad hook which none of them could see their way through at the time.

It was the events of those particular 18 months, starting about early 1967 and culminating in the passage of the budget of the Territorial Council in 1968, which put in place the procedures that ultimately wound up in the letter that was signed by Mr. Epp here not too long ago that made the Commissioner's duties subservient to the Leader of the majority group in the Territorial Legislature. Once elected people got their foot inside the door of the administrative process of the Territorial government they were never going to leave. The whole object of the exercise was how do you get them in there without creating difficulties that will prove to be insurmountable at a later date. The next question to be posed was, "What



about amendments to the Yukon Act?" And my admonition to all the Ministers I served under, Mr. Lang, Mr. Chretien, Mr. Buchanan - my advice to them was that if you are going to rest your case on amendments to the Yukon Act in order to bring responsible government to the Yukon Territory you are going to be doing something that has never happened in the British system of the evolution of parliamentary government. I think I can say without any fear of contradiction that every time under our British system of government there have been advances that have ultimately resulted in fully responsible government they have preceded legislative changes as opposed to being the result of legislative changes. For my part I suggest that even to this day that those who are responsible for the legislative process in Canada just allow the Yukon Act to fall into disuse. Don't both amending it because the facts of the matter are that you do not have to amend it to do what essentially is being done today. Linda (Johnson) has alluded to this in her paper.

The short span of time that I have drawn your attention to today undoubtedly will be the object of scholarly dissertation by someone who wants to look at all the nuances one of these days. It is not going to be me, let me tell you! It's bad enough being the author of the play and being one of the actors in it, let alone trying to deal with too many post mortems about it afterwards. But let me say this to you, that the object that we started out to accomplish was accomplished, and the people who were the actors in the scene conducted themselves in a manner that was absolutely like that which others who had played similar parts in other evolutionary governmental situations had done in other parts of Canada and other parts of the British Empire when these particular challenges were put in front of them. And I will be forever thankful to the people who were associated with me at that time, whether they be elected or appointed, who when the chips were down didn't bother too much about their own personal grievances or their own personal perogatives in the matter but got down to doing the job at hand and did it in a very exemplary manner. As a consequence, the great constitutional crisis, and I think it was a crisis of magnitude, that I happened to inherit in 1966 was out of the way and already history by

March of 1968. While we had to spend a lot of time after that in convincing particularly Mr. Chretien that we should formalize this procedure at least to some extent and allow these people to occupy offices on a daily basis on the 3rd floor of the Federal Building, these were not really the serious matters. The serious matters had already been dealt with, and the consequences were totally predictable. The document of anticipation, authored by Frank Fingland, is in the Territorial Government somewhere. The timetable and format for it were put together on the back of a piece of cardboard that came from the back of a foolscap pad one day. The only thing that really transpired differently than what was anticipated on that piece of paper was the fact that it probably took about three or four years longer to come into being than what we had originally anticipated.

Thankyou very much for your attention. The scholarly dissertation that preceded mine and the total adhocary with which I have addressed you this afternoon I hope are not going to detract from the fact that that particular 18 months that I am referring to is a period that in my opinion is probably one of the most exciting 18 months that was ever conducted in the Federal-Territorial scene here in Yukon. I will be forever thankful that I was able to be there and be part of what transpired at that time. Thankyou very much.

Questions:

Linda Johnson - "I would be interested in knowing what was your perception of the public attitude to what was going on?"

Jim Smith - "I tried to find out from time to time, Linda, particularly in the business community. I have to be very honest with you, Linda, I found very little real concern in the business community, because the business community was so prosperous at the time. Remember that the business community had suffered very badly in the early 1960's - the army had pulled out of Whitehorse, the airforce were getting ready to pull out, the Yukon Consolidated Gold Corporation had closed down. The outlook in the early

60's was pretty bleak. Then all of a sudden the whole thing turned around. 1965 . . ."

Flo Whyard - "It was just a miracle. Every time we lost something, we gained two."

Jim Smith - "The whole thing was just almost like magic. Consequently, the people that I have the most empathy with, and that was the people in the business community, because remember I came from the business community, were so busy trying to find money to expand their businesses with and participate in this whole new found prosperity with which they were surrounded that the fact that five and then later seven - seven? Charlie it was five when you and I were there wasn't it?"

Charlie Taylor - "Yes"

Jim Smith - "and then it became seven"

Charlie Taylor - "seven and then it became twelve"

Jim Smith - "You know their attitude was that the rantings and ravings of seven people who they had happened to elect to the Territorial Council really was of little or no consequence at all. I mean, 'let us know when the next agreement is going to be signed with the next mining company and a mine is going to start production.' And I'll be very honest with you, I was kind of discouraged at that time. Now that still didn't detract from the fact that something had to be done, but I can't say that I jumped with joy when I would be talking with some of my compatriots in the business community and seeking, I won't say their concurrence in what was going on but mind you they had determinations of whether they looked upon it as a very important or serious matter or not but that just wasn't there."

Flo Whyard - "Jim, every once in a while when we were screaming about constraints and lack of constitutional development and lack of cooperation

from the Feds, somebody says, 'You people have more power under the Yukon Act than you're using.' I have never been able to figure out what they mean by that. Do you have any idea what they mean?"

Jim Smith - "Not really Flo. I think that people that talk this way are talking possibly . . ."

Flo Whyard - "Somebody from Ottawa always says that."

Jim Smith - " I think that maybe this is unfair criticism Flo, but if I was a departmental official in Ottawa in the Department of Indian and Northern Affairs - let's say I'm an Assistant Deputy Minister - I can assure you that in my day to day work I would have far less room for manoeuvring than a Minister in the Territorial government today would have in the conduct of his affairs. And I think this is what they're alluding to but it's not a fair comparison Flo, it's not a fair comparison."

Flo Whyard - "But what you're saying is the old army credo - go ahead and do it and then worry about it - that's the way to proceed."

Jim Smith - "I learnt a couple of tricks, you know, in the process of this whole thing. As you know we had a telex in the Commissioner's office in those days and telex was not too widely used in the 60's for the transmission of anything. But I found that if you sent a telex off to Ottawa on a Friday afternoon about three o'clock our time, Ottawa would have closed up for the weekend and what you said was 'subject to any instructions that I receive from you to the contrary by Monday noon, I anticipate doing the following. And it never failed! And you had consulted with your Minister, you had given him the opportunity to tell you no, you had an absolutely clear conscience - you had complied with all the rules of the game and on one occasion, John Gordon, who by this time had gone away from the Territorial side of things and had taken on the national part and I used to refer to him as Canada's number one birdwatcher because he had become greatly enamored with . . . was it the trumpeter swans?"

Flo Whyard - "Whooping Cranes."

Jim Smith - "Whooping Cranes. And he phoned me one day and he said ' You know this word that we have concerning this particular thing, I didn't receive this until Thursday.' This had been sent about a week ago. And I said 'You know John these communiques, as I understand, that's what we have the telex for, so that you will get these things in good time.' But I got the message in no uncertain terms that this kind of thing was not really acceptable.

Flo Whyard - "Thankyou."

Linda Johnson - "Can I ask you one other Archivist question - how much of the machinations and processes that brought about this 18 months evolution would appear on paper other than what you have read today?"

Jim Smith - "Well, there's quite a lot about it, and it's in the Territorial government material, Linda. I think it is a question - I don't know what the archival rules are about this, what is available and what is not available public information, but to the best of my knowledge practically everything is there except one or two Federal papers and one of these Federal papers is this one on regional government and I am sure they've destroyed every copy, I'm absolutely certain. But I think that the vast majority of the rest of it is either in the Territorial - in fact it would be in the territorial documents as opposed to the Federal documents - there's very little in the Federal stuff."

Linda Johnson - "I guess I'm wondering, too, how much in the age of telex and telephone and broadband radios and so forth, how much of the process will be written down - has been written down?"

Jim Smith - "Well, as far as telephone conversations are concerned, there are very few of them in connection with the constitutional process, Linda, at least that I can remember. Most was done either by telex or in face to face discussion with Ministers, particularly Mr. Chretien because remember when Jean Chretien was a Minister, he travelled a lot. He came to Whitehorse very very frequently and he made it a point before he would come to send you a list of the things he wanted to discuss when he was here. In fact, in some instances he would even say what the kind of comments he wanted to be put so that it was alot of verbal things with Mr. Chretien but between Mr. Laing and myself there wasn't all that much that was not conducted by letter writing. But remember the constitutional process was really not conducted in Mr. Laing's term, it was Mr. Chretien's ministry and John Fornier was Mr. Chretien's assistant at that time and alot of the correspondence between the Federal side and my own office was done over Mr. Fornier's signature."

Flo Whyard - "I would just like to comment, Linda, that very few Commissioners had the sense of history that Mr. Smith has. I know that he has over a period of years carefully set aside documents that he could see now would be part of our history in twenty years. I have a few notes like that that came to me on various matters and the average person would not have had that approach. I think we were lucky."

Jim Smith - "There's alot of these things that transpired at that particular time that you'll see in the minutes of such things as the Budget Programming Committee. That's where you'll see alot of these things - how this was handled, how the next thing was handled and alot of the things that would go for a real good research project was the dialogue that transpired between the members of the Council and Mr. Chretien when the argument started as to whether or not there was to be one elected member of a community or whether there was to be two. I don't know who really carried the ball in discussions at that time on behalf of Council, but it's my guess that it was to some considerable extent George Shaw. It was George's last Council session, and the others looked upon him as expendable because he was not going to be back so as a consequence he could carry the message for the rest of them."



