

Native Land Claims in Canada

(Editor's Note: From time to time, this newspaper publishes stories about efforts toward settlement of aboriginal claims of Canadian Eskimos and Indians. It is sometimes difficult to understand Canadian Native Claims settlement issues because of differences of national policies, procedural approaches for handling of claims, and unique political climates faced by Canadian Natives. This is part three of a series of five articles on what the Canadian Government considers are the ten major Native claims and an explanation of how the government is handling them. The series, prepared by the Office of Native Claims in the Department of Indian Affairs and Northern Development first appeared in the Whitehorse STAR earlier this month.)

An underlying element of all these claims is a call for change in existing economic, social, and political structures, a change that seeks to lay the foundations for a new and equitable relationship between Native and non-Native northerners and provide a new framework for the way in which the North, its lands and its resources, are used, conserved, developed, and lived in.

This call for change is being expressed and developed in different ways, reflecting the different cultural and historical background of the various Native groups and the different pace at which development has occurred, and lifestyles have changed, across the North.

Another fundamental aspect of the comprehensive claims process is the fact that these claims cut across already established patterns of northern life, affecting not only Native, but all, members of northern society.

This factor has been a particularly crucial one in determining the shape and pace of the discussions and negotiations on the northern claims. Conversely, developments that fall outside the strict purview of Native claims nevertheless must take them into account.

The truth of this was particularly evident in 1977. The Government's decision to appoint the Honorable C.M. Drury on August 3, 1977 as Special Government Representative for Constitutional Development in the Northwest Territories, reflected a recognition that a review of political systems and structures in the Territories was required.

An important element in this review will be the role of Native people in northern society, and the structures and institutions required to give expression to that relationship.

Native people in the Northwest Territories, as stated in the August 3, 1977 announcement, are "looking for legal provisions and political safeguards that will continue to protect their rights and interests, no matter what changes may take place in future in the composition of the population; in the responsibilities, powers and functions of the Territorial Government; and in the shape and functioning of the Territorial economy."

"...The Native people are particularly concerned about their languages and other cultural aspects; their lands and traditional pursuits of hunting, fishing and trapping, their participation in subsidiary bodies of government concerned with such key questions as education, game management, surface land use, conservation and environmental protection. In claims proposals, they have also raised the ques-

tion of political control and of residence requirements for political purposes."

Because the resolution of the Native claims will have implications for other Northerners as well as for other Canadian generally, the claims cannot be dealt with in isolation from other matters of concern north of 60°. How are the demands for exclusive Native jurisdiction over very large areas of the Territories to be reconciled with the interests of non-Native Canadians?

How is the question of third party interests that might be adversely affected by a claims settlement to be dealt with? How are the separate claims of two historically intermingled groups in the Mackenzie Valley, represented by the Indian Brotherhood and the Metis Association, to be reconciled?

What impact would extensive Native control over resource development have on the exploitation of those resources? Are the proposals for environmental control which have been put forward in the various claims compatible with the need for shared responsibility on the part of all Northerners for protecting the northern environment?

The claims process poses other questions as well. The costs of claims research and negotiations are increasing, and may well continue to do so.

On the other hand, sufficient time must still be given to allow for full community consultation at each stage, so that there be understanding and support at the community level for the final settlement.

For all of these reasons, there can be no easy approaches to Northern claims and no instant solutions.

The issues are far-reaching for all Northern residents, and indeed for all Canadians. Government and Native negotiators will need to approach the political element in northern claims with flexibility and innovation.

They will need to be prepared to depart from familiar political models where this seems required by circumstances.

Time patience and much careful thought by all concerned will be required before these issues can be resolved in mutually acceptable ways.

The Political Element in Individual Northern Claims

All northern claims submitted by Native people have expressed a desire for political control of one kind or another ranging from local municipal government to separate territorial status.

Whatever the case, each reflects the claimants' concern for self-determination and the preservation of cultural identity.

Yukon Indian Claim—"There must be a system set up where the Indian people have some control over the programs that affect us—under our proposed settlement our villages will be forming municipal governments."

These quotations are taken from the original claim of the Yukon Native Brotherhood "Together Today for our Children Tomorrow" submitted in February, 1973, and later endorsed by the Yukon Association of Non-Status Indians. While the Council for Yukon Indians representing both Associations has subsequently redeveloped the claim in conjunction with the federal negotiator,

the request for local control has remained substantially unchanged.

It has been proposed under the Yukon Claims Settlement Model which was made public by the Planning Council on July 15, 1977, that "the Yukon Indian people shall be provided with incentives and guaranteed opportunities for their participation in the political and administrative institutions of a one-government structure, and in the decision-making process."

James Bay and Northern Quebec Agreement—"...the James Bay Crees have put themselves into an autonomous and independent position, not only to face the Governments of Canada and Quebec, but also to face the society which they will have to participate in, not as spectators but participants and decision-makers of the future."

In speaking these words to the Berger Inquiry in June, 1976, Chief Billy Diamond, Grand Council of the Crees, was referring in part to the local and regional governmental powers achieved by the Crees under the James Bay Agreement.

Under the agreement, Categories 1A and 1B lands are to be governed by Cree Band Councils and Cree Community Corporations with powers over local matters derived from federal and provincial legislation respectively.

A Cree regional authority incorporated under Quebec law acts as the collective arm of the Cree local communities.

"The negotiations are an attempt to come to terms with new realities which have come to us." (Charlie Watt, President of the Northern Quebec Inuit Association, upon signing the James Bay and Northern Quebec Agreement, November 11, 1975.)

The N.Q.I.A. were the first to press for a large measure of local and regional autonomy in the James Bay negotiations.

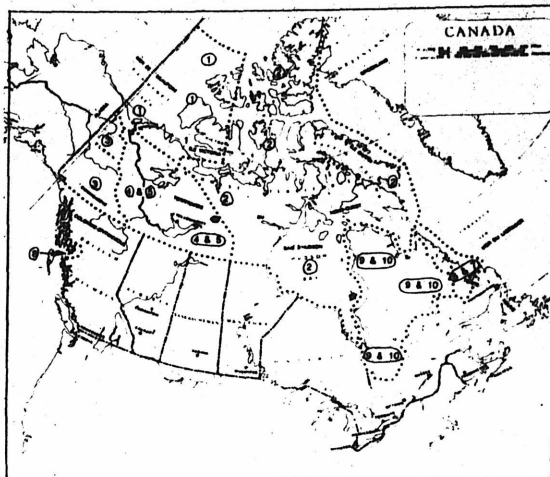
Under the agreement, the regional government of Kativik is to be a non-ethnic municipal corporation under Quebec law with an elected council and authority for regional matters including justice, environment, health, education and social services.

At the community level, municipal corporations administered by elected councils are to be established under Quebec law with authority over local matters including town planning and public services. One member of each local council is also a member of the regional council.

Inuit Tapirisat of Canada—"There will be established a new Territory called 'Nunavut'—the Nunavut Territorial Government will be responsible for all matters in respect of which the governments of the Northwest Territories and Yukon Territory have responsibilities." (Extract from ITC Claim submitted to the Federal Government in February, 1976.)

This claim was subsequently withdrawn by ITC for revision but, as resubmitted on December 14, 1977, continues to call for "the right of the Inuit to self-determination," "constitutional recognition and continued assurance of the right to exist as an independent culture within Canada" and "the formation of a new territory and government within Canadian Confederation along the lines of Inuit political institutions."

Indian Brotherhood of the



This is the third in a series of articles on Canada's Native land claims from the Office of Native Claims, department of Indian affairs.

This week's article begins a section entitled,

"Perspectives on the Northern Claims."

Northwest Territories—"The Dene have the right to recognition, self-determination and ongoing growth and development as a People and as a Nation. There will therefore be within Confederation, a Dene government with jurisdiction over a geographical area and over subject matters now within the jurisdiction of either the Government of Canada or the Government of the Northwest Territories." (Extracts from proposed IBNWT "Agreement-in-Principle," October, 1976.)

Three weeks before the Prime Minister's statement rejecting the concept of ethnically-based territories, George Erasmus, President of the IBNWT, presented a paper to the Minister of Indian Affairs and Northern Development stating that the Dene proposal was not racially motivated and proposing the creation of "three separate geographical boundary territories—one where the Inuit are a majority and finally, one where non-Native people are in the majority."

"Each territory would recognize the political rights of all its citizens, regardless of race."

Committee for Original Peoples Entitlement—"A Western Arctic Regional Municipality would replace specific services presently provided by the Government of the Northwest Territories—the essential criterion—is that people have control over the institutions which serve them—it is only through effective participation in government that the Inuvialuit can self-develop."

COPE contemplated that if the Nunavut territory were to be established as suggested by ITC, the Western Arctic Regional Municipality would form part of that territory. Otherwise it would fall under federal jurisdiction insofar as it assumed the responsibility for programs and services now provided by the NWT Government.

Metis Association of the Northwest Territories—"We must

also have an opportunity to participate more fully in the government of the region at all levels and have a greater share of the responsibility in determining how we shall be governed." (Extract from MANWT proposed Agreement on Objectives, September, 1977.)

Under the Metis proposal the Territorial Government would inherit greater jurisdiction from the Federal Government and would, in turn, decentralize responsibility to regional and community authorities.

Boundaries for a new Mackenzie Territory would be based on communication and transportation lines as well as common regional interests. An increase in residence requirements for voting is also proposed.

Community councils would be formed to look after local interests and a "Senate of the Mackenzie Corridor" would "give the local councils a single voice in vetoing any rules or regulations which adversely affect 'aboriginal lands.'" The "Senate" would also have power to enact or initiate rules and regulations concerning wildlife harvesting, conserving renewable resources and protecting the environment.

Labrador Claims—In a preliminary statement of claim submitted in February, 1977, the Labrador Inuit Association say they are not "asking for special rights or privileges over or above those accorded to other Canadians," while the Naskapi-Montagnais "are proposing through our Agreement-in-Principle that the way to proper recognition of our national rights is through the recognition of a Naskapi-Montagnais territory and a Naskapi-Montagnais government." The provincial government has rejected the concept of special political rights for Indians and Inuit in Newfoundland.

Next week: the Negotiation Process.