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**The Yukon Legislative Assembly: Similar in Form,
Different in Style and Function**

Michael Cameron and Kirk Cameron

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The Canadian Study of Parliament Group (CSPG), as part of its efforts to foster knowledge and understanding of Canadian parliamentary institutions, is publishing a series of papers describing and analyzing the thirteen provincial and territorial legislatures. The papers are being made available free of charge, in both official languages, on the CSPG Web site. The views and opinions contained in these papers are those of the authors and are not necessarily reflective of those of the CSPG

“For Many, The North is Still an Enigma” – Former Yukon Commissioner Doug Bell

The current form and style of the Yukon Legislative Assembly are the products of a history that reveals an integral weave of political factors. First, this history reflects a Yukon non-aboriginal population looking to adopt a fully representative and responsible government structure consistent with the Westminster model in the institutions of government in Yukon. Second, this history reveals a federal government with real concerns over the readiness of Yukon to take on the responsibilities of a fully mature “province-like” government. Finally, this history has been shaped by the dynamic of land claims and self-government negotiations among Yukon First Nations, Canada and the Yukon Government that emerged in the 1970s. The outcome of these negotiations has been a major determinant shaping government institutions (territorial and First Nations) throughout the past four decades. Therefore, much of this paper will describe and analyse this intricate interweave of “political intrigue” among these three main processes. Ultimately, the outcome has been a Yukon Legislature that is both very similar in form, yet very different in style and function when compared to its southern neighbors.

A good example of these similarities and differences can be seen in an historic event in the 1980s, during the early period of full representative and responsible government in Yukon. Due to the early resignation of Liberal MLA Roger Coles on October 30th, 1986, the Speaker of the Yukon Legislative Assembly, Sam Johnston, advised by his Clerk, Patrick Michael, was faced with a difficult decision. Coles’ departure resulted in a seven - seven split between NDP MLAs able to vote on the Government side of the House (the eighth NDP MLA was Sam Johnston sitting in the Speaker’s Chair) and those in opposition. Coles’ departure left Jim McLachlan as the sole Liberal able to vote with the six Conservatives sitting as the Official Opposition until a by-election was held on February 2nd the next year. Consistent with parliamentary tradition, Sam Johnston, though of the same political stripe as the NDP Government, was to vote on bills passing through the House only where there was a tie. In similar circumstances, the Speaker is expected to vote in a manner that would allow debates to continue, but the question as to how the Speaker would vote at third reading remains unsettled. Were McLachlan to vote

with the Conservatives against a matter of confidence, such as a territorial budget, then the Speaker's vote would, were he to follow precedent, result in the dissolution of the legislature and would force Yukoners back to the polls.

The Yukon Legislature, as a fully responsible body, was still in its youth at this time; only seven years had passed since all executive authority had been transferred from the federally-appointed Yukon Commissioner to the territorial cabinet made up of elected Members of the Legislative Assembly. Many in Ottawa felt that the Yukon was not ready to manage its own affairs. Were Johnston forced to vote resulting in the dissolution of the legislature on account of a decision in the hands of one MLA it would be a sure sign, at least in the eyes of its critics, that the government of the territory was not stable or mature enough to handle the challenges of governing itself. Patrick Michael, in deliberating on the advice he would give to the Speaker, also knew that whatever decision the Speaker made would resonate throughout the rest of the country; were any of the other provinces to face a similar decision Johnston's choice would be regarded as setting precedent. Both considerations entailed that, no matter the choice, the final decision would not only result in significant consequences for the future of the Yukon Territorial Government, but for the entire country. Ultimately Michael's advice to the Speaker weighed in favor of the Speaker's role as a neutral body charged with maintaining stability and order in the House, which necessitated his voting for, not against, motions of confidence thus ensuring the continued survival of the sitting government.¹ This is echoed today by the Yukon Legislative Assembly's website that states "In general the Speaker votes in a way that maintains the status quo, thereby allowing the Assembly to continue debate on the issue until a majority opinion emerges." The Speaker's decision ensured this status quo would be upheld.

This episode exemplifies the tension that sits at the heart of the thesis presented throughout this paper. In form and function the Yukon Legislature reflects the Westminster model with a standard

¹ Interview with Patrick Michael, former Clerk of the Yukon Legislature, August, 2012. See also Patrick Michael, "The Yukon Legislative Assembly: Parliamentary Tradition in a Small Legislature", in Gary Levy and Graham White., eds, *Provincial and Territorial Legislatures in Canada* (Toronto: University of Toronto Press, 1989), pp. 189-206.

structure and party political structure one would find in any province in Canada (as such it differs significantly from that of the other territories). However, due to the characteristics and challenges faced by a small Assembly representing a territory with unique history and its own political culture, the description of the Yukon Legislative Assembly reveals differences that make for a unique study of this Yukon institution, one that is distinctly reflective of the Yukon and its people. This is illustrated well by the words spoken by Councillor James Smith at the opening of the 1958 council session when he stated “Make no mistake – the success or failure of the vision of the North rests with us, the people who live here.”²

The paper will unfold as follows: first, we will present a history of the creation of the Yukon Council (the title given to the Yukon Legislative Assembly until 1979), its beginnings as a response to the 1890s Gold Rush, and its transition from a body with a mix of federally appointed officials to one made up entirely of elected Yukon representatives; second, we will briefly trace the challenges the council faced through the early to mid-twentieth century; third, we will explore the transition towards and the implementation of full representative *and* responsible government, including the transitions that occurred leading to the issuing of an important letter of instruction from the federal Minister responsible for Yukon to the Yukon’s Commissioner, known as the 1979 ‘Epp Letter’; fourth, we will present the logistical aspects of the appearance, workings, and duties of the House today; fifth, we will highlight the changes that have occurred since 1979 resulting from transfers of responsibilities from Canada to Yukon (known as “devolution”) and the maturing of self-government for Yukon First Nations over this same period; sixth, we will discuss the importance of party politics and electoral districts; seventh, we will discuss member salary, benefits, and support staff. Our central thesis, that the Yukon Legislature is modeled after the provincial system but is unique on account of its history, size, and the profound effect single members can have on the business of the assembly, will weave throughout the essay.

² Quoted in Linda Johnson, *With the People Who Live Here: The History of the Yukon Legislature 1909-1961* (Published under the authority of the Legislative Assembly of Yukon, 2009), 332.

Gold, Stampeders, and the Birth of Representative Government in the Yukon: 1870-1918

By the time Skookum Jim, George Carmack, and Dawson Charlie found gold in Rabbit Creek on August 16th, 1896,³ the wheels were already in motion to institute a “province-like territorial regime” with inherently “British political values” in the territory that would become the Yukon.⁴ This model that would ultimately emerge as the mature structure for territorial governments is evident as early as the 1870 Order and supporting documents recommending the transfer of Rupert’s Land and the North-Western Territories to the Dominion of Canada, wherein it is stated:

That the welfare of a sparse and widely-scattered population of British subjects of European origin, already inhabiting these remote and unorganized territories, would be materially enhanced by the formation therein of political institutions bearing analogy, as far as circumstances will admit, to those which exist in the several provinces of this Dominion.⁵

Ten years later, the Canadian government was given extra incentive to solidify its political influence on the western region of the North-Western Territories. American businesses were developing in Alaska to take advantage of mineral resources, and the American government was establishing a presence in Alaska to assist these business interests. This might not have been a problem had the majority of miners and traders on the Canadian side of the very permeable border not also been Americans; in 1880 the U.S military negotiated an agreement with the Coastal Tlingit people, an aboriginal group that claimed ownership of the mountain passes along the Pacific coast, allowing American miners to cross freely into Canadian territory. In addition, in 1883 the U.S. Army sent a military reconnaissance expedition onto Canadian soil to map the Yukon River. It is no surprise that tensions arose when American miners,

³ Linda Johnson, “Introduction” in Johnson., ed., *At the Heart of Gold: The Yukon Commissioner’s Office 1898-2010*, (Published under the authority of the Legislative Assembly of Yukon, 2012), 9.

⁴ Kirk Cameron and Graham White, *Northern Governments in Transition: Political and Constitutional Development in the Yukon, Nunavut and the Western Northwest Territories* (Montreal: The Institute for Research on Public Policy, 1995), 16.

⁵ *Ibid.*

attempting to verify their claims, learned that they were under the jurisdiction of Canadian mining regulations. William Ogilvie, an important surveyor of the territory at the time who would become the Yukon's first federally appointed Commissioner after the Yukon was created through Canadian legislation in 1898⁶, could see the need for increased Canadian authority in the region and therefore, in 1893, he wrote to his seniors in Ottawa stating "the time has come to establish a formal Canadian presence in the region to counteract growing American interests which might threaten Canadian sovereignty in the event of a rich gold strike."⁷

Little did Ogilvie know, or the rest of the country for that matter, that a rich gold strike was only three years away. The small group of North West Mounted Police sent in 1895 to maintain order in the territory proved inadequate when the gold rush began the following year. Over the course of the following two years roughly forty thousand people migrated to the Klondike area hoping to replicate the discovery at Rabbit Creek. The majority of these "stampedeers" were American. Major James Walsh, Commissioner of the Yukon District, commented upon arriving at Dawson in May 1898 that the district had been "transformed [from] a small placer camp into a semblance of the American frontier west... opened wide to hard drinking, bawdy entertainment, gambling, and prostitution... [U.S. citizens] comprising perhaps more than 75% of an extremely cosmopolitan population..."⁸ The Government of Canada felt compelled to solidify its hold on the area, and in June 1898, the *Yukon Territory Act* was given Royal Assent thus officially creating the new territory.⁹ Commissioner James Walsh had already decided to resign by the time the Act was passed, and William Ogilvie was sworn in as the first official Commissioner of the new Yukon Territory.

The *Yukon Territory Act* established a political system mimicking Canadian politics to the south which stemmed from distinctly European ideas of governance; aboriginal influence was entirely absent in the formation of the territory and its political mechanisms (a theme we will return to later in this paper)

⁶ Johnson, "Introduction", 5.

⁷ Johnson, *With the People Who Live Here*, 9.

⁸ Johnson, "Introduction", 11.

⁹ Johnson, *With the People Who Live Here*, 11.

and indeed First Nations Citizens did not have the right to vote or run in an election until the 1961 territorial election.¹⁰ Still, there were significant differences between the early days of government in Yukon and the provincial model; in particular “there was no mention [in the *Yukon Territory Act*] of a process for developing responsible government.”¹¹ While the act established executive, legislative, and judicial institutions for the territory, these responsibilities were shared between senior administrators in Ottawa and the federally appointed representatives in Yukon, such as the Commissioner and his six member council who were initially all appointments of the Crown.¹² This interest in tight federal control should not be surprising, however, as Ottawa likely had “an aversion to popular democracy in the territories [on account of] the presence of so many aliens in the population.”¹³ This being said, it would not be long before local political organizations began pressing for reforms that would see elections held in the territory.

Amendments to the *Yukon Territory Act* over the next few years, spurred by concerns vocalized by resident Yukoners and amplified by the press, saw a gradual transition towards a fully elected council beginning with the incorporation of two elected members on the Yukon Council alongside four appointed members in 1899.¹⁴ As a result of this amendment the council became a purely legislative branch and all executive authority was concentrated in the Office of the Commissioner.¹⁵ The council was increased to ten members in 1902, split between five elected and five appointed members.¹⁶ These changes proved inadequate in the eyes of Yukoners after the announcement that the federal cabinet had granted a mining syndicate headed by A.N.C. Treadgold, a British entrepreneur, exclusive rights to some of the richest gold-bearing land in the Yukon.¹⁷ Dedicated Yukoners who had invested in the future of the territory felt that the introduction by A.N.C. Treadgold of mechanized mining might undermine and destroy the

¹⁰ *Ibid.* 12-13.

¹¹ *Ibid.* 12.

¹² *Ibid.* 11.

¹³ *Ibid.* 12.

¹⁴ *Ibid.* 15.

¹⁵ *Ibid.* 16.

¹⁶ *Ibid.* 15, 17.

¹⁷ *Ibid.* 17.

financial vitality of the communities they had built and many “advocated fully responsible government as the only means to combat the federal policies they perceived as detrimental to the very survival of their community.”¹⁸

By mid-decade, however, both federal appointees and some elected members on council argued that declining gold revenue and population “did not warrant reform.”¹⁹ Gold production had fallen from \$22,300,000 in 1900 to \$2,900,000 in 1907 and over the same period the population fell from 27,000 to less than 10,000.²⁰ Persistent lobbying by the Commissioner and Yukon’s Member of Parliament, supported by the Dawson Board of Trade, the Yukon Independent Party, Yukon Liberals, and opposition MPs in Parliament, did manage to push the federal government to amend the *Yukon Territory Act* in 1908 so that all ten members of the Yukon Council would be elected by Yukoners. However, the Yukon Council remained a purely legislative body and full executive power remained in the hands of the Commissioner. Despite the fact that the council was still expected to “aid the Commissioner in the administration of the Yukon territory,”²¹ section 13 of the amendment also stated that “The Council shall sit separately from the Commissioner and shall present bills passed by it to the Commissioner for his assent, and he may approve or disapprove of any of such bills or reserve them for the assent of the Governor in Council.”²² In addition, section 17 of the amendment ensured the council was unable to “adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue of the Territory, or of any tax or impost, to any purpose that has not been first recommended to Council by message of the Commissioner.”²³ (This remains a standard feature in the operation of responsible government in the House of Commons and all provincial legislatures.) The Minister of the Interior, Frank

¹⁸ *Ibid.* 18.

¹⁹ *Ibid.* 19.

²⁰ *Ibid.*

²¹ Kirk Cameron and Graham Gomme, *The Yukon’s Constitutional Foundations Volume II: A Compendium of Documents Relating to the Constitutional Development of the Yukon Territory* (Whitehorse: Northern Directories Ltd., 1991), 50-51.

²² “*The Yukon Act: 1908*,” last accessed June 28, 2013,

<http://yukondigitalibrary.ca/Publications/ActProvideGovernmentYukonTerritory/1908,%20The%20Yukon%20Act.pdf>

²³ *Ibid.*

Oliver, defended the decision by stating “If the population was larger and the revenues greater, there would be no objection to adopting the same system of administration as prevails in the other provinces. But we feel that the population is hardly large enough, nor the resources sufficient, to warrant any scheme of representative administration.”²⁴

On June 28th, 1909, 2,700 men of European descent voted in the territorial election;²⁵ aboriginals and women were not eligible. Out of the eighteen who ran for public office, a diverse group of ten Yukoners were chosen to sit on the Yukon Council; three miners, three lawyers, two merchants, a doctor, and a blacksmith.²⁶ The transition to a fully elected Yukon Council was an important step towards fully representative and responsible government in the Yukon; representation was now complete, though the road to responsible government had yet to commence. The council still had many challenges to face over the next few decades before this full evolution to representative *and* responsible government could be fully realized.

From Decline to Hope: 1918-1950

The period between 1918 and 1950 has been characterized as the Yukon’s constitutionally “quiet years.”²⁷ The trend that saw gold revenue and population decline in the Yukon continued; the 1921 census showed a population of only four thousand, a result of the exodus of many “gold-seekers” fleeing in the wake of the dwindling gold industry.²⁸ As a result of these trends the federal government considered abolishing the Yukon Council in 1918 as a cost cutting measure.²⁹ The Yukon accounts for 1916-17 showed that the total revenue of the territory was \$502,643 yet the federal expenditures were \$956,664.³⁰ This disparity between revenue and cost, especially during a time when the federal financial obligations

²⁴ Johnson, *With the People Who Live Here*, 22.

²⁵ *Ibid.* 30.

²⁶ *Ibid.* 31.

²⁷ Cameron and White, *Northern Governments In Transition*, 17.

²⁸ *Ibid.*

²⁹ Johnson, *With the People Who Live Here*, 137-138.

³⁰ *Ibid.* 134.

associated with the First World War were considerable, helped to strengthen Ottawa's argument in favour of drastically cutting the financial support given to a territory with a dwindling population and revenues.

The councillors fought hard to retain some form of representative government in the Yukon, sending a telegram to Ottawa stating that "any other form of administration other than 'representative government would be repugnant to the people of [the Yukon].'"³¹ Early in 1919 Ottawa conceded and agreed to conserve the existence of the council, though it would be drastically reduced to three members.³² The position of Commissioner, however, was abolished and his executive duties were transferred to the Gold Commissioner (a position of lesser status to the Commissioner), at that time George Patton Mackenzie.³³ The position of Gold Commissioner would be abolished in 1932 as a further cost cutting measure necessitated by the Great Depression. The executive functions of the territory passed to another federally appointed officer, Comptroller George Allen Jeckell, who fulfilled the duties of all three positions until 1946, two years before the position of Commissioner would be re-established.³⁴

The first council to be comprised of three members, a number that would not increase until 1952,³⁵ was forced to revise its rules to accommodate the changes.³⁶ To "avoid deadlocks while retaining most of the form and functions of the larger Council" the Speaker was given a vote and a Deputy Speaker would take his place "when [he] wished to participate in the proceedings."³⁷ Over the next two decades the reduced council was faced with many difficult challenges: a liquor embargo in 1922 on shipments through Alaska threatened revenues from alcohol sales (by far the most substantial own-source revenue in the territory);³⁸ in 1937 Ottawa decided to annex the Yukon to British Columbia, a decision that was aggressively fought by the council claiming it as a "violation of Yukoners' democratic rights," and partly

³¹ *Ibid.* 138.

³² *Ibid.* 152.

³³ Johnson, "Introduction", 43.

³⁴ *Ibid.* 48-54.

³⁵ Johnson, *With the People Who Live Here*, 353.

³⁶ *Ibid.* 164.

³⁷ *Ibid.*

³⁸ *Ibid.* 179.

as a result of their efforts the plan was cancelled;³⁹ in 1940 the council had to strike a balance between pressure from Ottawa to increase levels of taxation in the Yukon and the realities of the higher costs of living experienced by those living in the remote territory.⁴⁰ These are just a handful of examples of the many issues the council faced in its diminished state. The drive of the councillors was strong, however, and despite the logistical issues that arose on account its small size, the Yukon Council was able to survive in the face of these many challenges.

The 1940's saw developments that would lay the foundation for expansion of the council. In 1942 Canada and the United States agreed to build the Alaska Highway through Yukon.⁴¹ The same year saw the creation of the Canol Pipeline from NWT through the Yukon to the Alaskan port of Skagway.⁴² These projects would be a major boon for the Yukon, ushering in the possibility of new economic as well as political development. With the possibility of a bright future emerging, discussions began on the possibility of further expansion of the Yukon Council and the assumption of executive responsibilities by members of that body; the beginnings of the move to fully representative and responsible government. As the next section will highlight, however, it did not happen overnight.

Responsible Government for Yukon

Although fully responsible government would not be formalized in Yukon until the issuing of the "Epp Letter" in 1979, the seeds of the transition were sown as early as the 1950's as councillors, Commissioners, and responsible federal ministers alike persisted in discussing the possibility of moving towards executive control by Members of the Yukon Council. Significant developments towards instituting full responsible government, however, were few and far between. During a visit to Yukon in 1954 the responsible federal Minister, the Minister of Northern Affairs and National Resources, the Honourable Jean Lesage, met with every Member of the Yukon Council, a number that had been

³⁹ *Ibid.* 213.

⁴⁰ *Ibid.* 227.

⁴¹ Cameron and White, *Northern Governments in Transition*, 18.

⁴² *Ibid.*

increased to five in 1952 as a consequence of a significant rewrite of the territory's "constitution", the *Yukon Act*. These meetings held symbolic significance for the growing importance of the council, as "it was the first time that the federal Minister responsible for Yukon affairs met with all the members of the Council."⁴³ Though no immediate change resulted, the visit indicated a rising interest in the creation of responsible government in the Yukon, as the councillors and the minister "discussed the relationship between the Council and the Commissioner and the possibilities for enhancing and changing their respective roles as a means of progressing towards responsible government in the territory."⁴⁴

Over the remainder of the decade the topic of responsible government continued to resonate as an important issue as the debate over the relationship between the council and the Commissioner and their respective responsibilities persisted. Commissioners often found themselves "caught between local desires and federal dictates."⁴⁵ As attitudes shifted in Ottawa, however, the autonomy of the Council began to grow. While in 1953 Commissioner George Brown received curt criticism from the Deputy Minister of Northern Affairs and Natural Resources, Colonel Young, for his "referral of several matters to the Council without prior approval by the department,"⁴⁶ Commissioner Collins' request to Ottawa in 1955 to clarify his relation to the council returned an answer stating "the Commissioner's position was analogous to that of the Governor General and Lieutenant Governors, and while in theory he could withhold assent [to Council decisions], in practice it would be inadvisable."⁴⁷ While the council still had no executive authority and would still be discouraged from "introducing any major bills without prior consultation with the department,"⁴⁸ this response from Ottawa highlights the changing attitude supporting a greater degree of autonomy for the business of the Yukon Legislature.

More change came in 1960 when the *Yukon Act* was once again amended; the council was increased to seven members and an Advisory Committee on Finance was created. This advisory

⁴³ Johnson, *With the People Who Live Here*, 306.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.* 294.

⁴⁶ *Ibid.* 302.

⁴⁷ *Ibid.* 316.

⁴⁸ *Ibid.* 321.

committee would allow elected members for the first time to have a say over the preparation of the territory's budget; until then the budget had been prepared exclusively by the Commissioner and his senior officials in close consultation with Ottawa officials.⁴⁹ The committee proved "largely ineffective," however, as it could only "advise" the Commissioner while leaving the final decisions on what would go into the budget up to him.⁵⁰

While many who took up the role of Commissioner between 1950 and 1965 expressed desire to see development towards responsible government, it was not until James Smith's ten years as Commissioner beginning in 1966 that the most significant steps began. Smith pushed for the creation of an Executive Committee, "convinced it would be the nucleus of the future Cabinet."⁵¹ The committee was created in 1970, composed of the Commissioner, two assistant commissioners, and two elected council members.⁵² Elected Councillors Hilda Watson and Norm Chamberlist were appointed to the committee and were placed in charge of the Department of Education and the Department of Health, Welfare and Rehabilitation, respectively.⁵³ This was a monumental step towards responsible government as it was the first time that elected members were responsible for decisions pertaining to the executive branch of the government. Smith continued to push on two fronts; on the one hand he continued to push Ottawa towards further reform in Yukon, and on the other hand he pushed the elected members on the committee to learn and accept the discipline required to participate at the executive level. Pushing further reforms, the committee "prepared a comprehensive paper on constitutional development for the Yukon, outlining the next steps to move [the Executive Committee] from a partly appointed, partly elected model to a wholly elected body and responsible government on the Westminster model."⁵⁴ It was considered by federal cabinet in 1973, but only one additional elected member to the executive committee was

⁴⁹ Cameron and White, *Northern Governments in Transition*, 20.

⁵⁰ *Ibid.*

⁵¹ James Smith, "Chapter 2: James Smith 1966-1976," in Johnson, ed., *At the Heart of Gold*, 118.

⁵² Michael, Patrick, "The Yukon Legislative Assembly: Parliamentary Tradition in a Small Legislature", Yukon Legislative Assembly, 1987, 5.

⁵³ Cameron and White, *Northern Governments in Transition*, 22.

⁵⁴ Smith, "Chapter 2," 126.

approved.⁵⁵ The third member was officially added in January of 1975 replacing an appointed member, and another appointed member was dropped in January of 1977, thereby resulting in a majority of elected members on the committee.⁵⁶ The council would also be expanded to twelve members and begin calling itself the Yukon Legislature before Commissioner Smith's resignation in 1976.⁵⁷

The three Commissioners who followed James Smith knew that responsible government was advancing and that it was just a matter of time and proper procedure before it would materialize.⁵⁸ While the commissioner still sat as the head of the Executive Committee with the power to veto elected members' decisions, Arthur M. Pearson, Commissioner from 1976 to 1978, reminisces that "Executive Committee was working like a Cabinet. The Epp letter [discussed below] really put into writing what was already happening. In my time the Commissioner was not dictating to the elected members what was going to happen."⁵⁹ A fourth elected member was added to the Executive Committee by the Minister of Indian and Northern Affairs, Hugh Faulkner, in December of 1977.⁶⁰

The 1978 territorial election saw even greater steps taken towards responsible government. It was the first election to be officially conducted along party lines and saw the addition of four more elected members, bringing the number to sixteen,⁶¹ a number that would increase to seventeen in 1992, eighteen in 2002 and nineteen in 2008. Minister Faulkner instructed Interim Commissioner Frank Fingland to appoint elected members to the Executive Committee who had been chosen by the leader of the winning party. Fingland "recognized in the Minister's instruction... that this was the turning point in the evolution of the constitution of the Yukon, because it meant that the elected people were going to have full power to run the territorial government."⁶² Fingland was replaced by Ione Christensen in January of 1979 and Faulkner sent a letter to her that same month clarifying the role of the Commissioner. Under Faulkner's

⁵⁵ *Ibid.*

⁵⁶ Cameron and Gomme, *The Yukon's Constitutional Foundations Volume 150*.

⁵⁷ Michael, "The Yukon Legislative Assembly", 5.

⁵⁸ See Johnson, *At the Heart of Gold*, Chapters 3-5.

⁵⁹ Arthur M. Pearson, "Chapter 3: Arthur M. Pearson 1976-1978," in Johnson., ed., *At the Heart of Gold*, 151.

⁶⁰ Cameron and Gomme, *The Yukon's Constitutional Foundations Volume*, 150.

⁶¹ Michael, "The Yukon Legislative Assembly", 5.

⁶² Frank Fingland, "Chapter 4: Frank Fingland 1978-1979," in Johnson, ed., *At the Heart of Gold*, 183.

direction the commissioner would remain the chair of the Executive Committee and still retain the final word on issues that remained “subject to federal direction,” such as “the powers of the Commissioner and the Council, areas of territorial legislative jurisdiction and the relationship of the Territorial Government with the departments and agencies of the Government of Canada.”⁶³ For many other matters, however, the Commissioner would be bound to sign off on the decisions made by the elected members.

It is likely that the state of affairs put in place by Minister Faulkner would have continued for a significant period of time had the federal election in May of that year not brought a change of both the government and the federal minister responsible for the North. Some have surmised that the Conservative government of Prime Minister Joe Clark wished to be seen as “[promoting] the Progressive Conservatives as the party of economic and political progress in the North” to counter the fact that the most significant developments made in recent years had been under Prime Minister Pierre Trudeau’s Liberal government (indeed, at one point during the election, Clark reflected on the possibility of a referendum to ask Yukoners if they wished to form a new province in Canada).⁶⁴ Fingland, reflecting on the developments at the time, noted that “Chris Pearson [the new territorial Government Leader] and Erik Nielson [Yukon’s M.P. and minister in the Clark Government] realized there was an opportunity to capitalize on the introduction of responsible government.”⁶⁵ Both Pearson and Nielsen fought strongly for the push toward responsible government; Nielson, first elected MP in 1958, had been a strong supporter of responsible government for many years.⁶⁶ Their combined efforts convinced the responsible federal minister, Jake Epp, who had replaced Faulkner as the Minister of Indian and Northern Affairs, to send his famous “Epp Letter” to Commissioner Ione Christenson instructing her to “request the Territorial Government Leader that he shall constitute and appoint a body known as the Cabinet or the Elected Council which will have as its members... elected representatives” and that “[the Commissioner] will not be a member of the Cabinet or the Executive Council, and will not participate on a day-to-day basis in the affairs of the

⁶³ Cameron and Gomme, *The Yukon’s Constitutional Foundations Volume*, 157.

⁶⁴ Cameron and White, *Northern Governments in Transition*, 23.

⁶⁵ Fingland, “Chapter 4,” 186.

⁶⁶ Johnson, “Introduction,” 62, and Smith, “Chapter 2,” 122.

Cabinet.”⁶⁷ Fully responsible government had finally been instituted in the Yukon; the role of Commissioner was now analogous to that of a lieutenant governor and the executive cabinet was a body comprised entirely of elected Members of the Legislative Assembly.

Through the persistent work of Yukoners (as well as some sympathetic men in Ottawa) the Yukon Legislature grew from humble beginnings to a fully representative and responsible entity. The success of the “vision of the North” truly did rest with “the people who live here,” as was demonstrated by the actions of those on the early councils as well as later proponents of political advancement such as James Smith, Chris Pearson, and other men and women who pushed during the 1960s and 1970s for representative and responsible government.

The Workings of the Legislative Assembly

As stated earlier, in form and function the Yukon government resembles that of the provinces. This is clearly described in the 2000 publication *Commissioners of the Territories*, published by the Government of Canada. The work claims that “A commissioner of a territory is not a lieutenant governor. However, the form of territorial government and the needs of its people are so much the same as in the provinces that a tendency arises for the commissioner to be treated as a lieutenant governor. Accordingly, it is good and proper for commissioners to act as lieutenant governors would act.”⁶⁸ This ‘provincial form’ is most explicit in the Yukon when compared to the Northwest Territories and Nunavut, as the Yukon’s legislature reflects the attributes of the party political system while the other territories have embraced a consensus style in the way in which elections are conducted (no party structure), the manner in which the Speaker, premier and executive are determined (all MLAs meet following an election to determine these matters), and the way in which the business of the House is conducted (in effect, all MLA’s holding cabinet positions are a minority of the legislature and thus the majority are in a position to scrutinize the government’s actions, thus holding it accountable). This section will trace the various

⁶⁷Cameron and Gomme, *The Yukon’s Constitutional Foundations Volume*, 161.

⁶⁸Government of Canada, *Commissioners of the Territories* (Ottawa: Minister of Public Works and Government Services, 2000), 30.

aspects of the form and function of the Yukon Legislative Assembly, demonstrating similarities between Yukon and the assemblies of the provinces.⁶⁹

Ceremony and Tradition:

Following the provincial model, the Yukon Legislative Assembly retains many ceremonial traditions familiar to the parliamentary system. One can see these traditions most explicitly in the first sitting day of a new Legislative Assembly. For an assembly to be in session the Commissioner must first read the Speech from the Throne; it is this speech that marks the commencement of the session (this is unique to Yukon among the territories, as in the Northwest Territories and Nunavut this introductory speech is called the Commissioner's Address). Before the Commissioner reads the speech, the Clerk of the Assembly must read both the 'proclamation from the Commissioner' and the 'letter from the Chief Electoral Officer to the Commissioner.' The MLAs, House officers, and pages must all be in their appointed places before the clerk may read these two letters; the Commissioner does not enter the assembly chamber until these two letters are read.

Once these letters are read and the Commissioner enters the room he or she sits in the Speaker's chair but then promptly leaves when the clerk declares that the Commissioner "does not see fit to declare the causes of the summoning of the present Assembly... until a Speaker of this Assembly shall have been chosen according to law..." The premier presents the first motion that a particular member "take the chair of this Assembly as Speaker." This motion is seconded by other party leaders. If the assembly doesn't approve of the member chosen by the premier then other members take turns nominating members until one is chosen. Though the process can be difficult at times on account of the small size of the Legislature, there haven't been any cases where a Speaker has not been chosen in this fashion. Once a Speaker is chosen the Commissioner returns to the room long enough to deliver the Speech from the Throne, and when he or she leaves the Speaker takes the chair and calls the assembly to order. These practices harken

⁶⁹ Unless otherwise stated, all information in this section is taken from "Yukon Legislative Assembly: Info Sheets," last modified November 16, 2012, http://www.legassembly.gov.yk.ca/info_sheets.html

back to parliamentary traditions that are centuries old; the Commissioner, playing the role of lieutenant governor, acts as the royal representative giving legitimacy to the legislature to run its own affairs.

None of this can take place, nor can the assembly convene or conduct any business without the ceremonial mace in place. Like the mace in Ottawa's House of Commons, the Yukon Legislature's Mace acts as a symbol for the sanctity of the legislature, a symbol that reflects a long history dating back to the twelfth century when the Sergeants-at-Arms of the King's bodyguard were equipped with maces.

(Although symbolic today, in the day, the mace was a fearsome weapon used to keep unruly members of the early assemblies in line.) Reflecting the traditions found throughout the country, the Sergeant-at-Arms is the only one allowed to touch the mace. The Yukon Legislature's mace was designed to reflect the art and imagery of the Yukon; it displays a number of Yukon images including fireweed (the Yukon's floral emblem), a miner, a trapper, a First Nations person, and etchings of Yukon scenery. Like the Yukon Legislature itself, the mace is both traditionally parliamentary and distinctly Yukon.

The layout of the Assembly Chamber resembles that of the provincial legislatures as well as the House of Commons. The Speaker's chair sits at the head of the room. The government sits to the right of the Speaker, and across from the opposition. The Mace sits on the Clerk's table in the centre of the room and the crown of the mace faces the government side. The chamber is smaller than most other Legislatures in Canada, but despite its size it is unquestionably parliamentary in form, style and function.

Assembly Time Periods

The calendar of the Yukon Legislature follows that of the provinces. The Legislative Assembly begins on the day of a general election and ends with the assembly's dissolution. The assembly can legally last for a maximum of five years as per Section 11(1) of the *Yukon Act*. The assembly is broken down into sessions, and those sessions broken down into sittings and sitting days. A session begins with the Speech from the Throne and ends either when prorogued or when the assembly is dissolved. Prorogation removes all bills and motions no matter how far they have progressed in the legislative

process, and the agenda of the assembly starts fresh at the beginning of the new session. Recently, the assemblies have tended towards fewer and longer sessions.

A “sitting day” is a day the MLAs convene in the assembly chamber and a “sitting” is a group of consecutive sitting days. There are a maximum of sixty sitting days per calendar year and these days are split between spring and fall sessions. The premier decides the day the sitting begins, and after the first five days of presenting bills the party leaders convene to decide the length of the sitting. As determined by Standing Order 75(2), each sitting must be a minimum of twenty days and a maximum of forty. Sitting days are Monday through Thursday unless otherwise ordered. These days begin at 1:00PM and end at 5:30PM, though the day can end early or be extended later (this is infrequent). As should be expected the assembly does not sit on holidays.

Committees

There are five permanent standing committees that MLAs may serve on: the Members’ Service Board, which oversees the Legislative Assembly’s budget and operations; the Standing Committee on Public Accounts which is responsible for reviewing the Public Accounts and all reports of the Auditor General; the Standing Committee on Rules, Elections and Privileges, which recommends changes to the rules by which the assembly operates known as the Standing Orders; the Standing Committee on Statutory Instruments, which examines regulations made by cabinet; and the Standing Committee on Appointments to Major Government Boards and Committees, which reviews nominations to certain government boards and committees. All MLAs also sit as members of the Committee of the Whole, which will be taken up in the next section.

The frequency in which each of the five standing committees meet differs drastically. The Member Service Board, the Standing Committee on Public Accounts, and the Standing Committee on Appointments to Major Government Boards and Committees meet quite regularly, while the Standing Committee on Rules, Elections and Privileges meets quite sporadically, and the Standing Committee on

Statutory Instruments has not met since 1986.⁷⁰ Only two of the five (The Standing Committee on Public Accounts and the Standing Committee on Appointments to Major Government Boards and Committees) have recent activity accessible on their respective pages on the Yukon Legislature website.

Passing of Bills

For a bill to become a law in Yukon it must pass through five stages: introduction and first reading, second reading, committee, third reading, and assent. The first stage takes place when the speaker calls for 'introduction of bills'. There is no debate at the first stage but a bill introduced is placed on the *Order Paper* (the assembly's formal agenda) at this point. The second reading sees the House debate the proposed bill as a whole. A vote is required to move the bill to the next stage. The next stage sees the Committee of the Whole consider the bill clause by clause and propose amendments. It is rare that bills move from committee back to the House without proposed amendments but any amendments proposed must be consistent with the bill as it was approved in principle at second reading. At the third reading the bill is again considered as a whole. Another debate may result but this is rare if the bill saw no amendments proposed during the committee stage. A bill that passes the third reading is presented to the Commissioner for assent. There is an assent ceremony wherein the Commissioner takes the Speaker's chair, the Speaker asks the Commissioner to grant assent to the bills passed by the assembly, the clerk reads the names of the bills, and the Commissioner then gives assent to those bills. These bills are now laws, some coming into force immediately, others on specified future dates or specified retroactive dates, and others at unspecified future dates of proclamation by the Commissioner in Executive Council (the cabinet).

Private member bills (those that are brought to the House by individual MLAs, usually members of an opposition party) are much less likely to reach a second reading, let alone get assent, than government bills (those that are sanctioned by the Cabinet before being brought to the Legislature).

⁷⁰ Telephone interview with Floyd McCormick, Clerk of the Yukon Legislature, October 18, 2013.

Within the last ten years, only two private member bills have reached assent: The Smoke Free Places Act of 2008; and the Act to Amend the Ombudsman Act of 2012.⁷¹

Devolution⁷²

Earlier this paper discussed the evolution of responsible government in Yukon. This in large part related to the movement of direct control of government from the hands of Ottawa-appointed senior officials to Yukoners elected to public office in the Legislative Assembly. 1978-1979 marked the end of this journey toward full representative and responsible government when the Commissioner moved to a role analogous to that of lieutenant-governor, and party politics entered the governance arena in a manner fully understood in any province in Canada.

What was not finished in this evolution was the assumption of province-like powers [(see *Constitution Acts 1867 to 1982* ss. 92, 92(A)]. Through the 1970s through the 1990s a number of province-like powers were transferred to Yukon, such as oil and gas, health and fresh water fisheries. In large part the land and natural resources (with the exception of oil and gas) components of what is normally associated with provincial jurisdiction remained with the federal government, administered in large part by the Department of Indian Affairs and Northern Development. Therefore, the Yukon legislature and government, although structurally like the provinces, were responsible for a far narrower scope of authorities, largely in the social policy areas.

Through negotiations that took place off and on from 1980 through 2003, the powers of the Assembly and the Yukon Government expanded to capture these remaining province-like responsibilities. In 1993 the Canada-Yukon Oil and Gas Accord was concluded, setting the stage for the transfer of authority for oil and gas exploration and development. Given the slow progress in these negotiations, Canada adopted a new approach for Yukon transfers, “bundling” all remaining province-like

⁷¹ *Ibid.*

⁷² For reference and further information on this section see Christopher Alcantara, Kirk Cameron, and Steven Kennedy, “Assessing Devolution in the Canadian North: A Case Study of the Yukon Territory,” *Arctic: Journal of the Arctic Institute of North America*, VOL. 65, NO.3 (September 2012): 328-338.

responsibilities and associated resources so as to negotiate a single transfer with the Yukon Government. Thus, in 2003 responsibilities for land throughout much of Yukon along with mineral resources, forestry and water were transferred to the territorial government. “Mirror” legislation had been passed by the Yukon Legislature to allow for this jurisdictional take up, and Parliament moved to amend appropriate federal statutes to give legislative room for this take up of powers by Yukon.

Today, Yukon has largely the same suite of powers normally associated with provincial governments, and therefore the kinds of matters coming before the Legislative Assembly reflect what one experiences sitting in on debate in the Legislatures across Canada.

Yukon First Nations in the Yukon Legislature

Since the introduction of full representative and responsible government in Yukon in 1979 there has been significant presence of First Nations’ citizens in the Legislative Assembly. At the time of writing, three of the 19 Members sitting on the Government side of the House are of Aboriginal descent.⁷³ Whereas the aboriginal population of Yukon sits at approximately 25 percent of the total population, the First Nations MLAs make up 16 percent of the Assembly.

In the recent past the number of First Nations MLAs has been significant. In the previous Assembly (2006-2011), two MLAs sat with government, both holding cabinet seats (Marian Horne, MLA Pelly-Nisutlin was Minister of Justice, and John Edzerza, MLA McIntyre-Takhini held the environment portfolio). In addition, there were two Aboriginal Members sitting in the Official Opposition. In total approximately 24 percent of the House was Aboriginal at the time of dissolution.

Although this number has been as low as one member (1978), in most assemblies since then the number has been either three (1982, 1992, 1996, 2002, 2011) or four (1985, 1989, 2000, 2006) and thus roughly representative of the population of Yukon.

⁷³ “Yukon Legislative Assembly: Members,” last modified October 7, 2013, <http://www.legassembly.gov.yk.ca/members.html>

Members of First Nations descent, when sitting with the Government, have held positions of distinction in either the House or the Government. For instance, during John Edzerza's time in the House from 2002 until his passing in November 2011 he held a number of cabinet portfolios: environment, justice, education, and Public Service Commission. In recent history of the Yukon Legislature, MLAs of aboriginal descent, such as Samuel ("Sam") Johnston (1985-1992) and Robert Bruce (1996-2000), have served as Speaker. First Nation citizens have also held the Office of Commissioner in recent history. Commissioner Judy Gingell (1995-2000) is a citizen of the Kwanlin Dun First Nation (Whitehorse). Geraldine Van Bibber, who is of Gwich'in (Dawson City) ancestry, held this distinguished post from 2005 to 2010.

A noteworthy feature of Yukon politics has been the degree to which citizens of Yukon First Nations have served both in the Assembly and in either elected or appointed positions with First Nations governments. For example, John Edzerza served four terms on the Kwanlin Dun First Nation Council. Likewise, Dave Keenan of Teslin Tlingit ancestry was elected as a Member of the Legislative Assembly of the Yukon Territory and served as Minister of Community and Transportation Services and Minister of Tourism in the 1990s. Mr. Keenan also served as Vice Chief and Grand Chief of the Council of Yukon First Nations (formerly Council for Yukon Indians) and as Chief of the Teslin Tlingit Council. Other examples include Dave Porter, who sat for two terms in the Yukon Assembly, serving in various cabinet posts and as the deputy premier. Mr. Porter has subsequently held critical positions with Aboriginal governments in British Columbia, including Chair of the Kaska Dena Council and political executive on the B.C. First Nations Summit. Norma Kassi (Vuntut Gwitchin) served in the Yukon Assembly for two terms in the 1980s and as Chief of her First Nation in northern Yukon. Eric Fairclough served five terms in the Assembly (1996-2011) and was recently elected as Chief of the Little Salmon and Carmacks First Nation.

This crossover between public office and First Nation office is illustrative of an important theme in Yukon history. The political, social and economic culture of Yukon has evolved significantly since the days when European settlers who moved to Yukon largely for mining interests, military or public

administration dominated both government and private sectors. There is now a recognized need and interest between ‘public’ and First Nations’ governments to cooperatively manage public affairs throughout the territory. First Nations leadership illustrated above is in a pivotal position to provide vital linkage between public and aboriginal government.

In the 1970s, an active time in the evolution of responsible government in Yukon, consideration was given to other ways of bridging First Nations’ interests and public government through significant institutional reform. In the Government of the Yukon Territory Position Paper, “Meaningful Government For All Yukoners” (1975) the lack of First Nation (the term “native” was used commonly at that time) involvement in government was emphasized:

Territorial residents who seem to have little influence over those activities under federal control complain about their colonial status and lack of involvement in the decision making process. At the same time, native people are even more critical. They feel that while there is a lack of federal government responsiveness to their needs, the territorial government is even less responsive to their particular interests.⁷⁴

The position paper argued:

There are no native council members ... no native people in senior territorial government positions and there are few natives on the many committees in the Yukon... Yukon native leaders seem to feel that the only solution is to have a separate native government with control over such areas as they think necessary. The YTG [Yukon Territorial Government] and the federal government would like to discourage a separate and independent native government. It seems that the only alternative is to provide real opportunities and encouragement for native people at all levels of the territorial government system.⁷⁵

⁷⁴ Government of the Yukon Territory, *Meaningful Government for All Yukoners*, (1975), 1.

⁷⁵ *Ibid.* 2.

A number of ideas for institutional change were put forward in this document. Although a specific number was not identified, the report recommended guaranteed Aboriginal membership on the Executive Committee (the precursor to the cabinet). It further called for the establishment of four native electoral districts superimposed over the existing 12 electoral districts (this is the New Zealand Maori model). A Yukon Conservation Commission to address all renewable resources matters in Yukon was recommended, and mechanisms to ensure that native appointments to the commission would be assured.⁷⁶

Letters of instruction subsequently issued by the Minister of Indian and Northern Affairs on changes to the executive and legislative structures, discussed above, did not include these far-reaching changes. Ultimately changes addressed to accommodate aboriginal governance interests were captured in self-government agreements covering 11 of the 14 Yukon First Nations. Instead of integration within one governance system, First Nations have the right to draw down powers from lists identified in the agreements. The lists provide for a suite of powers similar to those held by the territorial government (e.g. education, land administration, health and welfare etc.). When a First Nation government passes legislation in one of the identified fields, it replaces the application of territorial laws over the First Nations citizenry or the land under First Nation control whichever applies in the circumstances. There are restrictions on First Nations' legislative scope. If a matter is captured by provisions of a First Nation land claim agreement, legislation passed by a First Nation must be consistent with the provisions set out in the constitutionally protected land claim agreement.

Ultimately, no institutional changes to the structure of the legislature provide guarantees for Yukon First Nations' citizenry involvement. Government-to-government relationships among Canada, Yukon First Nations governments, territorial and municipal governments are the means through which the culture, values and interests of First Nations are attended to.

⁷⁶ *Ibid.* 54-55.

Party Politics

Although party political alignment wasn't officially in place before the 1978 election,⁷⁷ partisan leanings were present as early as 1909. The *News*, a Dawson City (then the Capital City of Yukon) newspaper, announced the results of the 1909 election as a Liberal majority, with six Liberals and four Conservatives taking seats.⁷⁸ The council at the time was not structured in the typical Westminster legislative style with a sitting government and an official Opposition, but the members did identify with particular parties. This being said, the candidates could not rely merely on their partisan stance to win electoral votes, as in some districts more than one candidate ran under the same partisan banner; thus the *News* reported that candidates were "elected upon personal popularity."⁷⁹

When the council was reduced to three members in 1919 councillors' identification with particular parties diminished. By 1958 the council was composed completely of members without any expressed party allegiance.⁸⁰ This non-affiliation with parties changed after Minister Faulkner's appeal to Commissioner Fingland in 1978 (solidified in a letter to Commissioner Christensen sent in January of 1979 by the new Minister, Jake Epp) wherein Faulkner recognized the advent of party politics in the Yukon and instructed the Commissioner to "accept the advice of the majority leader in the appointment of the elected Members of the Executive Committee."⁸¹ This move instituted a state of affairs reflecting legislative politics elsewhere in Canada; the leader of the majority would be the government leader (analogous to premier) and appoint members to the executive committee which would soon be referred to in modern parlance as the "cabinet". The 1978 election resulted in a majority government for the Progressive Conservatives, who took eleven seats. The remaining seats were split between two Liberals, one NDP and two independents.⁸² Since the inception of party politics no more than three independents

⁷⁷ Michael, "The Yukon Legislative Assembly", 7.

⁷⁸ Johnson, *With the People Who Live Here*, 31.

⁷⁹ *Ibid.* 28, 31.

⁸⁰ *Ibid.* 353.

⁸¹ Cameron and Gomme, *The Yukon's Constitutional Foundations Volume*, 157.

⁸² Michael, "The Yukon Legislative Assembly", 8.

have sat in an Assembly at one time.⁸³ It is of note that in recent years, no one running as an independent has won a seat, although some party members have, for various reasons, decided to renounce affiliation with their respective parties to sit as independents.

Including the 1978 election there have been ten elections since the introduction of party politics. Of those, six have returned Conservative/Yukon Party majorities (the Progressive Conservative party changed its name to the Yukon Party for the 1992 election due to disagreements between the territorial and National party in the area of land claims and has retained the name since). The remaining four elections have seen three NDP majorities and one Liberal majority. At the time of writing the Yukon Party holds power with a majority of twelve seats facing an opposition composed of six NDP and one Liberal. The Yukon party has held power since 2002.

While party politics has been an integral part of Yukon politics since 1978, the *News'* declaration that personal popularity greatly influences a candidate's chances of winning a riding has held true throughout the current period of party politics in the territory. This is exemplified by the ease at which a number of members have had crossing party lines, subsequently succeeding in re-election. Most notable is former premier Dennis Fentie who first sat in the NDP caucus, but moved early in his political career to sit with the Yukon Party, subsequently taking its leadership. Both Gary McRobb and Eric Fairclough were elected as New Democrats in 2002, then crossed lines to the Liberals and were re-elected in 2006. A number of other MLAs have been elected as members of a political party and then been re-elected as independents, such as Donald E. Taylor (elected PC in 1978 and independent in 1982), Beatrice Anne Firth (elected PC in 1989 and independent in 1992), and Alan Nordling (also elected PC in 1989 and independent in 1992).⁸⁴ Recently Darius Elias, a Liberal sitting in the Assembly, left the party to sit as an independent before joining the Yukon Party.⁸⁵

⁸³ Johnson, *With the People Who Live Here*, 356-362 and "Past Legislative Assemblies," last modified November 7, 2011, http://www.legassembly.gov.yk.ca/past_la.html

⁸⁴ Johnson, *With the People Who Live Here*, 356-362.

⁸⁵ Roxanne Staszyn, "Elias Quits the Liberals," *Yukon News*, August 17, 2012; <http://www.yukon-news.com/news/29916/> accessed June 28, 2013, and "Yukon Legislative Assembly: Members," Last Modified October 7, 2013.

It should not be surprising that candidates' personalities and personal popularity would have a great effect on the election results. As of 2013 the largest electoral district in terms of number of voters in Yukon is Whitehorse Center with one thousand three hundred and sixty eight individuals eligible to vote; the smallest, the Vuntut Gwitchin district in the far north, has an electorate of only one hundred and seventy six. Candidates have a much greater chance of being acquainted with a majority of their riding population in small constituencies, thereby making it much easier for the individual personalities of the candidates to play a significant role in the decisions of the electorate. More on the electoral districts will be presented in the next section.

Party politics, reflective of that which is found both provincially and federally in the rest of the country, has been an important part of the recent history of the Yukon Legislative Assembly since 1978 and at least implicitly present since the Yukon Council's creation many decades earlier. However, as has been demonstrated, party politics isn't the be all and end all for Yukon voters; the small size of the electoral districts makes it inevitable that the character of candidates and their level of personal connection to the particular riding in which they are running for office plays a significant role in the outcome at the ballot box.

Electoral Districts

The 2008 Yukon Electoral Boundaries Commission Final Report recommended that nineteen electoral districts be established in Yukon. Eleven of these districts divide up the capital city of Whitehorse as two thirds of the population of the territory resides in the capital. The remaining eight districts encompass much larger geographical areas of the territory to account for the dispersed population and are therefore mostly rural. The electoral quotient to determine the necessary limits within which a district's population must fall are determined in the same way as the provinces and other territories. The total population of those eligible to vote is divided by the number of electoral districts to determine the

"Members," last modified October 7, 2013, <http://www.legassembly.gov.yk.ca/members.html>

average number of electors per electoral district.⁸⁶ The population of the district can be as much as twenty-five percent above or below this number. The average number of residents per district in Yukon is only 1147,⁸⁷ a small number when compared to a province such as Ontario, whose average population per district is 106,213.⁸⁸

We commented in the last section on the fact that the small population of individual districts makes it easier for candidates to become more acquainted with their electorate. The sheer size of some electoral districts in the territory, however, introduces challenges for MLAs representing some rural areas, in particular the Pelly-Nisutlin district, on account of the “vastness of the area and the difficulties in travelling to all the included communities.” Such are the realities intrinsic to governing a territory such as Yukon; the 2008 commission attempted to find a solution to the Pelly-Nisutlin issue, but any solution would result in districts with too small a population or a greater discrepancy between the amount of urban and rural districts.⁸⁹ Compared to the densely populated areas near Whitehorse’s core, the MLA representing the Pelly-Nisutlin district cannot merely walk down a few streets to meet a majority of those he or she represents but must travel much greater distances; as an example, the MLA would have to travel 528 kilometers to get from Faro to Teslin, two of the towns included in the district.

The Vuntut Gwitchin district to the north of Yukon is not included in the consideration of the electoral quotient as it has only 176 eligible voters within its boundaries.⁹⁰ Section 419(f) of Yukon’s *Elections Act* “requires the Commissioner to take into account ‘any special circumstances relating to the existing electoral districts.’”⁹¹ Some of these “special circumstances” have been articulated in later years to include geography, community history, community interests, minority representation, language

⁸⁶ “Yukon Electoral Boundaries Commission: Final Report,” (2008), 10, http://www.electionsyukon.gov.yk.ca/docs/final_report_08.pdf

⁸⁷ *Ibid.* 12.

⁸⁸ “Proposed Boundaries – Ontario” (2012) <http://www.redecoupage-federal-redistribution.ca/content.asp?section=on&dir=now/proposals&document=page6&lang=e>

⁸⁹ “Electoral Boundaries Commission,” 12-13.

⁹⁰ *Ibid.* 12.

⁹¹ *Ibid.* 8.

differences, differences in communication with remote communities, and travel expenses.⁹² The predominantly Aboriginal community of Old Crow, the northernmost community in Yukon and the only one within the boundaries of the Vuntut Gwitchin district, fits these criteria well. The village is the only one in the Yukon that does not have road access and is therefore very isolated from other communities in the territory. The Vuntut Gwitchin First Nation people also have a rich and unique cultural tradition that traces back thousands of years.⁹³ For these reasons the 2008 commission followed in the tradition of past commission reports in keeping the Vuntut Gwitchin district a separate entity despite its small size on account of the fact that “the strong common interests of the residents may be adversely affected if the community is included in another electoral district.”⁹⁴

Salaries, Benefits and Support Staff

In October 2007 the retired Clerk of the Legislative Assembly, Patrick Michael conducted a review of the salaries and benefits of the Members of the Yukon Legislative Assembly, discovering that the Yukon “ranks last in the indemnities paid to members of the Legislative Assembly and in salaries of the Premier, the Leader of the Official Opposition, the leader of a third party, the Speaker and the Deputy Speaker.”⁹⁵ The pay for these members had been subject to little review since 1978 and most changes that did occur resulted in decreases rather than increases, leaving the salaries for leaders, ministers and presiding officers at “less than half the national average for persons in their positions.”⁹⁶ The salary numbers stayed static year to year and could only change by way of a review. Michael’s report resulted in changes that not only increased salaries but also ensured that the pay would be adjusted automatically

⁹² *Ibid.* 8-9.

⁹³ “Old Crow: Home of the Vuntut Gwitchin,” last modified June 14 2013, <http://www.oldcrow.ca/index2.htm>

⁹⁴ “Electoral Boundaries Commission,” 21.

⁹⁵ Patrick Michael, *Report to the Members’ Services Board of the Yukon Legislative Assembly respecting MLA Salaries and Benefits*, (2007), 2, <http://www.legassembly.gov.yk.ca/pdf/MLASalariesBenefits.pdf>

⁹⁶ *Ibid.*

every April to reflect “the average change in the Consumer Price Index for Canada over the previous two calendar years.”⁹⁷

Between April 1, 2013, and March 31, 2014, all members receive an indemnity of \$72,766 per year, up from \$71,200 the previous year. Cabinet ministers make an additional salary of \$39,181 and the premier an additional \$16,792 on top of the salary and indemnity. The Leader of the Official Opposition makes an additional salary of \$39,181, while the Leader of the Third Party makes an additional \$16,792. The Speaker and Deputy Speaker also receive additional salaries at \$27,987 and \$11,195 respectively.⁹⁸ All members of the legislature have a \$13,692 expense allowance per year “to pay for the expenses of that member incident to the discharge of their duties as a member.”⁹⁹

Accommodation and travel expenses are also covered for members of the Yukon legislature. All members are reimbursed for actual expenditures on accommodation and are paid an allowance for meals, incidental expenses, and travelling expenses as long as they are “absent from their normal place of residence in order to attend a sitting of the Legislative Assembly, a meeting of a committee of the Legislative Assembly or any meeting or event as a representative of the Legislative Assembly, of the Speaker, or of the Government of the Yukon.”¹⁰⁰ On account of the difficulties faced due to the great distances that must be traveled, MLAs representing rural areas are also reimbursed for accommodation and paid allowances for meals, incidental expenses, and travelling expenses when “absent from their normal place of residence in order to attend a meeting of the caucus of a party or to attend any meeting or event in their capacity as a member during a period when the Legislative Assembly is not sitting,”¹⁰¹ though the maximum amount payable per financial year is \$14,600 and for no more than forty-eight return trips.¹⁰² These same MLAs, if appointed to the Executive Council or to the Advisory Committee of Finance, are also reimbursed for accommodation and are given a \$7,300 allowance when visiting their

⁹⁷ *Ibid.* 8.

⁹⁸ “Member’s Pay,” last modified March 14 2013, http://www.legassembly.gov.yk.ca/members_pay.html

⁹⁹ *Legislative Assembly Act*, (2002), 18, <http://www.gov.yk.ca/legislation/acts/leas.pdf>

¹⁰⁰ *Legislative Assembly Act*, 23.

¹⁰¹ *Ibid.*

¹⁰² *Legislative Assembly Act*, 23, and Michael, *Report to the Members’ Services Board*, 9.

electoral district as a member though for no more than twenty-four round trips each financial year.¹⁰³

Finally, the premier, the leader of the Official Opposition, and the leader of any other recognized party, are reimbursed for accommodation and are given a \$3,600 allowance when “[travelling] in the Yukon in the performance of their parliamentary duties as recognized leaders” though for no more than twelve round trips each financial year.¹⁰⁴

Though individual MLAs are not allocated funds to pay for constituency offices, each caucus is allocated space in the legislative precinct and provided basic furnishings and equipments, such as chairs, desks, computers, etc. Each caucus receives funding for secretarial support, as well as an additional amount for each MLA. Common practice is for this additional money to be pooled together to hire staff such as administrative assistants, researchers, etc. Since the Legislative Assembly does not have its own library it is important for the caucuses to hire their own researchers. In addition, non-partisan staff, such as the Clerk, the Deputy Clerk, the Clerk of Committees, the Director of Administration, Finance and Systems, and the Receptionist/Finance Clerk, are available for consultation.¹⁰⁵

Conclusion

This paper has given the reader a sense of the similarities between the Yukon legislature and that of provinces within Canada. The frame was set early in the 1900s but took a unique course through its evolution, increasing during times of plenty, and reducing in size at times of want. There are strong similarities with the provinces, but the Yukon Legislative Assembly is also unique, in large part due to the size of the territory and the immediacy of politics faced in the coffee shops and on the streets of Yukon’s towns and cities. Ultimately the personalities of those elected to office have much to do with shaping the character of the legislative institutions of the territory.

¹⁰³ *Legislative Assembly Act, 24-25*, and Michael, *Report to the Members’ Services Board*, 9.

¹⁰⁴ *Legislative Assembly Act, 26*, and Michael, *Report to the Members’ Services Board*, 9.

¹⁰⁵ All information in this paragraph taken from a personal email from Floyd McCormick, current Clerk of the Yukon Legislature. Email received October 18, 2013

Historical accidents have played an important role in the Yukon's evolutionary course. Noted earlier, Yukon came close to losing its legislative body in 1918, and in the late 1930s it was almost annexed to British Columbia. Another "accident" that resulted in a significant step forward for responsible government in Yukon was the issuing of the letter of instruction to Commissioner Christensen by Minister Jake Epp in 1979. Those working in the minister's office at that time inform us that this letter very well might not have been sent given different perspectives between political staff in the Minister's Office and senior officials in the Department of Indian Affairs and Northern Development on whether the territory was ready for such steps forward politically. This document, which had such profound consequences for the movement of responsible government in Yukon, was the product of extensive discussion and ultimately the support of a new Deputy Minister, Paul M. Tellier who was appointed to the post September 13, 1979, only a few weeks before the letter was issued October 5 of that year.

As with so much in Yukon's institutional history, it needed an "alignment" of stars for this substantial step forward to occur. With representative and responsible government now firmly "cemented" thanks to 35 years of practice, the next 35, and perhaps more, will be focused on building economic maturity which has proven to be an equally (if not greater) elusive goal.

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