

YUKON'S RESPONSIBLE GOVERNMENT

by

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The development of responsible government in Yukon has come about in a manner strikingly similar to social, economic and political patterns in Canada's Prairie region at the turn of the century.

Frederick Haultain was head of the government of the Northwest Territories which was based on Regina in 1897. The territories at that time included Ungava, Franklin, Mackenzie, and Yukon and the districts of Assiniboia, Saskatchewan, Athabaska and Alberta.

The Honourable Mr. Haultain governed with an executive council, very similar to the council sworn into office in Whitehorse on October 22, 1979, and with a legislative council similar to the legislative assembly based in Whitehorse.

His executive council won responsible government for the territories in 1897 and he maintained that the Lieutenant Governor was obliged to accept the advice of his territorial ministers on purely territorial matters.

A letter from then Indian and Northern Affairs Minister Hugh Faulkner was issued to Yukon Commissioner Ione Christensen in January 1979 instructing her to accept the advice of Yukon ministers on matters of strictly territorial jurisdiction.

These historical parallels are separated by 82 years and raise the question of why a wholly elected responsible government did not develop in the Yukon Territory until 1979.

The answer is an interesting mixture of political history, economic development, and a growing regional maturity on the part of Canada's north.

Dawson City at the turn of the century, where it all began, was western Canada's most modern and cosmopolitan centre boasting a population of about 30,000. Most of those residents were of American origin and it was only the presence of the Northwest Mounted Police and one or two Canadian government officials which maintained a Canadian identity in an area commonly considered to be part of Alaska.

An attempt by the Northwest Territories' Council at Regina to corral the liquor licences and liquor revenues in 1897 spurred the federal government into declaring Yukon a separate territory in 1898.

The Yukon Act, in that year, established a chief executive officer known as Commissioner and an advisory group of six appointed council members. The term Commissioner rather than Lieutenant Governor, was adopted because Yukon was still a provisional district of the Northwest Territories and the term Commissioner was

in common usage in Yukon to describe the Gold Commissioner, who was appointed the first chief executive officer.

Yukon residents soon began to demand a share in responsible government and the Yukon Act was amended in 1899 to allow for the election of two council members with the same powers and duties as the six appointed members.

The council was enlarged to 11 in 1902, but only five members were elected. The Act was again amended in 1908 to give Yukoners a council of 10, all of them elected.

The decline of activity in the Klondike gold fields, the First World War and the economic depression which followed meant drastic cuts in federal budgets and Yukoners woke up one morning in 1919 to find their council had been completely abolished by the federal government in Ottawa.

It was later restored to three members, one each for Dawson City, Mayo and Whitehorse, after a great deal of pleading on the part of northerners.

The size of the council remained unchanged for the next three decades, through the Second World War, the construction of the Alaska Highway and the Canol pipeline project, until 1951 when the council was expanded to five members.

The next change came in 1960 with the Yukon Act being amended to allow for seven elected members, and a year later three of them were named to the advisory committee on finance to review government estimates with senior administrative officers. This evolved into the budget programming committee in 1968, with elected members actually working on the preparation of the budget. This was the first input by elected representative into the financial affairs of the government.

The real changes in the evolution of responsible government occurred in 1970 with the creation of the executive committee and the first direct participation of elected Yukoners in the executive function of their government. The committee was established by ministerial letter, from the Honourable Jean Chrétien on the recommendation of Commissioner James Smith. It consisted of two elected representatives named by their colleagues and three appointed senior civil servants; the Commissioner and his two assistant commissioners.

The elected territorial councillors had been calling for a direct voice in the affairs of government as well as the transfer of territorial responsibilities to territorial control from various federal departments. Some transfers, such as maintenance of federal highways and the administration of justice, did occur.

But the day-to-day affairs of the Yukon Territorial Government were still being run much the same as a colony; Yukon politicians did not hesitate to describe Yukon as a Canadian colony run by Ottawa.

A growing and stable population and a relatively prosperous economy supported the move to more responsible government. New mines were opening up at the start of the 1970s and a mineral staking rush was in progress. New roads were carved out of the wilderness and the modern Anvil Mine town site, Faro, sprang up along the once remote banks of the Pelly River.

Other smaller mines came into production, Whitehorse expanded its boundaries to become one of the largest Canadian cities (in area), the White Pass and Yukon Route upgraded its freight, rail, ocean and trucking facilities and new business opened in Whitehorse to cash in on the boom.

New subdivisions were created, the territorial government embarked on an ambitious program to improve basic services in all the rural communities, a new hydro-electric plant was under construction, tourism was enjoying record numbers of visitors, Kluane Park was created as the second largest national park in Canada, new hotels and tourist facilities were constructed or expanded throughout the territory, and Yukon soon became known for having the fastest growth rate of population in the country.

While many northerners were concerned about the growing economy, others were concerned with obtaining a more direct voice in the affairs of the territorial government.

The Yukon government, the local politicians declared, was essentially "of the bureaucrats, by the bureaucrats and for the bureaucrats". The major criticism was that the bureaucrats were living in Ottawa but dictating how Yukon residents were to lead their daily lives. This inevitably caused animosity towards policies enunciated in Ottawa by the federal government and its officials.

The elected territorial councillors found themselves questioning all policies introduced by Ottawa. This resulted in many heated battles of "us" -- the Yukon residents, versus "them" -- the Ottawa mandarins. In fact, the Commissioner and administration became "the government" and the elected territorial councillors were "the opposition".

There was a feeling, in Yukon, that Ottawa was simply allowing piecemeal control of local affairs and any real moves towards territorial control were to be regarded as an intrusion into the activities of the federal bureaucracy. The impression was that the Yukon Territorial Government was simply a sub-branch of the department of Indian and Northern Affairs and could not be elevated to any true government status.

The transition, from a government of bureaucrats to a government of elected people began in the early 1960s with the establishment of the Advisory Committee on Finance.

The committee allowed for two, and later three, territorial councillors to take part in the formulation of the government's budget. It brought about the first major role reversal for Yukon's elected representatives and was the foot in the door for the territorial councillors wanting more voice in the affairs of government.

The success of the finance committee, and, later, the budget programming committee, lent support for the creation of the first Executive Committee in 1970.

The Yukon Act authorized the Commissioner to administer the territory. It was a written constitution, but the creation of the Executive Committee by ministerial mandate began the development of an unwritten constitution for the territory.

There was no legislative basis for the creation of the Executive Committee, or "ex-com" as it became known locally. The Yukon Act was not amended to allow for appointments to the executive committee and there was always the knowledge that ex-com could be altered drastically by superceding letters from the current minister of Indian and northern affairs.

The creation of the first ex-com permitted two of the seven elected territorial councillors to assume ministerial-styled portfolios for several Yukon government departments, similar to provincial cabinets.

The council had acted as a unified voice of independent members prior to 1970 election saw several Liberals and a number of New Democrat Party candidates in the running; the election resulted in four Liberals and three independents taking their seat on the council.

The territorial council's tradition, that of independent members who acted in an advisory capacity to consider legislation introduced by the Commissioner, whose only input into government policy was by way of amendments to government ordinances, was altered forever by the advent of partisan members on the council and the creation of the Executive Committee. Those two steps also affected the outcome of the 1974 and 1978 territorial elections and set the stage for further constitutional changes in the parliamentary tradition.

The first two elected representatives on the Executive Committee were nominated by members of the council and appointed by the Commissioner as were subsequent members. This procedure remained in practice until February, 1979.

The two elected members on the executive committee found themselves defending government policy and facing continuous opposition from their fellow members in the legislature. But despite internal friction within the council, the members continued to lobby for further constitutional changes.

The Yukon Act was amended in 1974 to allow for 12 elected territorial council seats and promises from the northern affairs minister that a third elected representative would sit on the executive committee. The council also obtained permission from Ottawa to determine its own future expansion of the number of constituencies from time to time, up to a maximum of 20 seats.

The animosity created within caucus in the first four years of the Executive Committee prompted many candidates to run as independents and advocate against partisan politics inside the territorial council chamber. The public appeared to agree with that stand and in 1974 elected nine independents and three New Democrats.

The first sitting of the new council saw the members taking unwritten constitutional matters into their own hands. They voted to change the name of their Yukon Legislative Council to the Yukon Legislative Assembly and they called for their elected Executive Committee representatives to be known and styled as "ministers".

Both steps were ignored by Ottawa and federal ministers and departments continued to address the Yukon House as the territorial council and refused to recognize the title minister. It was argued that the moves were not enshrined in the Yukon Act and were not legal. At one session, the Commissioner was instructed to withhold consent to an Ordinance which referred to Yukon Legislative Assembly.

This reticence on the federal government's part to recognize the changing constitutional pattern, continued for five years. It was not until October 9, 1979 that the minister of Indian and northern affairs announced that the term Yukon Legislative Assembly would be struck to consist of elected ministers and more direct control of Yukon government affairs would be turned over to those elected representatives.

Meanwhile, the second evolutionary step for the Executive Committee occurred in January 1975 when one of the appointed assistant commissioners resigned his seat on leaving the government service and this permitted a third elected person to sit on the committee. Portfolios were re-distributed and the elected members were assigned departments which directly affected the daily lives of their constituents.

These were health, welfare and rehabilitation (corrections), education, municipal affairs and highways and public works. The appointed federal civil servants retained control over departments directly related to the revenues of the government. These included finance, liquor, tourism, territorial secretary's department and the Public Service Commission.

The structure of the executive committee was further altered in 1977 to allow for four elected and two appointed members but the Commissioner, as chairman, retained a veto over any measure passed in committee.

The legislative assembly was expanded to 16 seats in time for the November 1978 election. This was the first election to be contested by all three national political parties and the campaign resulted in 11 Conservatives, two Liberals, one New Democrat and two independents being sworn in as M.L.A.s.

The change in attitude which prompted the first-ever partisan territorial election campaign came from the elected members themselves and particularly from members who had been opposed to partisan activities during the previous election. Executive Committee members continued to find themselves on the defensive in the expanded assembly, without any solid and or consistent support from fellow members to have government legislation approved.

It was realized that the only system which would work in the legislature was the traditional party system to guarantee the government enough voting strength for the passage of new policies and programs.

The election of a Progressive Conservative majority in the Yukon legislature in November, 1978 permitted the party members to form the government and nominate their fellow members, and their party leader, to positions on the executive committee.

The minister of Indian and Northern Affairs permitted a fifth elected member to be appointed in January 1979 and the combination came from the government leader and not by way of a legislative assembly resolution. The appointment was made by the Commissioner and another piece in Yukon's growing but unwritten constitution was in place.

The minister brought in further political changes when he issued a new letter of instructions to the Commissioner in January 1979. The Commissioner was to abide by all decisions of the executive committee which were of strictly territorial jurisdiction. However, the Commissioner would retain a veto over matters of direct federal concern, including finance, constitutional development and native Indian affairs and continue to be the senior federal representative of a number of government departments in Yukon.

The change of government in Ottawa following the May, 1979 national general election opened new opportunities for the continued evolution of responsible government in Yukon and the territorial government leader personally delivered a letter to Indian and Northern Affairs Minister Jake Epp when they met in Vancouver, June 18.

This letter outlined to the minister how the development of responsible government could be contrived and these measures included the establishment of a wholly elected Executive Council to replace the Executive Committee; the transfer of the Commissioner's portfolios to Executive Council members; the elimination of the Deputy Commissioner's post and instructions to the Commissioner reducing the formerly predominate role in the day-to-day administration of the Government of Yukon.

It was the Yukon government's view that the Commissioner should be directed to follow the same constitutional practices followed in comparable situations by the Lieutenant Governor of a province, and that the elected government leader should assume the chairmanship of the territorial cabinet.

The minister concurred with those desires when he issued a new letter of instruction October 9, 1979. The steps were initiated October 22 with the swearing in of the first wholly-elected Yukon Executive Council by Yukon Administrator Doug Bell, who had been deputy commissioner.

The nominations for membership on the Executive Council were presented by the government leader and appointed by the administrator, acting in the absence of a Commissioner.

Yukon's evolutionary journey has not ended, but has gone from being a government operated strictly along written constitutional lines, as the American system is to a government operated in the tradition of the British Parliamentary system.

Full provincial status, as we know it in Canada, will not be attained until Yukoners have acquired complete fiscal responsibility and full control of our natural resources - two requirements tied very closely with current developments in the expansion of northern energy projects.

Meanwhile, the five Yukon men and women on the Executive Council are working hard to prove that local, elected representatives are responsible and can operate the Government of Yukon in a competent manner.

As Lord Durham wrote in his famous report on the problems of Upper Canada in 1837, "The colonists may not always know what laws are best for them, or which of their countrymen are the fittest for conducting their affairs; but at least they have a greater interest in coming to a right judgement on these points and will take greater pains to do so than those whose welfare is very remotely and slightly affected by the good or bad legislation of these portions of the Empire."
