

Labrador

Land claims run aground

The following is the last in a series of articles by Adrian Tanner of Memorial University—St. John's, Nfld., on the Indians of Labrador. In previous articles Tanner examined the impact of industrial development on the Indians' lifestyle and concessions they have gained in the matter of hunting rights. In this third article he discusses the roles of the federal and provincial governments in the affairs of the Labrador Indians as well as political implications of their land claims.

Branch began to increase steadily, and services to Indians were upgraded to bring them close to those provided by the provinces to non-Indians. At the same time discriminatory clauses withholding voting and liquor rights were removed. Thus the question must be asked, why did Newfoundland never hand over direct responsibility for Indians to the federal government?

The answer is that although this would have been in the interests of the Indians of the province of Newfoundland, it did not happen to suit the

land to spend this money only on Indians and Inuit, since the white communities of northern Labrador also have a chronic need for services. So the province uses this method to syphon money from the federal budget designated for Indians and Inuit, and to spend it on the general population. Naturally, since the money is also used to support a bureaucracy in St. John's, the province has no wish to turn over direct responsibility for aboriginal people to Ottawa.

Conflict of Interest

There is a basic inequity for Indians built into the Federal-Provincial Agreement. It becomes impossible to trace what money designated for Indians is spent on Indians. Moreover, the province has no programmes specifically designed for the special cultural needs of Indians. Labrador Indians are being short-changed. The province acts as an agent for the federal government, spending money designated for aboriginal people, but at the same time refusing to recognize the distinction between aboriginal persons and others, so that the money can be spent virtually wherever the government wants.

It is exactly because of this kind of situation that no provincial government is able to effectively administer the special programme needed by Indians, as Indians. On the specific questions of land title and rights over resources, a province would be in a situation of direct conflict of interest in negotiating such a claim, since these matters are under the jurisdiction of the province.

Since the Labrador Indians have a long outstanding title over land in Labrador, their rights must take precedence over rights that the provincial government has by virtue of the terms of Confederation. The B.N.A. Act, by specifying that both

of the demands of the group making the claim.

In the past few months it has become clear that all groups who have started negotiations over their claims have found the government extremely reluctant to reach the kind of agreements acceptable to the native people. Thus, the fact that the federal government has now agreed to negotiate on the basis of aboriginal rights means almost nothing, since an agreement to negotiate is worthless unless there is also a willingness to agree to some of the changes native people see as necessary.

“Newfoundland's policy of denying the very existence of the Labrador Indians has now, with this land claim, come to haunt the province.”

In the case of the Labrador Indian land claim, the federal government has not yet announced if it considers the claim valid or not. At the time the claim was presented, Ottawa was clearly put off by the aggressive language of the statement of claim, but the claim's validity is also based on the legal, historical and land use evidence presented in the supporting documentation. If the claim itself is not accepted, then the Indians will be forced to go to court; but if the claim is accepted, this will only be the start of long political negotiations.

Separatism

The problems faced by the Indian people of North West River and Davis Inlet result from the loss of incentives for community-scale economies based on local renewable resources. The province has followed a desperate policy of trying to attract large-scale industrialization in Labrador with resource give-aways to corporations who export both resources and profits. Concurrently, the effect of this policy is to clear the local people off the land. The effects of this process have been similar for the settlers as well as for the Indians, except that the Indian communities have suffered more, because of the deeper cultural attachment they have to the land and because they have been less able to adapt to the small amount of wage work that has been introduced.

The Indian land claim statement makes an attempt to forge a new alliance with the white settlers living within the Indian areas of Labrador, although not in the same generous terms as have been proposed in the recent Labrador Inuit land claim. For the Indians the creation of such an alliance faces many obstacles not faced by the Inuit, because of the lack of any substantial basis of trust built up over the years. On one point, however, the Indians share a real understanding with the settlers. They both have a deep mistrust of Newfoundland, and a dislike of the colonial relationship they have lived under with the government in St. John's. But is this shared sentiment sufficient to quiet the “white backlash” that can be expected to greet this land claim?

Newfoundland's policy of denying the very existence of the Labrador Indians has now, with this land claim, come to haunt the province, and it is taking a form that looks very much like Labrador separatism.



No Indian Act in Labrador

Up to the time of Newfoundland's entry into Confederation in 1949 the main difference between Indians in Newfoundland and in Canada was that the former had no Indian Act. However, at the time this difference was not very great. In 1949 the Canadian Indian Act was a very different document than it is now, and Canadian Indians had few special services provided for them. The quality of the health, welfare, education and economic development services available for persons defined as Indians under the Indian Act was inferior to the equivalent services available to non-Indians.

“There is a basic inequity for Indians built into the Federal-Provincial agreement.”

In 1948, when Newfoundland and Canada first negotiated the terms of entry into Confederation, the explicit aim of both sides was to have the federal government take over the financial responsibility for Indians. A preliminary agreement was made, making explicit those items the federal government would become responsible for; these would be the same as for status Indians in the rest of Canada.

But, despite this agreement, when the terms of entry were finally signed they contained no reference at all to Indians. The only public explanation given for this absence was that it would have been a retrograde step—presumably because Indians would have lost the vote.

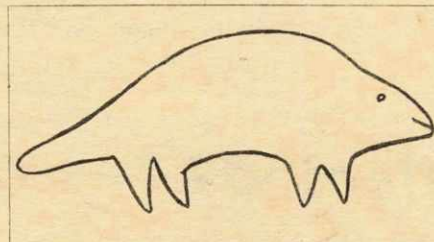
However, soon after 1949 the budget of the federal Indian Affairs

interests of either the provincial or the federal government. Instead, both governments negotiated the payment of an annual lump sum to Newfoundland, starting in 1954. This money, under the Federal-Provincial Agreement, was designated to be spent by the province in a specified list of so-called “native communities”. The arrangement was in the interest of the federal government, being the forerunner of several subsequent agreements for turning over its constitutional obligation regarding Indians to the provinces. However, such moves by the federal government have always been fiercely opposed by the Indian organizations in all parts of Canada, who see them as part of a policy of ending recognition of the special rights of aboriginal people.

The Federal-Provincial Agreement also suits the interests of Newfoundland. It allows the province to reinterpret the meaning of the term “native community”, using the local Labrador connotation of the term “native”, which does not mean an aboriginal person, but rather any

“The land claims process is not being treated by the federal government as a legal process, but instead as political negotiation.”

person born in Labrador. Newfoundland can then spend money designated for aboriginal people in all communities of northern Labrador, whether they have an Indian or Inuit population or not. Of course, it would be politically difficult for Newfound-



Indians and Indian Land fall under federal jurisdiction, makes it clear that in 1867 there was an awareness of the inherent conflict of interest between the provincial control of resources and the special rights of Indians. This consideration now comes to the fore again, when the concept of aboriginal title, well recognized in 1867, but forgotten by 1949, has once again become relevant.

Land Claims Negotiations

The land claims process, despite the fact that it is concerned with aboriginal rights and formal claims for recognition of those rights, is not being treated by the federal government as a legal process, but instead as a political negotiation. Thus each Indian or Inuit group is asked to submit a claim without any formal guidelines as to what is the minimal proof of a claim. On the basis of the documents submitted by the native groups the government privately comes to a decision as to whether it will recognize the validity of the claim or not. Recognition of validity only implies an undertaking to begin negotiations, not to agree to all or any