

RESERVE LAND AND IRRECONCILABLE OBJECTIVES:
A STUDY OF POLITICAL INTERACTION
BETWEEN AN URBAN INDIAN BAND AND MUNICIPAL GOVERNMENTS

by

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ABSTRACT

This thesis examines the relationships between three municipalities and an urban Indian band, the Squamish, whose reserve lands are located within the Vancouver metropolitan area. Three issues involving land development and traffic facilities are analyzed and found to be strongly related to historical and cultural factors, and particularly to the constitutional and legal framework of Indians and Indian land in Canada. Federal responsibility for Indians and lands reserved to the Indians forces the municipalities to negotiate with the band where the use of reserve land affects municipal interests.

An analysis of inconclusive negotiations at the local level indicates the complexities involved, including the effects of goals and priorities derived from national concerns and federal Indian policy. The bitterness of past history, the cultural differences and differences in objectives and political behavior lead to the conclusion that present issues of conflict seem unresolvable, as they form part of the continuing Indian-White struggle over basic resources, but there is value in the negotiations because they do lead to some progress and some measure of understanding.

The constitutional status of Indian reserve land does at this time assure bands like the Squamish of substantial political resources at the local government level, which will permit them to maintain their separate Indian identity within the Canadian political system.

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It will be obvious to readers of this thesis that it could not have been done without the cooperation of those whom I interviewed. I am very appreciative of their generosity in granting me their time for one or more interviews. I am also grateful to Ms. Liz Migic for her skill and patience in typing my manuscript, and Ms. Martha Hightower for doing the final proofreading and corrections.

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TABLE OF CONTENTS

APPROVAL PAGE	ii
ABSTRACT	iii
ACKNOWLEDGEMENTS	iv
Chapter	
I. INTRODUCTION	1
Indian Bands as Local Governments	3
The Framework	5
Data Sources	10
Organization of the Thesis	11
Footnotes to Chapter I	13
II. INDIAN-WHITE RELATIONS IN BRITISH COLUMBIA	17
Coastal Salish	17
Indian Relationships with the Colonial Government	21
British Columbia after Confederation	27
McKenna-McBride Commission	32
Squamish Reserves	34
Early Municipal Development on the North Shore	37
Municipal-Indian Conflicts	39
Contemporary Federal-Provincial Indian Policy Issues	47
Current British Columbia Policies	48
Squamish Band and Indian Organizations	52
Summary	54
Footnotes to Chapter II	57
III. THREE CURRENT INDIAN-MUNICIPAL ISSUES	62
The Setting	63
Introduction to the Issues	68
The Lower Level Road	70
I.R. 5 Development	82
Background to the Development Plans	84
The Surrey v. Peace Arch Decision	86
The 1971 Proposal	89
West Vancouver and Squamish Agreement	92
The 1976 Plan	96
G.V.R.D.	101
Cut-Off Lands	104
Third Street	106

Background and Development of the Issue	107
1910 Agreement to the Surrender of Reserve Land	110
Summary	114
Footnotes to Chapter III	116
IV. ANALYSIS	120
Goals and Objectives	120
Squamish Goals and Objectives	123
Municipal Goals and Priorities	129
West Vancouver	131
District of North Vancouver	133
City of North Vancouver	135
Political Resources	136
Institutional Resources	137
Human Resources	140
Cultural Resources	143
Strategies and Tactics	149
The Processes of Negotiations	154
Relationships Between the Municipalities and the Band	164
Footnotes to Chapter IV	168
V. CONCLUSIONS	171
Background Factors	173
Cultural Differences	175
Institutional Differences	177
Future Intergovernmental Relations	178
The Actors	184
The Future	185
Footnotes to Chapter V	188
SOURCES CONSULTED	189

LIST OF FIGURES

Figure

1. Reserve Locations 16
2. Proposed Lower Levels Road 74

Chapter I

INTRODUCTION

Discord and conflict can be thought of as necessary and basic characteristics of life in human societies. It is often through conflict that necessary changes and progress are accomplished in a society. The various cultural backgrounds of individuals will often be reflected in the preferences they express for the use of resources in their environment. As the amount of human, psychic and material resources available to a community or a society are limited, competition for access to, and the use and control of these resources will develop. The inevitable result of this competition is conflict among individuals, groups and organizations.¹ The role of conflict within a society is summarized by Schattschneider as follows:

Conflict is so powerful an instrument of politics that all regimes are of necessity concerned with its management, with its use in governing, and its effectiveness as an instrument of change, growth and unity.²

Within any community there exists at any given time a set of political demands that have been generated by the special combinations of historical, economic, social and psychological circumstances. These demands or issues arise partly as a result of actions by those at a local community level who seek either to enhance or protect their resources and values, and partly from forces outside the immediate environment.³ A great many of the contemporary issues facing communities in Canada, have their origins outside of the local environment, for there is no community that can isolate itself from the trends, issues and problems of the national system.⁴

In the case of an Indian band situated in an urban area, issues of conflict often develop in part from the political structures that separate Indians from other groups, in part from differing cultures and ideologies, and also out of the threads of past history. These elements will often result in what might be termed "continuing issues" of conflict, issues that tend to divide Indians and Whites into permanent "we versus they" relationships.⁵

The way that issues and conflicts among individuals or groups are managed will depend to a great extent on their goals and objectives, and the resources that they bring to the conflict, plus their respective abilities to use these resources to gain what they want. One of the major resources of an individual or group that may augment their political power at any level is knowing how to affect the processes and outcomes of conflicts are the elements and degree of consensus that exist between the competing groups, their relationship to the larger society around them, and the institutions, and structures that are used to bring some form of resolution to the conflict. One major form of resolution is compromise on a conclusion which will be reached through a process negotiation and bargaining.⁶

This thesis is an investigation of the interaction between the Squamish Indian Band, a minority group in the North Shore part of the Vancouver metropolitan area, and other community groups who share the same geographic environment. The thesis focuses specifically on the intergovernmental relations between the Squamish band council and the councils of the adjacent municipalities. As the band seeks to develop and protect its reserve land for the benefit of band members conflicts arise as these objectives clash with the perceived needs and priorities of the municipalities.

The converse situation, of municipal initiatives that impinge on the interests that the Indians want to protect, is also found and this has been of particular significance during the past few generations of rapid population growth in the North Shore area.

Indian Bands as Local Governments

According to the Canadian government, Indians are generally classified into two major classes, Status or registered Indians, and Non status and Metis.⁷ Status Indians according to the Indian Act are "persons descended in the male line from a paternal ancestor of Indian identity who have chosen to remain under Indian legislation."⁸ Most Status Indians as a rule belong to bands that are considered legally defined groupings of Indians who reside on reserves. The Indian Act defines a reserve as "a tract of land, the legal title of which is vested in Her Majesty that has been set apart by her Majesty for the use and benefit of a band."⁹ Indian band councils are the official recognized representatives body of the band, which is either selected by the "custom" of the band, as in the case of the Squamish, or in accordance with the provisions of section 73-8 of the Indian Act. The council is in effect similar to a local government possessing certain powers of self government.¹⁰

While an Indian band through its councils does have many attributes of a local government with respect to its members and its reserves, it is not a municipality. Municipal governments in Canada derive their power and authority from powers reserved to the provinces under the B.N.A. Act, and provincial legislation providing for and delegating power and responsibilities to their municipalities.

In constitutional terms Indians are wards of the state, a federal responsibility, and are as already stated governed by the provisions of the Indian Act under the powers and responsibilities assigned to the federal government in the B.N.A. Act. All transactions with non-Indians relating to reserve land must be reviewed by the Federal Government of Canada through the department of Indian Affairs and Northern Development. Indian bands, then, unlike municipal governments, have less autonomy and control over their own resources, and are subject to federal jurisdiction and protection.

The Indian band council which acts as the decision making body for the band under section 81 of the Act can pass certain by-laws that apply within reserve boundaries, for functions such as public health, traffic regulations, roads, bridges, ditches and fences. A band council can also regulate construction and the use of buildings on their reserve, "whether owned by the band or individual members of the band."¹¹ When the Governor in Council declares that a band has reached an advanced stage of development the band may under section 83, subject to the approval of the Minister, enact money by-laws. Section 69 of the Indian Act provides that "The Governor in Council may at the request of a band grant to that band the right to exercise such control and management over lands in the reserve occupied by that band as the Governor in Council considers desirable." Any such grant of power can be withdrawn at any time.¹² Thus it is evident that while in many respects an Indian band council may have some of the characteristics of a municipal council, its powers are much more restricted, without the autonomy of the legal status of a normal local government. Therefore it cannot fulfill some of the needs within its community which are met by local governments in non-Indian communities.

In particular the band council does not have the power or position to negotiate as an equal with other municipal governments. For the purpose of this thesis then, the Squamish Band will be considered as a quasi-municipality, to facilitate the examination of the relationship between the band and other municipalities on the North Shore.¹³

The Framework

The contemporary social science literature offers very little useful generalization about Indian political relationships, in part perhaps because of the vast diversity of cultures and political traditions among the North American aboriginal peoples, and in part because of the many different types of contemporary societal contexts in which Indians are now found. The literature on urban Indians is particularly sparse, and in the Canadian context virtually nonexistent.¹⁴

Most studies that have been done in the area of Indian Urban studies have been by anthropologists and sociologists who have focused on the acculturation of Indians, Indian migration patterns, and problems such as alcoholism. The main theme of these studies is often a reflection of the anthropological view of a "culture in crisis."¹⁵ While there are some studies of contemporary Indian life on rural reserves and analyses of the general policies of the federal governments of both Canada and the United States, there is as Rosenthal says, "little material outlining the systematics of interaction between any local Indian community and communities neighboring it, Indian or White."¹⁶

This thesis is concerned with the political interaction of a local Indian group with its surrounding White neighbors, and since this interaction is often of a conflictual nature, it involves negotiations and bargaining around issues of conflict. For effective bargaining to take place between different ethnic groups, there must exist some elements of consensus between the groups.¹⁷ As Richard Simeon has stated in his study of federal-provincial relations in Canada:

...there is a set of interdependent actors, or partisans; they operate within a certain social and institutional environment; they share some goals but differ on others-- it is a 'mixed motives game', they have an issue or set of issues on which they must negotiate, none has hierarchical control over the others; they have varying political resources; they use these resources in certain strategies and tactics; they arrive at certain outcomes; and these outcomes have consequences for themselves, for other groups in the society, and for the system itself. The problem now becomes how each of these elements is related to the others, and how together they provide a 'satisfying' explanation of the adjustment process.¹⁸

This approach is appropriate to the analysis of case study data about one issue or a few issues that arise between different ethnic groups. This framework can also deal with the interplay between antecedent or background factors, including historical and cultural characteristics, concurrent situational factors, and their consequences. These attributes make the methodology particularly appropriate when one of the chief actors, the Squamish band, is concerned with the present decisions because of their future consequences both for the development of the band and for the maintenance of its historical traditions and cultural identity.

While recognizing the unique status of Indians because of their culture and history, and their special legal relationship with the federal government, an Indian band must also be seen as having some of the attributes of a municipality. The Squamish band is in active competition with the surrounding municipalities with which it shares a common geographic space. The band is not viewed here as a "problem" because it is outside of the mainstream of Canadian life, but is presumed to be utilizing its own resources to gain as much benefit for its members as it can get.¹⁹

The framework for this study, therefore, begins with a set of interdependent actors, the three municipalities and the band. They operate within a certain social and institutional environment, including the senior governments and a common geographical space. They share some goals but differ on others. Thus the minimal consensus required for negotiation is present. They have a set of issues that they must negotiate; issues that arise from a special set of historical, economic and social circumstances; one consequence of these circumstances is the fact that the Squamish have developed largely apart from and more slowly than the main community. None of these actors have hierarchical control over the other, however they are influenced and in some ways controlled by outside forces. The band is under the control of the federal government, and the municipalities are under the provincial government. The federal government and the provincial government are "each within a sphere, coordinate and independent."²⁰

The principle actors, the three municipalities and the band, have varying political resources.

These resources are used in certain strategies and tactics, and the outcomes will depend on the groups' respective abilities to use these resources and tactics to their best advantage during the process of negotiation. The outcomes will have certain consequences for other groups in society and for the political system itself, as well as for the actors. This local political activity takes place within a national context. Federal policies will have a strong effect on the nature and resolutions of local issues when these issues involve Indian reserves. Provincial policies may well affect both local governments and urban reserves. Local communities, singly or through pressure groups, can themselves often influence the policies of both the federal and provincial levels of government.

Three issues of potential or real conflict between the Squamish band and the adjacent municipalities, West Vancouver, North Vancouver District, and the City of North Vancouver, have been chosen for analysis. Two of the issues involve the use of reserve land, and the other involves both a service to the band and issues relating to reserve land use. These issues are the Lower Level Road, the development of I.R. 5, and Third Street.

The Lower Level Road is the subject of plans that the three North Shore municipalities have been developing and negotiating with each other and the band for some time. The proposed road to run east-west along the North Shore is generally perceived as a major priority because it would bypass considerable traffic congestion and alleviate several major bottlenecks in the existing road network.

The new road would have to pass through both the Mission and Capilano reserves, causing some disruption to the residential communities on these reserves, and its connection to the Trans-Canada highway would involve the Seymour reserve. Though further infringing on Indian land for the rights of way, the Lower Level Road would also enhance the accessibility and hence the value of potential development land on the Capilano reserve in particular.

The I.R. 5 development plan is a proposal by the Squamish band to undertake gradual economic and physical development on the Capilano reserve. This proposal for relatively high density land development seems to be in conflict with the future land development plans of all of the municipalities, and with the regional growth allocations recommended in the Greater Vancouver Regional District plan of 1975.

West Third Street east of Keith Road in North Vancouver City is a major arterial street providing the direct connections between the Lonsdale area (the traditional business core of the city) and Lions Gate Bridge and Park Royal. Where it passes through the Mission reserve Third Street narrows from four lanes to two. This part of the road has been a major problem for reserve residents, particularly for pedestrians who have to cross the busy street. Band requests for a traffic light or improved traffic controls resulted in City counterproposals for street widening, and these have finally resulted in a court case challenging the legality of the 1910 transfer of the right of way through the reserve.

A question that has been considered in investigating the issues outlined above is whether the municipalities accord to the band the same respect and consideration that they give one another.

It was expected that the way they deal with the band and its members might differ from one functional area to another, depending on the relevance of band reserve land to the various functions. It was thought that whenever possible the band would be ignored by the municipal governments.²¹ Only in areas where the band has control of its land resources and a municipality has an interest in the band land, as in some traffic and land development issues, was it expected that the municipalities consult and negotiate with the band as an equal. To the municipal councils as to most people on the North Shore the Indian may be an "invisible man" and the band council an "invisible government."

Organization of the Thesis

Chapter II reviews the historical background of Indian-White relations in British Columbia. The policies of the early administration of the area which is now the province developed along very different lines from Indian policy in the rest of Canada, as is evidenced in the early controversies between British Columbia and the Dominion government after Confederation. These differences play a significant part in the positions taken by the various actors, Indian and White, in contemporary issues of conflict. This chapter also includes some historical background on the Squamish band, with particular emphasis on their reserves on the North Shore, their early relationships with the municipalities, and the various claims of the Squamish and other Indians with respect to land rights.

Chapters III and IV differ from those preceding them in relying chiefly on local data, largely from interviews, rather than the academic literature.

The framework developed in this first chapter and the background factors discussed in Chapter II are the basis for the development and interpretation of this data. Chapter III describes the environment and sets out the three issues of conflict between the band and the municipalities that are the empirical focus of this research. In Chapter IV the findings from examination of the issues are presented in terms of the key actors, their goals and objectives, their political resources, and strategies and tactics they employ. The findings are then summarized by identifying similarities and differences in the processes of interaction that have been observed.

Chapter V, the conclusions, reviews the major findings of the research and utilizes these findings to evaluate and revise the framework that has been stated in the present chapter. The final section projects that the Squamish will continue to use their political resources in inter-governmental negotiations so as to preserve their separate Indian identity within the larger Canadian society.

Data Sources

The primary sources of data on interactions around the three selected issues are the mayors, as the leaders of the municipal governments, and, in the case of the band with its different decision making structure, the band chairman and some other members of the band council. In addition to the political leaders, some senior members of the administrative staffs of these governments were also interviewed.

Although certain basic questions were answered by each of the primary respondents, the interviews were not limited by a structured format.

The key questions related to the goals and priorities of the government each respondent represented, and to the negotiating process used by the parties to each issue. It was felt at the outset and confirmed by the results that a relatively unstructured format would elicit more information as to the general attitudes and feelings of each toward the others, and in particular the municipal leaders' attitudes and perceptions of the band members and spokesmen.

The interviews generally lasted about an hour, and in some cases there was a second interview. It was the feeling of the researcher that the subjects would be more at ease and would speak more freely and frankly if there was no tape recorder taken into the interview. Instead, following Simeon's practice, brief notes were taken during the interview, and used to reconstruct the interview using a tape recorder as soon as possible after the interview. In a few instances comments were made that the researcher was asked not to quote, or not to use until some specified time or event had passed. These requests have been accepted and honoured.²² Interviews with staff members were used to gain background knowledge about the history and technical aspects of issues and specific details of positions taken by a government, not as alternative sources of information about attitudes and policy. Newspaper reports proved useful, particularly with respect to the issue of safety on Third Street. Published consultants' reports relating to the Lower Road and to the development of IR 5 were very helpful primary sources relating to these issues.

Footnotes to Chapter I

¹William A. Welsh, Studying Politics (New York: Praeger, 1973), p.5.

²E.E. Schattscheider, The Semisovereign People (New York: Holt, Rhinehart & Winston, 1960), p. 7.

³Frederick M. Wirt, Power in the City: Decision Making in San Francisco (Berkeley: University of California Press, 1974), pp. 7-8.

⁴Edward C. Banfield and James Q. Wilson, City Politics (Cambridge: Harvard University Press, 1966), p. 7; and James S. Coleman, Community Conflict (New York: Free Press, 1957), p. 5.

⁵Banfield and Wilson, p. 33.

⁶Kenneth Boulding, (1962) "Conflict Resolution and Control" in William A. Gamson SIMSOC: Simulated Society (New York: Free Press, 1972), p. 101.

⁷Indian Status will be discussed in greater detail in Chapter II of this thesis.

⁸Edgar J. Dosman, Indians: The Urban Dilemma (Toronto: McLelland & Stewart Ltd., 1972), p. 11.

⁹14 and 15 George VI (1951 as amended to 1970) Cap. 29 (Canada). An Act Respecting Indians (The Indian Act 1951), s. 2(1).

¹⁰Dosman, p. 27. H.B. Hawthorne, (ed.), A Survey of Contemporary Indians of Canada: A Report on Economic, Political, Educational Needs and Policies, vol. 1, (Ottawa: Indian Affairs Branch, 1966), p. 264.

¹¹Indian Act. R.S., c. 149, s. 81 (h).

¹²Ibid., s. 69 (1).

¹³Another level of government which may have an influence on the interactions between the band and the local municipalities on the North Shore is the Greater Vancouver Regional District (G.V.R.D.). This is one of the regional districts established by the B.C. Municipal Act as a level of government intermediate between the province and the other municipalities such as cities and municipal districts. The G.V.R.D. Governing board is composed of elected representatives from fourteen municipalities and three electoral areas outside of municipal boundaries in the Vancouver metropolitan area. Among the responsibilities of G.V.R.D. are water supplies, trunk sewers and sewage treatment, hospital planning, regional parks, housing and labour relations. Some of these, like the regional land use planning function that is most relevant to interactions between the band and its neighboring municipalities, are shared or common to both the regional district and the local municipalities. The Squamish and other Indian bands, however, have no official connection with the G.V.R.D. although they are often affected by the policies and actions of the regional district.

¹⁴Some relevant studies involving Indians in an Urban environment in Canada are: Edgar J. Dosman, Indians: The Urban Dilema (Toronto: McClelland & Stewart, 1972); James Kerri "Urban Native Canadians: The Adjustment of Amerindians to the City of Winnipeg" (Ph. D. Dissertation, University of Washington 1973); Marjorie Ruth Mitchell, "Women, Poverty and Housing: Some Implications of Hinterland Status for a Coast Salish Indian Reserve in Metropolitan Canada" (Ph. D. Dissertation, University of British Columbia, 1976); Kathleen A. Mooney, "Urban and Reserve Coast Salish Employment: A Test of Two Approaches to the Indian Niche in North America" Journal of Anthropological Research, 32 (October 1976): 390-410; Mark Nagler, Indians in the City: A Study of Indians in Toronto (Ottawa: Saint Paul University 1970); Barbara Weightman, "Indian Social Space: A Case Study of the Musqueam Band of Vancouver, British Columbia" The Canadian Geographer, 20 (1976): 171-186.

¹⁵Elizabeth Clark Rosenthal, "Culture and the American Indian Community" in Stuart Levine and Nancy O. Lurie (eds.), The American Indian Today (Baltimore: Penguin Books 1968), p. 87.

¹⁶Ibid. p. 86.

¹⁷"Some minimal consensus is necessary, then, for interethnic bargaining to be present. Unless collectivities are aware of their interdependence as well as their distinctiveness an acknowledged negotiating situation seems out of the question."

(Donald Rothchild, "Ethnicity and Conflict Resolution" in Robert J. Jackson and Michael B. Stein (eds.) Issues in Comparative Politics (New York: St. Martin's Press 1971), p. 189.

¹⁸Richard Simeon, Federal-Provincial Diplomacy: The Making of Recent Policy in Canada (Toronto: University of Toronto Press 1972), pp. 11-12.

¹⁹While there has been a renewed interest in Indians both in the social sciences and in literature, most of these seem to reflect the more negative aspects of Indian life in contemporary society, or romanticize the Indians past as stated by the Political Scientists who have spent much time working with and analyzing the contemporary political life of the American Indian,

"Interest in the Indian in song, literature and history movies and dress points unfortunately to a romanticism that comes close to Tom Paine's characterization of Burke's mourning for the trappings of French society while ignoring the dying bird".

(Joyotpaul Chaudhuri and Jean Chaudhuri "Emerging American Indian Politics: The Problem of Powerlessness" in Rudolph o dela Garza and Anthony Kruszewski (eds.) Chicanos and Native Americans (New Jersey: Prentice Hall, 1973), p. 112.

²⁰K.C. Wheare, Federal Government (Oxford: Oxford University Press, 1961*), p. 11.

²¹ Social service planning is an example of a functional area in which the band may be ignored by the rest of the North Shore community, and that has recently occurred. The staff member responsible for the coordination of United Way of Greater Vancouver services on the North Shore and for representing United Way at coordinating meetings with the social planners of the three municipalities, was totally unaware that the band has a social welfare department with staff that includes a professional social service planner.

²² What seems to confirm the wisdom of not recording the interview but dictating notes as soon after the interview as is physically possible, was the much larger volume of comments that were at least very frank and revealing, and in some cases very perjorative. Where essential points can be made reasonably effectively without recourse to damning quotations, they are not reported. In certain cases, a quotation or paraphrase is used, but not attributed to specific source. It is the researcher's judgement that this suppression of detail of evidence is the only ethical response to the fact that the respondents are and will for some time continue to be involved in negotiations on behalf of their constituents, and some things were said which if known to others might well significantly distort the political process.

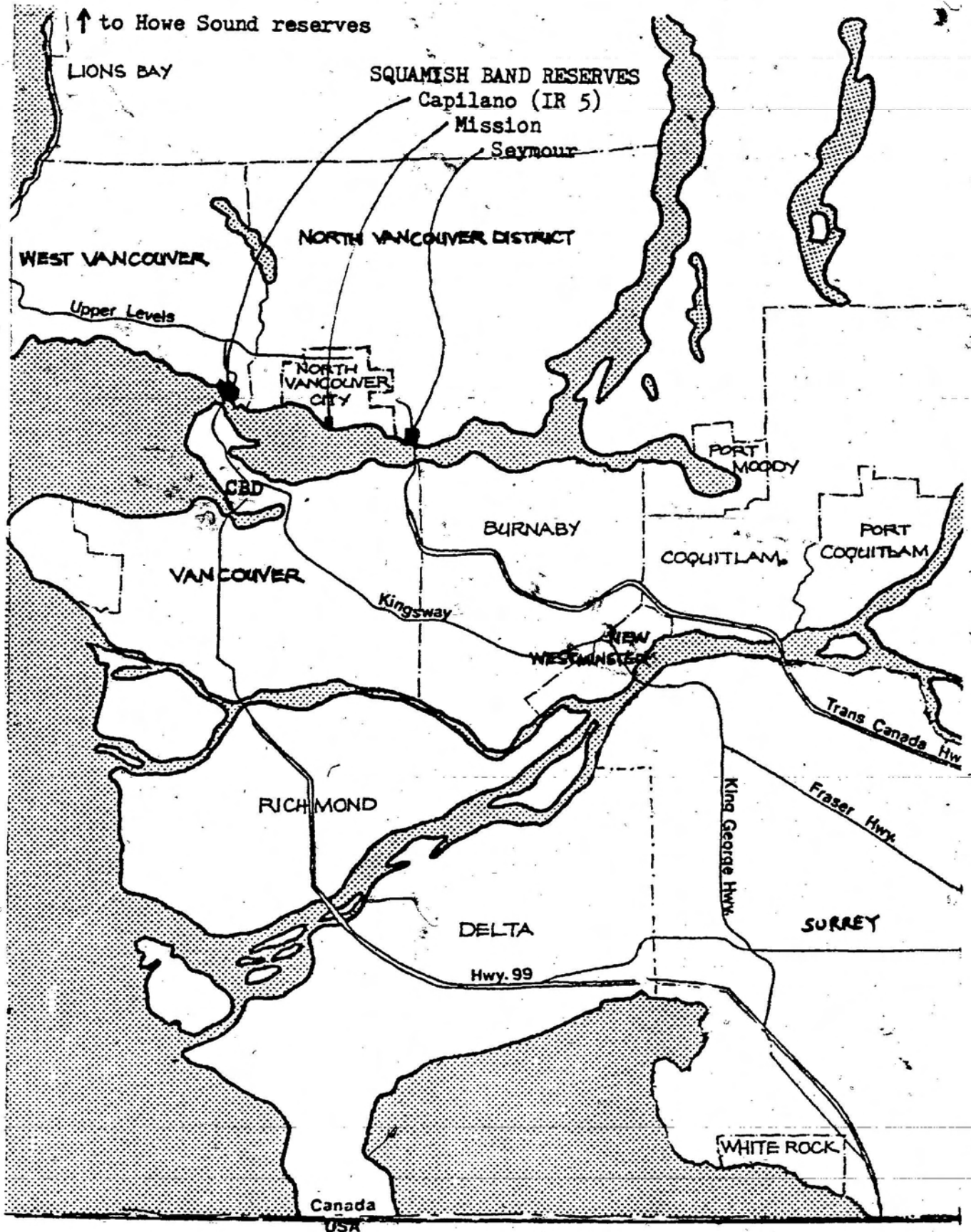


Fig. 1: Reserve Location

Chapter II

INDIAN-WHITE RELATIONS IN BRITISH COLUMBIA

Historical variables are often reflected in the goals and priorities of various groups in a society, and therefore in the issues of conflict that from time to time occur among them. To better understand contemporary Indian-White relations on the North Shore one must understand the history of this relationship, for the threads of past history are to be clearly found in the contemporary issues of conflict that occur between the Squamish band and the municipalities on the North Shore. It is evident that many events of the past at the local, provincial, and national levels have served to maintain and to exacerbate the cultural, economic, and social differences that exist between the Squamish Band and the rest of the North Shore population.

To a great extent the history of Indians in Canada and in the Americas in general, is a record of the processes of interaction between the national governments and the frontiersmen and their local government, as they have sought dominance over rights of Indians, and nowhere is this fact clearer than in the history of Indian-White relations in British Columbia.

Coastal Salish

Before the arrival of the Europeans the Indians of the North Pacific Coast had achieved an "elaborate culture with a well developed technology and a high degree of specialized crafts for exploiting the area's resources. North Pacific culture was distinct from other Indian

civilizations of North America in its high technology and its efficient environmental adaptation."¹ The arrival of the Europeans had a devastating effect on the Indians of this region as the social and political aspects of their lives were seriously disturbed. Once colonization began in earnest they saw the gradual erosion of their land base, and their rights. Many of the Indians fell victim to the many diseases that were brought to the area by the incoming settlers, with the result that the tribal population of the region underwent a rapid decline.²

Indians residing in the area which is today known as British Columbia have been classified by anthropologists generally on the basis of language. According to the classification of Wilson Duff there were ten major ethnic groups in British Columbia. These groups were each composed of several different tribes bearing certain linguistic similarities and also having customs in common. One of these ten groups, the Coastal Salish, was made up of the following tribes: Comax, Pentlatch (now extinct), Sechelt, Squamish, Halkomelem, and Straits Salish.³

As there was an abundance of food resources in the area, the Coastal Salish Indians were able to live in definite localities and village sites before the arrival of the Europeans. Their basic occupation was fishing and they relied heavily on the ocean and rivers to provide their basic food. Their diet consisted chiefly of salmon and other sea food supplemented by berries, roots and herbs, goats and deer. They would leave their villages for a few weeks at a time for berry picking, a salmon and oolachen run, or to attend a potlatch. As stated by Julia Averkieve:

The yearly calendar of the Indians was determined by fish runs. It was divided into two main seasons; the summer season of active work, producing the means of subsistence, and the winter season of handicraft, trade and ceremonial activities.⁴

This heavy reliance on fishing orientated their lives toward the sea and the rivers, which had a great affect on their cultural development, their settlement patterns, and their social organization and religion. There were at least ninety villages along Howe Sound, the Squamish River and Burrard Inlet, that were the permanent settlements of the Squamish Indians. Their traditional village generally consisted of one or two large cedar houses that were communal homes, for the social and political organization of the Coastal Salish revolved around the extended family. As described by Barrett:

Among the Salish, the highest unit of common allegiance was the extended family. There was no tribe or state, and hence there were no offences or loyalties to either. There were no tribal officers, no council, no bodies for enactment or enforcement of regulation. Action involving the rights of others were governed by a set of traditions and theoretically unchangeable rules.⁵

There are differing opinions among anthropologists as to the system of social organization and social stratification that existed among the coastal Indians of British Columbia,⁶ and especially as to the role of leadership. Some feel that wealth was a prerequisite for the status of leader, while others feel that the leadership that occurred within the Coastal Salish groups was based on respect. This last view is somewhat supported by comments of one of the elders of the Squamish Band, as reported by Morton:

Chief Louis Miranda, probably the last surviving member of these old maners, says, "They did not have chiefs in the old days, they had Sie'ms, the fellows who were respected for their soundness and their good deeds. They were respected but that does not mean they had more control. When the White man came they appointed chiefs, whether the people respected them or not." It was the White man who organized the Indians into neat little tribes and bands, and presented them with a name and a leader, and a reserve to live upon.⁷

The classification that has been developed by Suttles to describe the social organization and stratification of the Coastal Salish before the European contact, is used in this study to describe the political and social organization of the Squamish as this classification is closest to the oral accounts of history passed down by members of the Squamish Band. Coastal Salish life is described by Suttles as follows:

Coastal Salish society consisted of three classes: a large upper class of good people, a small lower class of worthless people, and a still smaller class of slaves. Within the upper class there were certain differences of status, due mainly to differences in wealth. Wealth came to some persons because of their hereditary rights, and to others because of their spirit prowess (and practical skills) acquired through their own efforts.⁸

In his discussion of the role of status within Coastal Salish groups Suttles refers to the title, Sie'm, which he states was used to identify a person of high status. He goes on to say that although Europeans have tended to translate this term as "Chief", it actually meant then and now, "Sir" or "Madam" when used in address, and "gentleman" or "lady" in reference. This usage appears consistent with Chief Miranda's discussion of the term. Suttles continues by saying that, one could speak of the Sie'm of the house, if the house had a recognizable leader, but not if the house lacked such leadership, and:

one could also say Sie'm of the village, but the title did not imply political office. If there was a Sie'm, he was probably the wealthiest man, the leader in the potlatch, but leadership in other matters was apt to be in the hands of others depending on their special abilities. The plural, Siie'm usually translated into "high class people".⁹

It is important to note that there was of course, some variation among the different groups of the Coastal Salish as to their social and decision-making organizations and institutions. The main point here is however the apparent lack of a strong, individual leader. "Real authority was vested in the kin group itself, which could thus select its head".¹⁰ This factor is still reflected today in the consensual model of policy decision-making among the Squamish. To the incoming Europeans who had little knowledge or experience of the complex relationships that existed within the tribes, the Indians of British Columbia seemed highly disorganized and fragmented. This lack of appreciation and understanding of the different cultural base of the Indians was the underlying cause of many of the difficulties faced by the Indians in their relationship with the European settlers and their units of government.

Indian Relationships With the Colonial Government

Serious efforts to establish White settlements in the area which is now British Columbia, began in the year 1849 when the Hudson's Bay Company was granted a charter by the British Government to colonize Vancouver Island.¹¹ The early colonization occurred in areas of Vancouver Island that were principally occupied by Coastal Salish groups. During these very early years of Indian-White contact, the coastal Indian population far outnumbered the White immigrants. In 1854 the White population of Vancouver Island was said to number 450, while the Indian population

was thought to be around 35,000.¹² This balance soon changed with the arrival of great numbers of settlers and the death of many Indians from the new diseases brought by the settlers.

The Hudson Bay Company had generally provided the Indians with some means of compensation for whatever areas of land they occupied or took from them. Sir James Douglas, Chief Factor of the Company and the second governor of the Colony, attempted to continue this practice which seemed in line with the general philosophy of the British Crown toward Indians and Indian Lands at this time. Between 1850 and 1854 he made fourteen agreements or treaties with the Salish Indian groups around Victoria, Nanaimo and Fort Rupert. When these agreements were made, the Indians received small cash payments, blankets, and were allowed to keep small areas around the sites of their villages for hunting etc.¹³

As further areas of Vancouver Island were opened for colonization in 1861, Douglas tried at first to get funds from the House of Assembly on Island, to continue his practice of compensating the Indians for lands taken from them. The Assembly however, turned down his request on the grounds of lack of funds. Douglas then appealed to the Secretary of State for the colonies for a loan to cover the cost of these settlements. While agreeing in principle that treaties should be made with the Indians before taking their land, the British refused to give the colony a loan for that purpose.¹⁴ This created a problem for Douglas, for earlier in 1858, when the mainland had been made a colony, he had been appointed its governor. On accepting this position as well as the governorship of Vancouver Island, he had to resign his position with the Hudson's Bay Company. He therefore no longer had any access to the assets of the company to help make payments to the Indians.

Though no longer able to pay compensation for land taken from the Indians Douglas instructed his Chief Commissioner for land and works to lay out reservations throughout the colony. The size of the reserves, themselves, Douglas thought, should meet with the wishes of the Indian groups. The result was that, "Some of these reserves were quite large, for example Matsqui was 9,000 acres, Skewah was 3,200 acres and the Sumas reserve was 7,600 acres."¹⁵ Under the policies of Sir James Douglas, the Indians were also to be granted full hunting and fishing rights on the lands surrounding the reserves, and furthermore if they desired, they were to be allowed to gain ownership of land outside the reserve on the same basis as Whites, by the process of homesteading and pre-emption.¹⁶

A major factor of the policy developed toward Indian reserve land, was that these lands would remain with the Crown. White settlers could not purchase these lands from the Indians, nor would it be possible for the Indians to sell them to the White settlers. Any proceeds that were derived from the use of these lands would be for the exclusive use and benefit of the Indians. Under this policy, some large reserves were laid out on the mainland, especially in the Fraser Valley region. There was however, at no time any attempt in this area to extinguish Indian title as had occurred during the early contacts on Vancouver Island. However, as La Violette states; "By the time British Columbia had been organized into a single royal colony through the union of Vancouver Island and British Columbia in 1866, just five years before joining Confederation, a schedule of Indian reserves had been made."¹⁷ By encouraging the Indians to continue living in their small traditional groups, scattered among the many groups of incoming Europeans, it is thought

that Douglas hoped that they would become eventually assimilated into the mainstream of the life of the colony.¹⁸

Unlike many other areas in Canada, where the Crown had acquired land from the Indians through treaties with various tribes, the policies of the colonial government of British Columbia seemed much out of line with the general policy of the British toward the aboriginal inhabitants of their colonies. The British policy was to recognize native tribes as sovereign nations, and therefore to negotiate with them as such. There was however, a caveat in this recognition with respect to the tribal territorial rights of the Indians, where the British imposed rather significant limitations. These limitations, as they operated in Canada, centered around the Royal Proclamation of 1763, and the concept of Indian land title which expressed considerable limitation on Indian sovereignty.

Indian title as defined by English law, connotes rights as complete as that of a full owner of property with one major limitation. The tribe could not transfer its title; it could only agree to surrender or limit its rights to use the land. English law describes Indian title as a right to use and exploit all the economic potential of the land and waters adjacent thereto, including game, produce, minerals, and offshore rights. The colonial legal system called this kind of title a "usufructory right".¹⁹

The Royal Proclamation of 1763 formalized British policy toward Indians and Indian lands, and contained ground rules for the legal means of obtaining lands from the Indians for settlement purposes.²⁰ Incoming European settlers had difficulties in dealing with and understanding the so called usufructory and roving rights of the Indians. They saw the lands of Canada as unsettled and unorganized, as they at that time understood the concept of settlement.

These lands were without any regularly established government, in the European sense, and they were thus thought to be lands open for settlement and colonization.²¹

After the retirement of Sir James Douglas in 1864, policies toward Indians in British Columbia underwent a radical change. The new Governor appointed as his Chief Commissioner of lands and works Joseph Trutch, a surveyor by training, who saw the Indian population as a major obstacle to the increased settlement and progress of the colony. The attitude of Trutch, coupled with the increased pressure of immigration, especially after the combining of the two colonies, led to a serious abridgment of the already established reserves. The prejudiced attitude that Trutch and many of the other British immigrants exhibited toward the Indians at that time was not at all uncommon, for as Fisher put it:

Trutch was very much a product of Imperial England's confidence in the superiority of her own civilization. Other races came somewhat lower on the scale of human existence than the English, the North American Indian was barely a part of that scale at all.²²

This attitude in comparison to the formal legal protection afforded the Indians by the British, is somewhat of a paradox. But this attitude of racial superiority has today still not entirely disappeared from the North Shore after a passage of more than a hundred years.

The ten acre minimum allotment per family that had been a stipulation of Douglas, when reserves were first laid out, became the maximum allotment per family under Trutch.²³ This added restriction on Indian rights was in contradiction to the policy being followed in other British Colonies, but found much favour with the growing White population of

British Columbia. The newspapers of the time reflected the prejudiced attitudes of the frontiersmen and their local governments. One clear example of this was the 1866 land ordinance which clearly reversed the earlier policies of Douglas in that it stated that Indians could not pre-empt land without the written permission of the Governor.

As a result of these continuing changes in policy, the Aboriginal Protection Society protested to the Secretary of State for the Colonies, charging mistreatment of Indians. In a response to these charges, Trutch made the following statement in which he referred to policies regarding Indian Land in the colony,

The title of Indians in fee of public lands, or of any portion thereof, has never been acknowledged by the government, but on the contrary it has been distinctly denied. In no case has any special agreement been made with any one of the tribes of the mainland for the extinction of their claims of possession, but these claims have been held to be fully satisfied by securing to require the use of sufficient tracts of land for their wants for agriculture and pastoral purpose.²⁴

As a result of these policies, there are many Indians in the province today who claim that there are aboriginal rights to lands that have never been extinguished. In addition to these issues arising out of the concept of Indian land title, policies developed after Confederation resulted in considerable land being cut off from British Columbia Indian reserves. As a result many bands including the Squamish are now negotiating for the return of these lands where possible, or as an alternative, some form of equitable compensation.

British Columbia after Confederation

The British North America Act of 1867 assigned to the federal government in Section 91(24) exclusive legislative authority with respect to "Indians and lands reserved to Indians". Prior to Confederation these had been among the powers of the provinces of Canada, New Brunswick and Nova Scotia. Following Confederation the federal government proceeded to establish an administrative and legislative structure for the management of Indian affairs.

The 1876 Indian Act was a consolidation of previous acts of the federal government relating to Indians, and contained what were considered to be the best features of pre-Confederation provincial legislation.²⁵ In brief, the Indian Act re-established the pattern of paternalism and wardship that had been a part of the early British policy toward Indians in North America, and it institutionalized Indian dependence on the federal government for protection and services. This quasi-colonial relationship continued in existence until after World War II.²⁶ General principles that were embodied in the first Indian Act, though modified somewhat over the years are still found in the current Act.

The definition of legal status as an Indian, determines those who are and those who are not entitled to the special benefits and subject to the special restrictions provided for in the Indian Act. Indian status under the Act is what today distinguishes the quarter-million Canadians who have this legal status from the larger number of Canadians who are primarily descendents from aboriginal Canadians but who are not legally regarded as Indians.

Section 2(1) of the Indian Act defines "indian" as, " a person who pursuant to this Act is registered as an Indian, or is entitled to be registered as an Indian." ... Section II of the Act states: "a person is entitled to be registered if that person:"²⁷

- A. on the 26th day of May 1874 was for the purposes of (an Act of 1868, as amended to 1874) considered to be entitled to hold, use or enjoy the land and other immovable property belonging to or appropriated to the use of the various tribes, bands of bodies of Indians in Canada;
- B. is a member of a band:
 - (i) for whose use and benefit, in common, lands have been set apart or since the 26th day of May 1874, have been agreed by treaty to be set apart, or
 - (ii) that has been declared by the Governor in Council to be a band for the purposes of this Act;
- C. is a male person who is a direct descendent in the male line of a male person described in paragraph (A) or (B);
- D. is the legitimate child of:
 - (i) a male person described in paragraph (A) or (B), or
 - (ii) a male person described in paragraph (C);
- E. is the illegitimate child of a female person described in paragraph (A), (B), or (D) or...
- F. is the wife or widow of a person who is entitled to be registered by virtue of paragraph (A), (B), (C), (D), or (E).²⁸

Most Status Indians belong to a band, and as band members they have rights to reserve land that is held in common by the members of the band, and to money in band trust accounts, held by the Department of Indian Affairs.²⁹

The Indian Act does not embody all the laws applicable to Indians,

but rather represents special legislation which takes precedence over provincial legislation. This is an important factor when reviewing the disagreements between the Federal Government and British Columbia after Confederation.

When British Columbia joined the Confederation in 1871 its established a policy of compensation towards Indians which was distinct from that followed in the rest of Canada. As a result of differing policies, the Indians very often found themselves caught in the middle of controversies between the province and the Dominion.³⁰ The terms by which British Columbia joined Confederation included in Clause 13, a statement dealing with Indian land, "that a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after Union."³¹

The Indian policy in force in British Columbia at the time of Confederation had been developed by Josephy Trutch, and could hardly be called liberal. Trutch was appointed Lieutenant-Governor of the new province, and he was extremely anxious to continue to direct Indian policy in the province. The Federal government however appointed its own Commissioner of Indian Affairs, an act that Trutch protested in a letter to the Prime Minister which read, in part,

The Canadian system as I understand it, will hardly work here. We never bought out any Indian claims or lands, nor do they expect that we should, but we reserve for their use and benefit from time to time tracts of sufficient extent to fulfill their reasonable requirements for cultivation or grazing. If you would go back on all that has been done here for thirty years past, you would be equitably bound to compensate tribes who inhabited the districts now settled and farmed by white people equally with those in remote and uncultivated portions.³²

Trutch had deliberately chosen to ignore the fact of the early settlements made by Sir James Douglas on Vancouver Island, and had generally misrepresented the nature of his own policies to date. While the early policies of Sir James Douglas might well have been considered liberal, the policies of Trutch before Confederation were as stated by La Violette:

A major stroke by which the Indian was denied the opportunity to share or participate in the appreciation of land values as a result of settlement. White men could pre-empt 320 acres and buy as many more. Some Indians were assigned as little as nine acres, almost none were acquainted with pre-emption laws, and in any case few had the necessary capital for purchasing land.³³

Though the federal government became more and more aware of the unsatisfactory nature of Indian policy in British Columbia, it was slow in taking any sort of action aimed at reversing it. Fisher suggests that the reason for this reluctance stems from the statement contained in the letter of Trutch to the Prime Minister referring to the fact that if the government of Canada did start a policy of buying out Indian title to all the lands in British Columbia, then they would have to pay compensation for lands previously taken and settled. Thus in Fisher's words, "to put it simply, it would cost too much to extinguish Indian title".³⁴ The policy that the federal government chose to follow was to try and persuade the province to increase the size of the reserves to 80 acres per family, which would conform to the general policy of reserve size in other sections of Canada. The province however, was adamant in its decision to stick to its standard of 10 acres per family. The two governments were at an impasse, and after much discussion and negotiation a Reserve Commission was formed.

The job of the Commission was to examine each reserve on an individual basis, and then to make recommendations regarding adjustments. It was hoped by the federal government that the formation of this commission would alleviate some of the growing Indian resentment in the province. Again the Indians found themselves caught between the policies, attitudes and decisions of the two governments.

The Commission was set up in 1875 and operated for over thirty years, during which time the commissioners visited most of the areas of British Columbia, allocating reserves to those bands who had none, and often changing the size of existing reserves. The Commission found little favour with either the Provincial government or the Indians. The Province again upholding what they considered to be their rights as regards to Indian policy, claimed the right to "disallow" any of the reserves allocated or changed by the Commission. The Commission had no power to deal with what the Indians considered to be the root of their problem, that of Indian land claims and Indian title. This fact, plus the changes that were made to existing reserves, which the Indians claimed were often made without any consultation with band leaders, or chiefs, alienated the feelings of the Indians towards the Commission. This attempt to settle land issues in British Columbia was not at all successful, and the Indians continued to protest the erosion of their rights and their land, and the Province continued to challenge the federal governments attempts to bring the policies toward Indians in British Columbia in line with those in force in the rest of Canada.

The Indians at this time were becoming more experienced in the laws and the functioning of the White man's government, and with this fact their protests in regard to their land claims increased. They were aided

in many instances by the growing numbers of missionaries who were becoming very concerned about the exploitation and unfair treatment of the Indians.³⁵ Many Indian groups in British Columbia petitioned both the Federal and Provincial governments in regard to land issues. While these protests often gained substantial publicity for the Indians, they had no tangible effect on the policies of either the Provincial government or the Federal government.³⁶ "This protest activity and the Province's attempts to get Indian land, and the dispute between the Federal and Provincial government over the control and management of Indian Reserves ended the work of the Indian Reserve Commission in 1910."³⁷

As dissension over Indian policy continued between the Federal government and the province, so the dissatisfaction among the Indians grew. These factors resulted in the development of much antagonism between the White settlers and the Indian groups. The province was expanding rapidly as is shown by the increase in population and development on the North Shore. The incoming settlers from Europe often lured to the country by promises of cheap land, had little sympathy or understanding for the position that the Indians found themselves in within the Province. The most significant step taken by the Province and the Federal government to settle disagreements between them over Indian land issues, and which would have long reaching and lasting implications for Indian-White relations in British Columbia, was the establishment of the McKenna-McBride Commission.

McKenna-McBride Commission

This Commission was established with a view of settling disputes

between the Federal and Provincial governments relating to the size and location of Indian reserves in the province. The Commission which was in operation from 1913 through 1916, was again not given any responsibility for the settlement of Indian title claims. By the time it had completed its work, it had cut off about 47,058 acres from reserves and added about 87,291 acres. Though this makes it sound as though the Indians gained on balance, the value of the added land was only \$445,000, while the value of the cut-off land was more than \$1,522,000.³⁸

The general public basically favoured the Commission, for most people wanted to see the end of what they considered to be an aggravating problem which stood in the way of the continued expansion and progress of the province. Newspapers such as the North Shore Express echoed this sentiment with editorials as follows:

The first official intimation to the general public as to the course which has been agreed upon between the Dominion Government and the Province with reference to the question of Indian Land in British Columbia was given today in a speech by Premier McBride in the course of a speech on the floor of the House in which he gave a review of the policy of the government. The nature of the information imparted by the premier as reported was to the effect that "as to Indian reserves the government stands firm in its determination not to submit the vestige of a claim on the part of the Indians to challenge the right of the Crown as represented by the Provincial government to the lands of British Columbia. The Commission soon to take in hand the resolution of reserve issues generally will be empowered to increase the areas of those found insufficient for the maintenance of the tribes thereupon resident. Reserves which are found to have more land than required for the support of the Indians will be reduced in area and the residual lands disposed of in auction, by the Provincial Minister of Lands, the money obtained being divided equally between the Dominion and the Province. It has been determined also in such cases as the Dominion may adjudge proper the Indians will be entitled to and will receive Crown grants in the same manner as White citizens, a radical departure from the policy of the past in the administration of Indian Affairs."³⁹

Though the Indians of the province would mount many protests as to the findings and actions of the Commission, in 1924 the Federal government adopted the Commission report by an order in council, which legalized the additions and cut-offs to and from the reserves in British Columbia.

As the settlers continued to arrive in British Columbia, the Indian population found their land base continually shrinking, with all efforts on their part to protect their rights falling on deaf ears. After Confederation the relations between the Provincial government and the Dominion government continued to be marred by the differing standards involved in their Indian land policies. The Dominion government however did not have serious enough concerns about the plight of the Indians in British Columbia to insist that the new province conform to the general Indian land policy of the Dominion. The problems that the Indians faced during this period of settlement and development in the Province is clearly demonstrated in the relationship that gradually evolved between the Squamish Indians on the North Shore, the incoming settlers and their newly formed units of local government.

Squamish Reserves

There are presently four Indian reserves that are located along the North Shore. One of these, the Burrard Band's, is east of the Second Narrows Bridge. Of the three Squamish reserves, one, the Seymour (I.R. 3) is at the Second Narrows, the Capilano (I.R. 5) is at the First Narrows Bridge, and the third, the Mission Reserve (I.R. 1) is roughly half way between the other two. The Mission reserve is of particular importance in the development of Indian-White relations on the North Shore.

It was the site of one of the relatively permanent but seasonally occupied camps of the Squamish prior to European settlement.

In 1860, a number of the Squamish moved into this camp with the intention of settling there permanently. This camp site was very close to a lumber mill that was owned and developed by White settlers. It was therefore possible for many of the young Squamish men to find work at this location. In her history of North Vancouver, Majorie Woodward-Reynold holds that the mill was one of the primary reasons for the development and settlement of what is now the central area of the North

Shore.⁴⁰ In 1860, an attempt to pre-empt this 15 hectare site was made by Chief Snat who was the leader of the group living at the camp. While in theory at this time Indians had the same rights as Whites to obtain land title by the process of pre-emption, in practice it proved to be virtually impossible. As attempts were made by Indians like Chief Snat to pre-empt homesteads, the procedures were made increasingly difficult and were applied to Indians with particular rigor. Many of these requirements were of course completely alien to the Indian way of life, so that no of them including Chief Snat failed. In 1870, the British Columbia Act which governed pre-emption was amended so that it excluded Indians.

Though they failed in their attempts at pre-emption, the Indians began to expand and build the campsite in North Vancouver into a permanent settlement. The Squamish at this time seemed to move quite freely around Burrard Inlet, obtaining jobs in the many developing White settlements. They worked at longshoring, in mills, and in logging camps; in fact at jobs which are common among their decendants today. There are records of the Squamish travelling as far as New Westminster, the Capital of the

mainland colony in search of work, and also to protest the continual erosion of their land and rights.

According to Squamish legend, Chief Snat feared that the government might take severe actions against the Squamish because of their militant attitude as regards their land rights. In an effort to forestall this event, it is claimed that he encouraged the Oblate Fathers, Catholic missionaries, to come to the North Shore and bring Christianity to the Squamish.⁴¹ These Catholic missionaries moved up and down the inlet in dugout canoes visiting many of the Squamish villages and attempting to convert the Indians to Catholicism. It was at the campsite near the mill that they centered their efforts on encouraging the Squamish to develop the site, and instructing them in the art of house building, and agricultural skills.

In 1866, the Indians built a small chapel on the site, and by 1868 they had expanded this chapel into a full church. When a White settler attempted to build a house along side the church, the Indians were most upset, and Chief Snat once more set out in his canoe for Victoria, where this time he petitioned the office of the Chief Commissioner of Land and Works asking that the area of the campsite be set aside as a reserve.⁴² As a result of this petition,

On November 25, 1869 the land was gazetted as Indian Reserve #1, containing 35 acres. In the same notice an area of 111 acres west of lot 469 was set aside as reserve #3. Both reserves are still in existence.⁴³

The Oblate Fathers continued to have a profound effect on the lives of the Squamish on this reserve, and they continued to adapt the traditional culture of the Indians to fit the feasts and celebrations of the

church.⁴⁵

Because the Capilano reserve was rather isolated from the early commercial and industrial development on the North Shore, its history has generally not been marked with as much open conflict as that of the Mission reserve. In analyzing the issues that today bring the Squamish and the municipalities into conflict, and the resulting processes of negotiations, one can trace many elements to the antagonisms that date back to this early period of development and expansion on the North Shore. Once the District and the City of North Vancouver were incorporated, the push for commercial and real estate advertisements aimed at attracting industrial, commercial and residential development to the area began.⁴⁶ The Indian population, and especially those who lived on the Mission reserve, were simply seen as major obstacles in the way of the progress of the area, especially as they occupied what was thought to be prime land for industrial and commercial purposes. What was happening on the North Shore between the Indians and the White population, was symbolic of what was going on throughout the Province, and the ensuing struggles between the municipal governments and the Indians was being repeated in many of the region's growing communities.

Early Municipal Development on the North Shore

The first contact between the Indians and the settlers on the North Shore seemed relatively peaceful, for the incoming Whites did not perceive the Indians as a threat to their new life and future. The Indians themselves also did not seem particularly threatened by the small numbers of early settlers. Accounts of the early years reported in the small North

Shore newspaper shows little hostility toward the Indians individually, or collectively. Rather, any mention of the Squamish was of a rather paternalistic nature, with the Indians being cast in the role of wayward children.

By the year 1868, a potential town was developing, with incoming settlers being able to find plenty of work in the Sewell, Prescott, and Moody mills. This town continued to grow steadily and in 1891 the District of North Vancouver received its letters patent.⁴⁷ According to the census of that year, the new municipality had a population of 365. This period marked the time of railway construction and speculation in the province, and a land boom on the North Shore was sparked by the Vancouver, Westminster and Yukon Railroad, whose charter provided for a line along the north side of Burrard Inlet.⁴⁸

Development continued so rapidly that by the year 1905 the property owners in the central portion of the Municipality felt it would be to their distinct advantage to incorporate as a separate municipality. In 1907, the City of North Vancouver was established, having an estimated population at that time of between 1,500 and 2,000 people residing in an area of approximately 10km² including the Mission reserve.⁴⁹ Later in 1912, the District of West Vancouver was created out of the western part of the District of North Vancouver with a boundary running along the Capilano River and then through part of the Capilano reserve that is east of the river.

Once the municipalities of the District of North Vancouver and the city were incorporated, there came major obvious changes in the attitude of the residents and their municipal councils towards the Indians.

The prime objectives of the municipalities at this time was to attract commercial and industrial enterprise to the North Shore. The Indians then were seen as creating an obstacle to this development and were therefore regarded in a negative context. This was part of a pattern that was occurring throughout the province, with editorials appearing in local newspapers discussing the problems of Indian lands. From 1910, editorials in the North Shore Express were clearly hostile toward the Indians with references to them only appearing in news of local court proceedings, and in editorials critical of both the Indians and the Dominion Indian policy. They made front page headlines only when it was thought that they were getting in the way of the development practices of one of the municipalities. It is clear that there was no social interaction of any kind between the White population and the Indians, they lived very separate lives.

Municipal-Indian Conflicts

In 1910, the City of North Vancouver wanted to build an extension to Third Street through the Mission reserve. After consultation with the Indians and the Indian Agent, it was found that the Indians wanted compensation for the use of the right of way. There were many proposals as to the nature of the compensation that they would accept. One proposal asked for lighting for the church, free water supply and street lamps. Another asked for \$1,000 per acre for roughly 2.3 acres required for the road. Finally a compromise was made which provided that;

the City should supply the Indians with free water in twelve taps and a fire hydrant and three thousand dollars cash providing the Dominion government would allow them to retain one

...thousand dollars in cash to pay off the debt on their church.⁵⁰

In May, the Indian Agent presented the City Council with a copy of the resolution passed by a majority of male heads of the Squamish residents of the Mission reserve, whereby they agreed to allow the City to extend Third Street on the previously stated conditions. There were 23 signatures on the document, and the Indian Agent stated that the original had been forwarded to Ottawa for official sanction. This was reported in the local newspaper at the time, but there is no report of a second vote in December 1910, when only seven voted in favor of the agreement. It now appears that the first document was never filed in Ottawa, and the second one was accepted as an official surrender document although it clearly was inconsistent with the requirement of the 1906 Indian Act that there be a majority in favor of the surrender agreement. This came to light in 1976, and is the basis of legal action in which the Band with the support of the Department of Indian Affairs is suing the City. The right of way at issue is where the City wants to widen the road to four lanes and the Band has been seeking a traffic light. The "Third Street issue" is described in detail in Chapter Three.

Contemporary newspaper reports suggest that the 1910 negotiations between the band and the city council were conducted in relatively good spirits on the whole, though the proceedings in one council meeting included racist, antagonistic statement^s quite inconsistent with the tone of statements reported then, but unfortunately more typical of later expressions of attitude. An alderman is reported to have said:

It was up to the Dominion government or the city to do something in the way of purifying the district and prevent the spread of disease which was not improbable with the Mission Reserve located almost in the centre of the city.⁵¹

The statement appears ironic in the light of the fact that the Indian population had been significantly reduced by the diseases introduced to the region by the White settlers, but no doubt it did reflect accurately the prevailing attitude of many British settlers toward the native inhabitants.

An editorial in the Express after the agreement on the Third Street right of way had been reached expresses clearly the growing resentment of the general population toward the Indians:

It is scarcely necessary to enter upon any enumeration of the reasons why the presence of an Indian reserve in the midst of or even contiguous to a large centre of White population is held to be undesirable from the stand point of law and order, commercial interests, morality, sanitation and public health. These reasons are so palpable that the case becomes self-evident that it is detrimental to the best interests of the White population and the Indians alike that such conditions should be allowed to obtain... In face of facts, it appears little short of ridiculous that the city of North Vancouver should have found it necessary to carry on prolonged and vexatious negotiations for the purpose of obtaining even so much as the necessary land to allow the projections of one of the city streets through the local Indian reserves. Surely it is time that steps were taken to rescue this important issue from its present anomalous state to place it upon a basis of common equality for all parties.⁵²

The editorial concludes by stating that changes in legislation were needed so that a city or district could possess themselves of Indian lands within or contiguous to their boundaries. Again the newspaper is no doubt reflecting popular opinion about the Indians and their reserves.

At that time, the City wanted the two hundred feet of unobscured waterfront that was held by the Squamish. The reasons for wanting it had more to do with economic health than the concerns about law and order, morality, sanitation and public health cited in the editorial above.

It is generally recognized that it is imperative to the welfare and progress of the city of North Vancouver that the Indian reserve lying in the center of and closing for commercial purposes a considerable amount of water frontage of the city should be procured and made available for residential and commercial purposes.⁵³

The municipal governments were watching closely negotiations between the City of Victoria on Vancouver Island and the Songhees Indian Band whose reserve was within the boundaries of the city. The city of Victoria was finally able to purchase the reserve after the provincial government agreed to contribute \$400,00 in sums of \$10,500 paid to each family head on the Songhees reserve, and provide them with a new reserve location.

It did not appear that the provincial government was prepared to give the same sort of assistance to North Vancouver, and the city began to pin its hopes on an amendment to the Indian Act which was in fact passed in 1911. The provision was that any city with a population of more than 8000 could apply to the Exchequer Court for the alienation of any reserve within or adjacent to its boundaries. The Indians resident on the alienated reserve would be moved to another reserve location and would receive "reasonable compensation" for their move. When this Bill came before parliament, Sir Wilfred Laurier mentioned the Victoria settlement and went on to say:

Now there are other communities especially in British Columbia who are in the vicinity of such a reserve. Everyone knows that when a city is growing up in the vicinity of an Indian reserve it is not a benefit but an injury to the Indian and the White man... What are we to do under such circumstances? We must preserve faith with the Indians. That is the first principle we must always adhere to. On the other hand we cannot ignore the conditions of cities growing up in the vicinity of Indian reservations. How then, is the matter to be settled? We have come to the conclusion that it should be settled under general principles.⁵⁴

He then urged that the Bill before Parliament be amended to place the final deliverance under an Act of Parliament instead of the Exchequer Court. The leader of the opposition strongly supported this amendment:

When you asked Parliament to pass a law under which treaties that have been sacredly observed for 150 years could be departed from on the order of the court you are proposing a very extreme step. Indians in Canada have certain rights granted to them by treaties, and these treaties have never been departed from except with the consent of the Indians themselves. Each particular instance should be brought before Parliament in order that Parliament might determine whether or not such a condition has arisen as would justify Parliament sanctioning such an extreme step.⁵⁵

The remarks of both the Prime Minister and the Leader of the Opposition demonstrate the seriousness with which the Federal Parliament at that time took their relationship with and responsibilities for the Indians. Though much of the Dominion Indian policy was a source of frustration to the Indians, in that it kept them in the position of wards of the government, it also protected them from widespread alienation of their lands by the provinces in response to pressure from growing municipalities.⁵⁶

When the amendment passed Parliament, North Vancouver City had about 7000 population and felt it was approaching the 8000 required to take advantage of the alienation provisions. At the same time West Vancouver, negotiating with the Capilano reserve Squamish for the sale of part of the reserve, and the Seymour reserve Indians had been approached about selling their land. As these expectations and negotiations developed, there were many reports and editorials in the local newspaper concerned with general questions of Indian lands and Indian title, and often editorials describing reserve sites which suggested uses and disposition of the property after it was alienated. Indians must have had reactions to these careless or antagonistic statements, but it appears that their feelings and positions were never sought and therefore never reported. Another theme reflected in contemporary editorials of the time, coupled antagonism toward Indians with prevention of Asian immigration so as to develop British Columbia as a "White man's land".

Statements and attitudes which tended to perpetuate conflicts between Whites and Indians could have had an effect on the possible sales and alienations, though it appears that the municipal government and others had overlooked the fact that the 1911 provisions with respect to alienation did require majority consent of the Indian residents on a reserve.

What made this moot, was establishment of the McKenna-McBride commission in 1913 and the position taken by the Federal government that there could be no alienations of Indian land before the findings of the Commission were reported. One of the first places the Commission visited was the North Shore. Chief Mathias of the Capilano reserve made

an impassioned speech to the Commission which set out the problems confronting Indians. These were the facts that they were wards of the government, and so could not take the initiative to improve their conditions. They had some land. but no money with which to put it to productive use. He did not ask for money, but for the right to sell their land so that they could move on to a new life.

This statement in July 1913 was quite consistent with the position that he had taken a few months earlier. For in April he had announced that in regard to selling their 440 acre reserve with its three miles of water front, the band was in favor of selling the reserve and moving up Howe Sound to establish an agricultural base. They would therefore consider selling the reserve to the highest bidder for cash, and he suggested that the market price for the land should be between \$2,000 and \$3,000 per acre. Shortly after this the Chief of the Seymour reserve announced that they would like to sell 97 acres of their 140 acre reserve, retaining 50 acres for a permanent home for the reserve residents, he suggested a price of \$3,500 per acre. It is clear that in 1913 the Squamish were attracted by the sort of settlement that the Songhee in Victoria and the Kitsilano in Vancouver had made. It is also clear that they were aware of the value of their land and that the Squamish chiefs were hard and able negotiators.

The positions taken by municipal spokesmen appearing before the McKenna-McBride Commission can best be understood by reading excerpts which appeared in the reports of the Vancouver Province of the hearings on the North Shore.⁵⁷ As a result of the Commission's findings, 131 acres was cut off the Capilano reserve, I.R. 5.

The relationship between the early colonial government in British Columbia and the native population was generally conflictual in nature and this would continue after Confederation when the Province insisted on holding to its policy of very small reserves, and to consistently ignore issues of native rights. The policies of the Federal government from the enactment of the first Indian Act were based on a continuation of the early British philosophy of paternalism and protection. The government and the civil servants of the Indian branch made policy and administered the affairs of their constituents with little or no consultation with the Indians.⁵⁸ Native people were in every sense of the word, "wards" of the Federal government. As stated in the Hawthorn study:

this unique situation was justified and sanctioned by the assumptions and attitudes which reflected the fact that while non-Indians lived in a unitary state. Up until 1945 the Federal government uncritically accepted its special responsibilities for Indians on the grounds that they were wards of the Crown. Provincial governments, with no pressure to do otherwise, assumed that Indians were beyond the ambit of their responsibility. The Indians, for their part, developed a special emotional bond with the Federal government, and suspicious and hostile attitudes toward Provincial governments.⁵⁹

The situation in British Columbia has in the above terms been unique in that the Provincial government has consistently insisted on maintaining the policies of the early colonial governments toward the Indians, as to reserve size, and also denying the claims of the Indians to aboriginal title. This has exacerbated the Indians' feelings of hostility toward the Provincial government. Both attitudes within the Provincial and Federal governments toward Indians have, however, undergone some changes, as Canada and Canadians have become more concerned with political and

social trends on a world wide basis.

Contemporary Federal-Provincial Indian Policy Issues

After the second World War the governments of Canada, reflecting the general political and social philosophies of the times, moved toward a policy of integration. Indians were to become an integral part of the Canadian society. This goal is reflected in the attempts of the Pearson government to introduce changes and revisions to the Indian Act, and of course more recently and dramatically, in the policy formulations of the Trudeau government as set out in the 1969 White Paper on Indian policy.⁶⁰

This White paper and the consultations associated with it failed to generate support for the government's proposals to integrate the Indian population into the larger Canadian society. It did however succeed in "polarizing the issues and in politically mobilizing a previously inarticulate group".⁶¹ The threat of integration pulled the Indian population together to a point where they began to develop and use pressure group tactics to achieve a greater role in the development of Indian policy, and the delivery of Federal services to Indians. As a result they have received massive Federal funding of their organizations, which has enabled these groups to become well informed, articulate and politically sophisticated representatives of the Canadian-Indian position. The influence of these Indian organizations is now felt at all levels of government, from local band councils to the cabinets.⁶² The Indians of British Columbia have the longest history of political organizations in Canada, and the various groups that have formed over time,

have all been active in attempting to influence the Provincial and Federal governments to recognize and settle outstanding claims based on the concept of aboriginal rights. While the Federal government has acknowledged the existence of claims based on native title,⁶³ the Provincial governments policies in this area and in other areas regarding Indian lands have changed little since earlier time.

Current British Columbia Policies

There are negotiations in process among the Federal and British Columbia governments and Indians in relation to claims based on aboriginal title, notably in the case of the Nishga. There are also negotiations in process on band claims resulting from loss of land cut off of reserves, for example, the Squamish are seeking return of or compensation for land cut off from their Indian Reserve #5. In February 1974, the Union of B.C. Indian Chiefs wrote to Premier David Barrett seeking provincial participation in tripartite negotiations.

On August 8th, 1973 the Federal Government announced their new policy regarding the unextinguished title to the lands of the Native people in various parts of Canada. British Columbia is one such area that was not ceded to the Crown at any time in history.

The Indian people have pressed for a long time for this recognition. It appears from the recent meeting with the Federal government that they are sincere in wanting to enter into negotiations.

We would not want this issue to become a Federal-Provincial "political football", so we would like to initiate a tri-party meeting comprised of the Minister of Indian Affairs, yourself and representatives of the Union of B.C. Indian Chiefs. The meeting would explore the avenues through which an equitable settlement could be reached and what role the parties concerned would play in the continuing negotiating process...

Your Government has indicated to the Indian people of this Province that they are prepared to initiate any action that will assist in righting the past injustices and Mr. Premier, this is very fundamental to the Native people of this Province.⁶⁴

A meeting took place in Victoria on March 19. The Minister of Indian Affairs flew out from Ottawa, and Indian leaders from all over the province attended. The Provincial government, however, chose to send a junior lawyer from the Attorney General's department as their representative. Later in the year after continued inaction by the Provincial government in the area of land claims, a march from the Songhee reserve to the legislative building was organized. Mr. Norman Levy, provincial Minister of Human Resources, appeared representing the government and made a statement which expanded on the point, that in his words;

It is the position of the Government of British Columbia that any resolution sought by the Indian people to the land question must be found with the Federal Government. This Government is of the opinion that under the laws of this country, and in particular under the terms of the British North America Act, it is not only clear that the issues must be resolved by the Federal Government and not by British Columbia, but also that it would be highly improper for British Columbia to participate in these discussions.

The time has come for the Government of Canada to stop playing politics on this most important question, and address itself to the needs of the Indian people; something it has consistently refused to do.⁶⁵

So the NDP government continued in the tradition of earlier governments of British Columbia in refusing to settle the land issues raised by the Indians of the province. But gradually, and despite its protests, the Provincial government did have to become involved in negotiations relating to land claims. When the new Social Credit government was

elected in 1975, they too participated in meetings with representatives from the Federal government and the Indians. However, in the late summer of 1978, the Provincial cabinet member with responsibility for Indian affairs, Hon. Alan Williams, Minister of Labor, predicted that there will be no real settlement of British Columbia Indian land claims for many years. According to the newspaper report of his speech:

The declaration was significant because a succession of Federal Indian affairs ministers has blamed Provincial Governments--both NDP and Social Credit--for stalling on a money settlement.

Williams referred to the report of Justice Tom Berger on Mackenzie Valley pipeline proposals as the definitive warning against a quick cash deal.

Berger, he recalled, said it would be wrong to sign a piece of paper and "expect to put the whole thing behind us".

The definition and redefinition of Indian claims on land taken over when the White man came will go on for generations, Berger said.

The redefinitions will depend on the desires evinced by the Indian people themselves.

Williams said he agrees with Berger's findings and that he has consistently recommended that approach to the provincial cabinet. "Those who are firmly wedded to a settlement mustn't look at it as a device to sidestep land claims", he commented...

"It is essentially a people problem," he said. "It is the people of this province and this nation who must find a solution."

Williams went on to say he has repeatedly suggested to Federal authorities that to present an illusory concept of settling land claims would be detrimental to the Indian people...

He noted that the aims of various B.C. Indian groups differ, but said the Indians are agreed the claims are not a mere real estate transaction.⁶⁶

This statement by Mr. Williams suggests that the present government of British Columbia, like those of the past, is in no hurry to settle the

land claim issues in the province. The last paragraph quoted, noting that all Indians agree that the claims have more than business significance, is a most accurate appraisal of the Indian position as regards their land claims based on aboriginal rights.⁶⁷

It is important to note that the concept of aboriginal rights though it provides the basis for many land claims issues in British Columbia and many other areas of Canada, is not bound to land issues alone. The concept of aboriginal rights underlies Indian assertion of rights to self-government and self determination. A statement of the Union of B.C. Indian Chiefs as to their definition of aboriginal rights, takes a strong position in stating the meaning of these rights to Indians in contemporary Canadian society as follows;

Aboriginal rights means that we collectively as Indian people have the right within the framework of the Canadian Constitution to govern, through our unique form of government (band councils) an expanded version of our Indian reserve land, that is sufficiently large enough to provide for the essential needs of all our people.⁶⁸

Indian rights and Indian sovereignty then mean to Indian people today a strong government on Indian land, and an increase in the land base over which Indian governments will have control. " Indians today are looking for their own form of government, which will have powers that will include tribal courts, control over schools and their own economic development programs on reserves. " The definition of aboriginal rights and Indian sovereignty has then grown from the settlement of land claims and past injustices. Now the concept of aboriginal rights is being developed into a new Indian political ideology which provides reason and meaning together with a set of goals and guidelines for future Indian behavior.

This new attitude to the concept of aboriginal rights, has been in part developed by the Indian organizations who owe their birth or rebirth to the 1969 White paper. These organizations exert considerable influence on the thinking and goals of many Indian bands, including the Squamish.

The Squamish Band and Indian Organizations

As stated earlier, there are now in Canada, Indian organizations that seek not only to represent the specific needs and goals of individual Indian bands, but also those that engage in the development of long range policies and plans on behalf of all Canadian native peoples, and that are aimed at ensuring the survival of a separate Indian culture and identity. On the federal level, the National Indian Brotherhood has emerged as a strong unified organization, speaking for Indians on problems of a national or federal focus. At the provincial level in British Columbia, there are organizations that handle programs for Indians and deliver services to Indians in the area of education, social services, employment, economic development and others.⁶⁹ As far as the Squamish Band is concerned, the organizations that seem to impinge on their planning, and their philosophy are the N.I.B. at the national level, and at the local level The Alliance, and to a much lesser extent, the Union of British Columbia Indian Chiefs.⁷⁰ In May of 1977 the Squamish Band withdrew from active membership in the U.B.C.I.C. because they felt that the Union was getting top-heavy with executives and there was not enough band representation within the Union,⁷¹ though the Squamish still seem to co-operate with the Union in areas of mutual concern.

At the local and provincial levels, the organization that has the

most impact on the goals and priorities of the Squamish, is the rather informal association known as "The Alliance", which is made up of nine of the more advanced bands in B.C., eight of which, including the Squamish, are not dues-paying members of U.B.C.I.C. The broad objective of this association is to "create an economic environment which would prove conducive to economic development of Indian reserves".⁷² As the Squamish band and the other members of the Alliance are among the larger and more sophisticated bands in the province, they tend to focus their efforts in the area of economic development and on the legal issues which arise out of economic initiatives, and constraints that are found in the present Indian Act. One of the current pre-occupations of the Alliance, is a group of related court cases dealing with provincial and municipal taxation of all buildings and businesses located on reserves. Another, which is of a very great concern to the Squamish band, and linked to their proposed development of I.R. 5, is lobbying for amendments to the Indian Act to create a category of Indian corporations which would have the status of Indian persons, as long as members of the corporation are Indian individuals, and would be able to undertake the kinds of development and entrepreneurial activity in which the Squamish band is interested.

While the immediate interests of the various Indian organizations do still differ, there is among all of these groups a greater sense of unity and cooperation, and a sense of national Indian identity and purpose, which is reflected in many of the policy statements and decisions, coming from the Squamish Band council and many other band councils throughout the province and the rest of Canada. Indian organizations are serving in many instances to help bands such as the Squamish to develop better skills to

deal with the bureaucratic structure of the Department of Indian Affairs and Northern Development. The organizations have had a positive role in helping band councils develop their self-confidence in the area of local decision-making, and encouraging them to develop skills in pressure group politics. Members of the Squamish Band council who are active in Indian organizations, often represent the Band in negotiations between the various levels of government they deal with, including local municipal governments. The Squamish Band council itself at times might well be considered as an Indian organization, especially when it chooses to develop and make policy statements specifically relating to national Indian concerns.

As the band council does not have the full powers of a municipality, its actions and decisions might be considered those of a political organization rather than a unit of local government. This is especially true when it is engaged in activities such as pressing for changes in the Indian Act. The Band council it could be said, fulfills a dual role; that of a unit of local government and that of an Indian organization or pressure group.

Summary

Policies toward Indians in the two colonies, in what is now the province of British Columbia, developed quite differently from those of the rest of Canada, and these policies have had a major influence on the continuing conflictual relations between Indians and Whites in British Columbia. Federal Indian policies developed over time, have not given Indians independence or equality, but have attempted to protect the Indians from

exploitation, and have given limited recognition to Indian claims. While Indians in British Columbia, especially in the early years of Confederation, have often found themselves caught between the policies of the Provincial and Federal governments. This factor is evident in the relationships that developed between the Indians and the Whites on the North Shore, and is demonstrated in many of the local paper's editorials. As the municipalities developed, a conflictual relationship emerged which polarized the Indians and the White settlers into a "we versus they" framework, as the position taken by the municipalities demonstrated a desire for Indians land, but no concern for Indian people.

Since World War II there have been many changes in Indian policy on a National level, that have filtered down to affect the everyday lives of the Indians in their local communities. Policy toward Indians has in fact, passed from benevolent paternalism to integration and on to what might now be called limited self-determination. The policy that is presently being pursued by the Federal government includes funding and encouraging the political development of native institutions, with the expectation of eventual self-determination in social, economic and political matters. With close cooperation at the federal level through the joint National Indian Brotherhood Cabinet Committee, this policy is already implemented at this level and is achieving the objectives of joint deliberation on the future of Indian policy.

Some changes have been made which have helped bring Indians into the mainstream of the life of the province. Indian children generally attend provincial schools and the province does provide some services

for its Indian citizens. The major source of friction between the Indians and the Provincial government, that of Indian title and land rights, still remain unsolved. The changes on the national level have influenced the development of many Indian organizations which in themselves affect and also assert an influence on the interactions that occur between Indian bands and municipalities.

The contemporary issues of conflict between the band and the municipal governments, reflect the past history of Indian-White relations in the province, and the various changes in Federal Indian policy. While it is true that the Squamish band is largely under the control of the Federal government, the government of British Columbia continues to influence the attitudes and the goals of the Squamish band. Much of this influence stems from the early Indian relations with the Colonial government. These factors are evident both in the nature of the issues of conflict that arise between the Band and the municipalities, and in the processes of negotiation undertaken to resolve them.

Footnotes to Chapter II

¹Philip Drucker, Culture of the North Pacific Coast (Chandler Publishing Company, 1965), p. 7.

²Drucker, p. 224; F.E. La Violette, The Struggle For Survival: Indian Culture and the Protestant Ethic (Toronto: University of Toronto Press, 1973), p. 6.

³Wilson Duff, "The Impact of the White Man", Anthropology in British Columbia Memoir no. 5, (Victoria: Provincial Museum of British Columbia, 1964), p. 15.

⁴Julia Averkieva, "The Tlingit Indians", in Eleanor Burke Leacock and Nancy Oesterich Lurie (eds.) North American Indians in Historical Perspective (New York: Random House, 1971), p. 317.

⁵Homar G. Barnett, The Coast Salish of British Columbia (Eugene: University of Oregon Press, 1955), p. 241.

⁶For a summary of these differing opinions, see Wayne Suttles, "Private Knowledge, Morality and Social Classes Among the Coastal Salish", in Tom McFeat (ed.), Indians of the North Pacific Coast (Seattle: University of Washington Press, 1967), p. 166.

⁷James W. Morton, Capilano: The Story of a River (Toronto: McClelland 1972), p. 18.

⁸Suttles, p. 176.

⁹Ibid., p. 169.

¹⁰Drucker, p. 174.

¹¹In return for nominal rent, set at seven Shillings per annum, the Hudson's Bay Company promised to establish "A settlement or settlements resident colonists, emigrants from our United Kingdom of Great Britain and Ireland, or from our other Dominions". Margaret Ormsby, British Columbia: A History (n.p., Macmillans of Canada, 1968), p. 98.

¹²Lestle Clifford Kopas, "Political Action of Indians in British Columbia" (M.A. Thesis, University of British Columbia, 1972), p. 36; La Violette, p. 9.

¹³Duff, p. 61; Peter A. Cumming and Neil H. Mickenberg (eds.) Native Rights in Canada (Toronto: Indian-Eskimo Association, 1972), p. 9; Rubin Ware, Our Homes are Bleeding (Victoria: U.B.G.I.C., 1975), p. 7.

¹⁴Philip Drucker, "The Native Brotherhood of British Columbia" (1958), in James Frideres (ed.) Canada's Indians: Contemporary Conflicts (Scarborough, Ontario: Prentice-Hall of Canada, 1974), p. 134; Robin Fisher, "Joseph Trutch and Indian Land Policy" B.C. Studies, 12 (Winter 1971-72): 4. Kopas, p. 37; La Violette, p. 105.

¹⁵Ware, p. 12.

¹⁶An attempt at preemption by a leader of the Squamish will be discussed later in this chapter.

¹⁷La Violette, p. 11.

¹⁸Drucker, *The Native Brotherhood*, p. 134.

¹⁹National Indian Brotherhood "Aboriginal Title." Standing Committee of the House of Commons on Indian Affairs and Northern Development: Minutes of Proceedings and Evidence, #8 Appendix "k", p. 8: 42.

²⁰For extracts from the Royal Proclamation see: Derek G. Smith (ed.) Canadian Indians and the Law: Selected Documents 1663-1972 (Toronto: McClelland & Stewart, 1975), pp. 2-4.

²¹T.R.L. MacInnes, "History of Indian Administration in Canada." Canadian Journal of Economics and Political Science, 12 (1946): 387.

²²Fisher, p. 5.

²³Ibid., p. 7.

²⁴La. Violette, p. 110

²⁵E. Palmer Patterson II, *The Canadian Indian: A History Since 1500* (Don Mills: Collier-Macmillan, 1972), p. 141; Smith, p. 26, 28.

²⁶Audrey D. Doerr, "Indian Policy" in G. Bruce Doern and V. Seymour Wilson, Issues in Canadian Public Policy (n.p. Macmillan Co., 1974), p. 36.

²⁷Cumming and Mickenberg, p. 6.

²⁸Indian Act. R.S., c. 149, s.1. quoted in Smith, 159. However, not all those who meet one of the qualifications for registration enumerated in sub-section (a) through (f) of section 11 have Indian Status. Section 12 provides a somewhat longer and more complex set of specifications of classes of persons not entitled to be registered. The one which is perhaps the most significant denies Indian Status to "a woman who marries a person who is not an Indian, unless that woman is subsequently the wife or widow of a person described in section 11." Ibid., 159. In addition to losing her won Indian Status by marrying a White man, or a non-status Indian, such a woman denies to any children she may subsequently have the right to status under the Indian Act. The Jeanette Lavell case in 1973 focused national attention on such a problem. Council for Jeanette Lavell held that the relevant sections of the Indian Act were invalid because the constituted discrimination by the virtue of sex. The Supreme Court of Canada however upheld the validity of The Act stating that it was valid because it only involved "the internal regulations of lives of Indians on reserves". The Indian Act the court held does not discriminate between Indians and Whites, or between men and women, but rather between Indian men and Indian women, and therefore it was held that the Act does not infringe upon the Bill of Rights. Lavell Case (1974), SCR.

²⁹For more complete discussion and legal definitions of Indian Bands, and reserves see Indian Act. R.S., c. 149, s. 2(1).

³⁰Patterson, p. 154.

³¹Fisher, p. 22.

³²Kopas, p. 46.

³³La Violette, p. 112.

³⁴Fisher, p. 27.

³⁵Kopas, p. 16.

³⁶This was evident in the protest led by Chief Joe Capilano of the Squamish on the Capilano reserve. He led a delegation of Indians to London to present a petition to King George V. This petition also went on to state that all appeals to the Canadian government had proved to be in vain. La Violette, p. 127; Patterson, p. 169.

³⁷Department of Indian Affairs and Northern Development, Statement by Hon. Jean Chretien Minister of Indian Affairs and Northern Development. Presented to the Standing Committee of the House of Commons on Indian and Northern Development (Ottawa: Queens Printer, 1973), p. 52.

³⁸H.E. Hawthorn, C. Belshaw, and S. Jamisson, The Indians of British Columbia (Toronto: University of Toronto Press, 1958), p. 55.

³⁹North Shore Express, 24 January 1913.

⁴⁰Kathleen Marjorie Woodward-Reynolds, "A History of the City and District of North Vancouver" (M.A. Thesis, University of British Columbia, 1943), p.1.

⁴¹Ibid., p. 43.

⁴²In his petition the chief stated that the village consisted of fifty families, and sixteen single men, he asked for 200 acres (80 hectares) with forty chains of frontage on the Inlet, twenty chains (400 meters) on each side of the church.) Reynolds, p. 43.

⁴³Ibid., p. 44.

⁴⁴This was a common practice of Catholic missionaries working among Indians in North America. The interior of the San Xavier Mission on the Papago reservation outside of Tucson, Arizona is a particularly dramatic example of the combination of traditional Indian Culture and Catholic religious symbolism.

⁴⁵However when this reserve was left without a Chief, the Missionaries were able to extend enough influence to get a Catholic resident of the reserve Capilano Joe appointed as Chief. Although he did prove to be an able and dynamic leader, and soon became well known throughout the province for his efforts on behalf of Indian land rights, it was some time before his leadership was entirely accepted on the Capilano reserve. For greater details of the influence of the Oblate Fathers on the life of the Squamish see Patterson, pp. 162-170.

⁴⁶The North Shore Express from 1910-1912 contains many advertisements of this nature.

⁴⁷Reynolds, p. 49.

⁴⁸Ibid., pp. 56, 99.

⁴⁹Ibid., p. 69.

⁵⁰North Shore Express, 3 April 1910.

⁵¹North Shore Express, 11 March 1910.

⁵²Ibid., 19 April 1910.

⁵³Ibid., 9 April 1911.

⁵⁴Ibid., 5 May 1911.

⁵⁵Ibid., 5 May 1911.

⁵⁶The seriousness with which the Canadian Parliament took its responsibility is evident in the fact that it was extremely difficult for the Squamish on the North Shore to part with any of their reserves, during the period of municipal expansion, and the municipalities themselves found it just about impossible to gain possession of the land of the Mission reserve and the other Squamish reserves. They are still in existence today.

⁵⁷The Province (Vancouver) 19 and 21 June 1913, excerpts from report of McKenna-McBride Commission.

⁵⁸Audrey D. Doerr, "The Role of White Papers in the Policy Making Process: The Experience of the Government of Canada" (Ph.D. Dissertation, Carleton University, 1973), pp. 155-157.

⁵⁹Hawthorn, vol. 1. p. 199.

⁶⁰Statement of the Government of Canada on Indian Policy, (Ottawa: Queens Printer, 1969).

⁶¹Doerr, Indian Policy, p. 43.

⁶²Since its formation in 1968 the National Indian Brotherhood has gradually consolidated its position as the official representative of a national Indian constituency. In 1973 a joint committee of the NIB and members of the Federal cabinet was formed. Through this joint committee a number of joint working groups were set up to report on specific issues, notable Indian rights and land claim processes, revisions to the Indian Act, and Indian education and economic development. A joint working group produced a comprehensive report on the NIB-Cabinet committee process, which was adopted by the committee in December 1975. This has served as the basic guideline for the working arrangements that are in process at this time. A member of one of the subcommittees working under the direction of the joint committee negotiating amendments to the Indian Act is a member of the Squamish Band Council. Its importance to the Squamish will be seen in later chapters of this thesis. For more detail on the NIB-Cabinet committee, see, Lloyd Barber, Commissioner on Indian Claims, A Report: Statements and Submissions (Ottawa: Supply and Services, 1977), p. 51.

⁶³Department of Indian Affairs and Northern Development, Statement by Hon. Jean Chretien Minister of Indian Affairs and Northern Development. Presented to the Standing Committee of the House of Commons on Indian Affairs and Northern Development (Ottawa: Queens Printer, 1973), p. 48.

⁶⁴B.C. Inter-Church Committee for World Development Education, The Struggle Continues: Land Claims in British Columbia (Vancouver: Private Printing, 1976), p. 91.

⁶⁵Ibid., p. 97.

⁶⁶Vancouver Sun, 30 August 1978.

⁶⁷This is particularly true of the position taken by the Union of British Columbia Indian Chiefs.

⁶⁸Union of British Columbia Indian Chiefs, Unpublished position paper on Indian Reserve Lands and Indian Government; 1978, p. 4.

⁶⁹Some of the major organizations in British Columbia that reflect the political concerns of their membership are the Union of B.C. Indian Chiefs, the Alliance, and the Native Indian Brotherhood.

⁷⁰In recent weeks it would seem that the UBCIC has lost a considerable number of its members, with the setting up of a new Provincial organization whose members include both status and non-status Indians.

⁷¹North Shore News 4 May 1977.

⁷²In 1977 the Alliance presented a brief to the Department of Indian Affairs and to the Justice Ministry, stating that the specific objectives of the Alliance were basically greater control of band economics and land management programs for band members and the promotion of economic development on reserves.

Chapter III

THREE CURRENT INDIAN-MUNICIPAL ISSUES

The framework for this examination of the intergovernmental relations between an urban Indian band and three adjacent municipalities, directs attention to the background factors that affect these relationships. These factors have been discussed in previous chapters, including the history of Indian-White relations in British Columbia and on the North Shore, cultural differences between Indians and the dominant immigrant population, and particularly the constitutional position of Indians in Canada, which distinguishes the small Indian population from all other Canadians.

The three municipalities and the band (a quasi-municipality), form a set of interdependent actors that must interact, because they all exist in a particular geographic, social and institutional environment on the North Shore of the Vancouver metropolitan area. Each of the four actors is independent of the others in that none has hierarchical control over the other. They are each influenced by and to some extent controlled by, outside forces. This is most clear in the case of the band, because of the relationship between Indian bands and the Federal government, but the municipalities are also subject to various forms of control by the Provincial government. Issues arise from time to time, out of particular combinations of historical, social and economic circumstances, that require municipalities and the band to come together in a process of negotiation and bargaining in an effort to reach an equitable and mutually

acceptable solution. Though these are local concerns, they do in fact occur within a national context of Indian policy, and an examination of such local issues does demonstrate some effects that Federal Indian policy can have on the process of government at the local level.

Each of the local governments involved, has a different constituency and is therefore responsive to a different set of community groups. In the case of the Squamish Band Council, the constituency is a group set apart from other residents of the North Shore by their separate constitutional status, socio-economic situation, social, cultural and ideological values. These differences are reflected in the differing interests, priorities and political resources of the municipalities and the band.

The Setting

The Squamish band has approximately 1200 members residing on eight of its twenty-six reserves. There are about 800 members living on the Mission Reserve in the City of North Vancouver, where the Squamish administrative headquarters are located; about 200 members on the Capilano Reserve which is partly in the District of North Vancouver and partly in the District of West Vancouver; the remaining of the 200 or so members, live on six Squamish Valley reserves, which are located in or near the town of Squamish on Howe Sound almost an hour by road from the North Shore.¹ The Mission, Capilano, and the uninhabited Seymour reserves of the Squamish are on the north side of Burrard Inlet, along the shoreline of the North Shore region of the Vancouver Metropolitan area.

The North Shore reserve land is a valuable resource. because of its relatively central location within a metropolitan area that has only very limited amounts of land remaining available for development.² For the same reason, land use issues are a major source of conflict between the band and governments concerned with North Shore development. Much of the reserve land is leased to developers of commercial, industrial and residential properties. Sections of it have been cut-off and used for rights-of-way for major regional transportation facilities, and most of the remaining reserve land is suitable for the kind of development that creates a very substantial income or wealth for private land owners. The best example of this is the Capilano Reserve, also known as I.R. 5, at the north end of the Lions Gate Bridge. A major regional shopping centre, Park Royal, a high-rise residential complex, an office building and a modern hotel-apartment facility are all located on this reserve, and adjacent to it is the busiest traffic intersection in West Vancouver. The three Squamish reserves on the North Shore, are geographically contiguous with urban development in the surrounding White communities, and this fact together with the extensive White leasehold development of reserve lands, results in a situation in which most non-Indians familiar with the North Shore have no appreciation of the extent of the reserves.

The boundaries of the reserves have been set (and altered at times) by the Federal government acting under the Indian Act, but at the same time all of the North Shore reserves are contained within the boundaries of the three municipalities as established in the letters patent issued by the Provincial government. This in itself is a source of conflict, in that Indian land is supposed to be reserved for the Indians under Federal jur-

isdiction. There is much unwanted trespassing on the reserves, for a great proportion of the general public is unaware of what is public land and what is Indian land, and perhaps even of the fact that they have no right to wander the reserves at will. New signs have recently been posted on the Capilano Reserve, in an attempt to keep the general public out, following complaints by residents of cars speeding through the reserve.

The Indians residing on the North Shore reserves, are generally employed in off-reserve industries, chiefly longshoring, manufacturing, logging and fishing.³ Municipal services to the band members residing on the reserves are provided in some cases by the band (e.g. social housing), in others through contracts with the municipalities (e.g. water and sewers), and yet others are a municipal responsibility (e.g. police). The annual income to the band from the Park Royal Shopping Centre, located on their land is less than the annual cost of the water and sewer services for the reserves.⁴

The Squamish band has exhibited an increasing degree of sophistication in their dealings with Indian Affairs, the three municipalities and various business firms, but it is only during the last five to ten years that they have attempted to make their own land development decisions. To assist in this decision-making they employ a permanent band manager, retain a law firm, and use consulting land planners to advise them. It should be noted that in principle at least, all of these technical services are available to the Squamish as to all bands, through the staff of Indian Affairs offices. Until recently, in the case of the Squamish, Indian Agents or their representatives had a primary role in this decision-

making, both as advisors to the band, and as the federal employees responsible for approving the results of the negotiations. Indians, and the Squamish in particular, have felt that the lease agreements giving non-Indians development rights on reserve land, have been more beneficial to the developers than to the bands. The Park Royal complex, located on land leased from the Squamish, is one example used in making this point. In 1974, Park Royal had gross receipts of \$82 million, generated over one million dollars in direct tax revenues to the District of West Vancouver alone; and yet the band received as rent, only some \$250,000 and only one band member was employed in Park Royal.⁵ In addition to the value of their land as a source of band revenues, the Squamish are unhappy about the fact that Indian Agents acting on their behalf, have either omitted entirely or incorporated in very weak and unenforcable terms lease clauses requiring preferential hiring of Squamish in enterprises located on their land.

The three North Shore municipalities have a relatively stable population of approximately 145,000.⁶ Most of the potential for substantial new residential development, is at the eastern end of the area, north and east of the uninhabited Seymour Reserve, and secondly on the Capilano Reserve. The North Shore, and in particular West Vancouver, have higher average incomes than the Vancouver region as a whole, and in general the North Shore is considered the most attractive and desirable residential community in the region. Citizen input in local politics is relatively strong, again particularly in West Vancouver, and land development issues are often the focus of popular concern.

North Vancouver City, which includes virtually all of the older urban development and has virtually no vacant developable land, is a predominantly working class community and in its style of politics is a partial exception to the previous generalizations.

Transportation between the North Shore and the rest of the Vancouver metropolitan area moves over two road bridges, a rail bridge, and the recently opened Sea Bus, a high speed passenger ferry system operated as a part of the metropolitan public transportation service. Because of the pleasant residential environment, the environmental amenities provided by heavily wooded and hilly but developable land (i.e. developable by some local standards, though it would be considered undevelopable anywhere east of the Rockies), and traffic congestion on the bridges and in the vicinity of the bridge approaches, many North Shore residents favor either no growth, or very limited growth in their communities. This is a common attitude among newcomers and other residents of relatively recent subdivisions as well as those who have been North Shore residents for a generation.

This attitude was reflected in a meeting of the B.C. Institute of Landscape Architects back in 1972, where the point was made, that the White society was just beginning to realize what a shame it was that the North Shore was developed so intensively. The conclusion was that the Indians should learn from these mistakes, and therefore not continue planning for high density, revenue producing development of their lands.⁷ It is ironic that this attitude will inevitably work against the interests of those whose forefathers have lived on the North Shore longer than anyone.

But most of the existing development on Squamish land is under leaseholds that do not expire until the middle of the next century, so the main resource that they have to work with is undeveloped reserve land. Proposals to develop this resource for the benefit of the band membership, (and incidentally for the benefit of non-Indians who would be served by a development) is seen as conflicting with the needs and values of the larger community surrounding the reserves. This is evident in the controversy about an expansion of the south side of Park Royal as a joint venture of the Band and the present Park Royal management. A suggestion that a new access road serving this development and alleviating some of the congestion in the Park Royal area, should go through a municipal park, a part of which is located on cut-off land, caused an uproar in West Vancouver. There is similar political opposition to the development of private land west of the British Properties in West Vancouver, and to the development of municipal land in the Mount Seymour Parkway area of North Vancouver District.

Introduction to the Issues

The three issues chosen for empirical examination are ones that face the municipalities and the band at the present time. In addition to the background factors that have been mentioned, there is in each of these issues a land use aspect, either as the focus of the issue or as a significant resource used in the bargaining. Reserve land is a major resource of Indian bands, and land use control is a major function of municipalities under provincial legislation in British Columbia and other

Canadian provinces. As has been explained, the three North Shore reserves of the Squamish Band have considerable economic potential because of their strategic location, and the protected status of the band's reserve land has been a constant source of concern and irritation to the municipalities.

The first issue to be discussed is the development of a new arterial road to facilitate east-west movement along the length of the North Shore. This issue involves all three of the municipalities in negotiations with the band. The second issue, the future development of the Squamish band's Indian Reserve #5 (I.R. 5), is an issue of economic development and land use, and primarily involves the District of West Vancouver with the band. The third issue, the widening of Third Street through the Mission Reserve, has developed into a legal confrontation between the band and the City of North Vancouver. Its roots stretch back into the early history of relationships between the Squamish on the Mission Reserve and the City, in particular to grievances arising out of agreements made between the residents of the reserve and the City in 1910. Its contemporary aspects involve concerns for the safety of children living on the reserve, maintenance of the reserve community and culture, and the transportation needs of the City. It can be considered in part, both a social and moral issue involving Indian land use.

Together these three issues serve to illustrate the processes of negotiation and bargaining that must occur at the local or community level when the boundaries of an Indian reserve and municipalities are adjacent or overlapping. This whole process of conflict resolution through

a process of negotiation and bargaining is discussed by Simeon, who says that it proceeds through several stages:

First the issue is raised and the participants formulate their goals and objectives. Next the participants engage in the exchange of information, either directly or indirectly, about each other's positions, political resources and the like. Third, they reassess their own positions and resources in the light of this communication. Fourth, they make decisions about what concessions of compromises to offer and what alternatives to accept as they move toward some outcome. Finally the outcome is ratified.⁸

These issues of conflict with which we are concerned, are not resolved and there may in fact be no settlement for a considerable period of time. The possible length of that period of time is suggested by the fact that the Third Street issue has gone on for three generations already. The fact that these issues have no definite outcome, is not a problem for research, as its purpose is to investigate the nature of interaction and the sources of conflict between the band and the municipalities. The historical background in itself may suggest that there may be no satisfactory resolution of issues such as these within the present institutional framework.

The Lower Level Road

The three municipalities have for some time wanted to develop an arterial road that would run east and west through most of the length of the North Shore, on an alignment south of the present Marine Drive and Third Street route and north of the Burrard Inlet shoreline. The rationale for this route is clear from the geography of the North Shore.

The developable part of this region is a long, narrow, east-west strip of land, limited on the south by Burrard Inlet and on the north by the steep slopes of the mountains. The historical centres of development on the North Shore, and the most intensive existing and potential development is concentrated in a narrow band of relatively low elevations, and easy crossing of mountain streams which at higher elevations run in deep canyons. The proposed Lower Level Road would run through and beyond the part of the North Shore that lies between the two bridges that are the only road links between the North Shore and the rest of the metropolitan area south and east of Burrard Inlet. This road is perceived as a high priority by the North Shore municipalities because it would by-pass the heavy traffic congestion on the most southerly existing arterial route. (Marine Drive and Third Street), but also connect the older and more intensively developed portions of all three municipalities, and would also serve to link existing north-south roads to the two bridges across the Inlet. The Squamish are directly concerned because the proposed route would go through all three of its North Shore reserves, infringing on their land and causing some disruption to the residential communities on the Mission and Capilano Reserves. On the other hand, the proposed road would enhance the accessibility and hence the potential value of land the Squamish want to develop on the Capilano Reserve, (I.R. 5) in particular.

Transportation studies done by the municipalities and the provincial highways department over the years, have on the whole been highly fragmented, with a piece-meal approach to traffic problems which have been virtually dictated by the jurisdictional limitations of the three municipalities

and the province. During and after such studies, the municipalities had engaged in some discussions with the Squamish with a view to obtaining rights-of-way for roads passing through their reserves.⁹ These discussions have proved to be inconclusive in the past. There was however, a political breakthrough in 1976, when there was an agreement between five parties, the three municipalities, the Squamish Band, and the B.C. Department of Highways, to jointly sponsor a consulting engineer's study to:

develop a functional road system serving vehicular, transit and goods movement needs. It is to reflect the goals and philosophies of the participants, to describe a strategy of implementation and to provide order of magnitude costs for the recommended phasing.¹⁰

Who initiated this regional approach to the transportation problems of the North Shore is an interesting and debatable point. The Mayor of West Vancouver views himself as the prime mover in developing the regional concept and in convincing the Minister of Highways to join with the municipalities and the band in sponsoring the study. According to Mayor Jones, the District of North Vancouver was an eager participant, as was the band which also agreed to share in the cost of the study. On the other hand, the City of North Vancouver had to be persuaded to join in the sponsorship.¹¹ One of the technical experts interviewed, suggested that the initiative was really from the Department of Highways, in accordance with their present policy of encouraging municipalities to build parallel east-west routes that would relieve the pressure for improvements to add more capacity to the Trans-Canada Highway segment, known locally as the Upper Levels Road.

The Lower Level Road is a difficult and delicate issue, that requires very careful negotiation because of the multiple and differing interests of each of the municipalities and the band, all of whom are intent on protecting their own interests. The consultants study was to be carried out in three phases. The first phase called for the consultants to develop what in their view would be the most feasible and reasonable regional approach to the transportation needs of the North Shore, after which the results were to be presented to the sponsors in the form of a set of working papers. After a review of the paper, each of the sponsors was to give the consultants their own philosophy, concerns, priorities and reaction to the proposals contained in the working papers. The idea behind this was that any political considerations would be reviewed after the basic development of a plan.¹² The successful conclusion of this phase led to the consultants' report being release in January 1978. Included in the report, were recommendations on specific alignment and design features of the Lower Level Road, the suggested phasing of construction, and tentative cost estimates.¹³

The consultants recommended a Lower Level Road on a route that, in general, followed previously proposed alignments, as shown on Map 2. At the east end there would be a new connection to the Upper Levels (Trans-Canada Highway), and Second Narrows Bridge, involving the Seymour Reserve. Proceeding west it would follow the existing road along the railroad and then Esplanade to Forbes Street and the Mission Reserve. The proposal at this point is that the Lower Levels Road continue west on an extension of the Esplanade alignment, and that the railroad tracks be relocated so

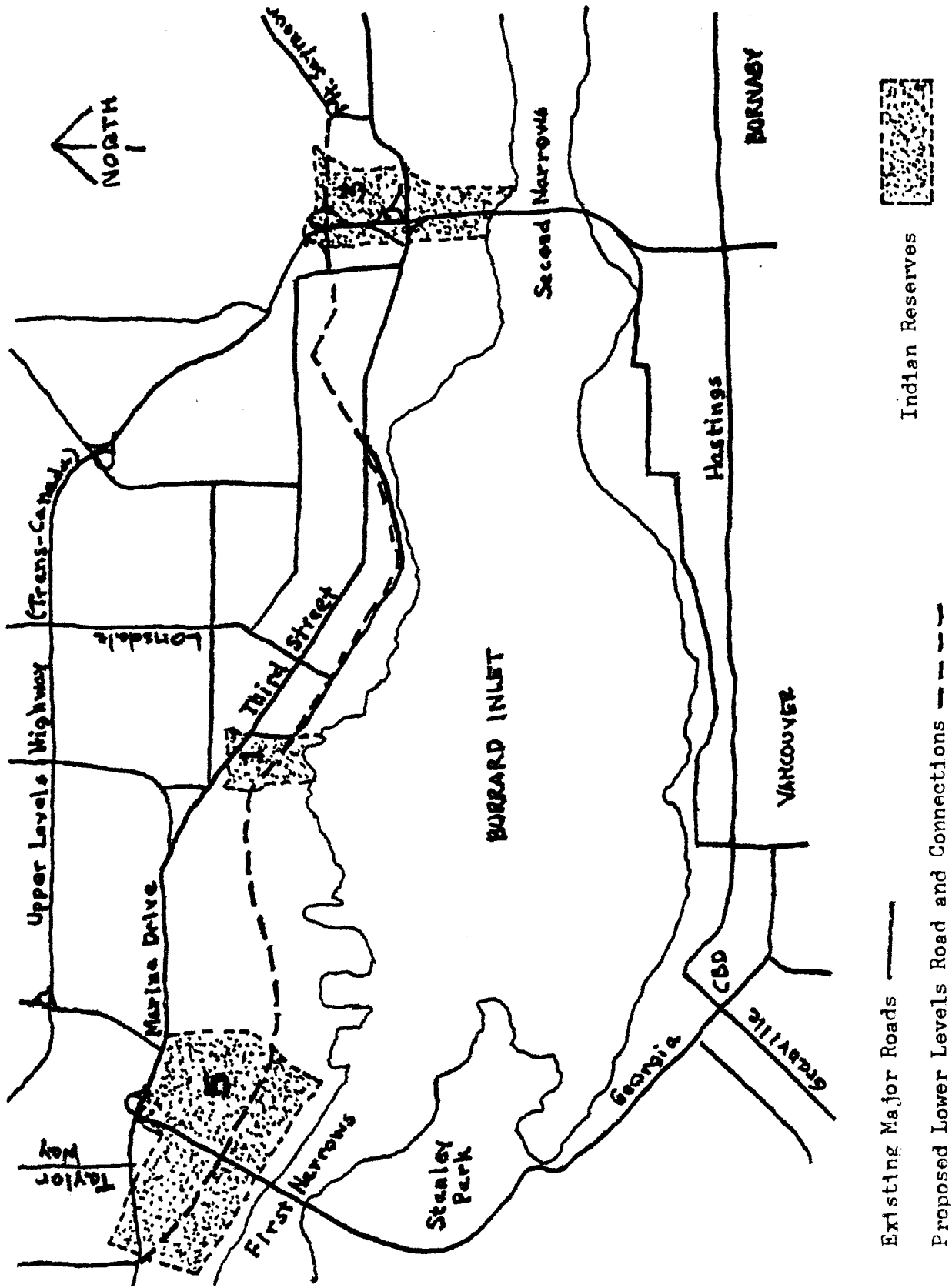


Figure 2: Proposed Lower Levels Road

as to minimize the impact of the railroad and the new road on the reserve. This alignment also solves a technical problem in bridging Mosquito Creek. From the Mission Reserve area, the road would generally follow the railroad through a largely industrial area, and in the vicinity of the Capilano Reserve, would be on the present alignment of Stewart Street and to the south of a residential area in the District of North Vancouver. From Stewart Street, the new road would continue west through the Capilano Reserve (I.R. 5), to the Capilano River, across it on a new bridge, and around the south edge of Park Royal and then northwest to Marine Drive. In the Park Royal area, there would be a spur connecting the new Lower Level Road to the recently-constructed "middle-level" bridge across the Capilano, providing direct access to Park Royal and a connection to Taylor Way.¹⁴

The 1978 report, received considerable publicity both in the metropolitan daily press and in the North Shore newspapers. A press release by the Minister of Transportation, the Hon. Jack Davis, who was also the MLA representing a North Shore riding, followed up on the presentation of the report by stating that the Provincial government would pay a major share of the costs of the Lower Level Road. The province was prepared to pay 50% of the costs of expropriation of property for the right-of-way, 50% of roadway construction cost, and all of the costs of the bridge construction.¹⁵ In terms of priorities for construction, the link between the Park Royal shopping centre and the Seymour River, essentially the whole of the Lower Road, was said by Davis to be the most urgent of the recommendations in the I.B.I. report. The Minister went on to note that some sections of the proposed road would take longer to

construct than others, since Indian land was involved and thus, he said, considerable negotiations were still required. While recognizing that the negotiations might be lengthy, he said he still felt that it would be possible for the road to be completed from Park Royal east by 1980 or 1981, "given a measure of goodwill and trust on both sides".¹⁶ The Minister's schedule for the construction would be highly optimistic even if the right-of-way could be obtained overnight, but then he was talking about a matter of great concern in his own riding.¹⁷

The Squamish were less than enthusiastic about the publicity given the report, and the Minister's statement which came before they had had a chance to study and review the report. It did certainly put the band in an unfortunate position, in that they were seen by the press as the only obstacle in the way of the construction of this major transportation improvement on the North Shore. The reactions of the municipal governments were most favorable, with the District of North Vancouver announcing that they were ready and willing to begin work on the section within their boundaries from the eastern edge of the Capilano Reserve most of the way east to the Mission Reserve. The West Vancouver council also seemed favorably disposed toward the report, with the Mayor in support of the consultants' recommendations, with the exception of the route that the road would take west of the Capilano River in West Vancouver, which he felt needed further study.¹⁸ This reflected the general response of the citizens of West Vancouver, who were generally opposed to the overall plans relating to road changes in West Vancouver, as developed in the study. Public opposition to the report resulted in the Council calling

a public meeting at which the consultants presented their plan, and then responded to questions from the public. The meeting was held on April 6, 1978 before an overflow audience in a local high school auditorium. The very technical nature of the engineers' presentation caused problems for many people in the audience, quite apart from the fact that a large proportion of those in attendance had come with the intention of expressing inalterable opposition to the whole concept of the transportation plan. Much of this opposition was related to recommendations other than those involving the Lower Road directly, chiefly opposition to changes in residential streets to facilitate traffic increases projected within West Vancouver itself. Representatives from a variety of ratepayer and citizen groups addressed the meeting, often from prepared texts, with a common theme. They were opposed to the regional concept of the report, they wanted no transportation changes in West Vancouver, they wanted no increase of traffic or population in the municipality, and as far as they were concerned, the Lower Road should end at the Lions Gate Bridge. In these expressions of "no growth" sentiments, there was virtually no mention of the Squamish interests and one could imagine that most of the speakers were unaware that there was Indian land within the West Vancouver boundaries.¹⁹

The other two municipalities have not found it necessary to hold public meetings on the transportation report recommendations. When questioned on this, the mayors of both municipalities said they felt that there was no public pressure for such meetings. As far as reactions from the Band, there have been no public statements on the subject except to say that the Band Council is studying the report. In May 1978 a

North Shore newspaper headline, "Crunch Time for Low Road" introduced a story in which the mayor of the District of North Vancouver was quoted as having said, "that as far as his municipality is concerned it is an all or nothing situation".²⁰ He went on to say that unless all of the jurisdictions that are concerned with the Lower Level Road, the three municipalities, the band and the Provincial government, agreed on the whole project. the District would not participate.²¹ The District had already allocated funds for its share of the new Stewart Street link that would connect with the new road through the Capilano Reserve.²² This was an obvious attempt at putting public pressure on the Band and the other municipalities, and was an indication of the problems that had been encountered in the negotiating process. Meetings were being held between the band and the municipalities but it was obvious that there had been little progress. In an interview in the late Spring the chairman of the Band Council expressed his disappointment both with the study and with the process of negotiations. The study, he felt, offered little new, and was similar in content to other studies; a conclusion supported by interviews with planning and transportation professionals. As far as the negotiations themselves were concerned, Mr. Jacobs expressed disappointment in that it had been his understanding that the parties had agreed to take a regional approach to the problem in which the first step was to have been the development of a model for negotiations, which would avoid a piecemeal approach between the Band and individual municipalities.²³ This statement in fact echoed the statement by the Mayor of the District of North Vancouver.²⁴ Unfortunately the separate agree-

ment between the District of West Vancouver and the Squamish at the time of negotiations for the expansion of Park Royal did set a precedent, for segment by segment, bilateral negotiations between the Band and each of the municipalities.

From the West Vancouver point of view, the scheduling of this was dictated by the understanding they had prior to the transportation study with respect to land use decisions about the Park Royal expansion. Through a series of intense negotiations with the Band West Vancouver had already secured the development of an interim connection from the south side of Park Royal, eastward over the "middle level" bridge across the Capilano River and through an existing trailor park on I.R. 5. This access road has relieved a great deal of the anticipated congestion on Marine Drive in the vicinity of Taylor Way, following the opening of the new section of Park Royal. While this somewhat temporary link has served to alleviate West Vancouver traffic problems by providing a by-pass of Marine Drive at Taylor Way, it has had the effect on increasing traffic problems in North Vancouver District by putting additional pressure on Welch Street, the through-street closest to the Reserve. This has resulted in straining relationships between the districts of North Vancouver and West Vancouver, as well as between the Band and the District of North Vancouver. Prior to the opening of the Park Royal addition, the Band approached the District asking them to allow the use of Welch Street as an interim connection pending completion of the Lower Road. In a statement to the press, the Mayor of the District threatened to close off Welch Street on the day the new stores opened, presumably in an effort to pressure the Band and West Vancouver with respect to the

Lower Road, and also out of political concern for his constituents in the Norgate Subdivision which backs onto Welch Street. Though the additional traffic seemed to be a minor consideration to the subdivision, as the street is wide and well lined with trees and shrubs in a strip of land which separates the subdivision from Welch Street. If Welch Street had been closed by the District of North Vancouver, West Vancouver would have retaliated by closing off the south portion of Taylor Way, causing a massive backup of traffic on Marine Drive in North Vancouver.²⁵ In fact, the threat by the District of North Vancouver to block Welch Street to eastbound traffic at the western boundary of the District, seems not to have been carried out.²⁶

Through the summer months, negotiations between the Band and the municipalities continued, with little progress visible to the public. While evidently unhappy with the process at the beginning, by July the Band seemed happier with the atmosphere and whatever progress they perceived. Since the Band has land involved in sections of the Lower Road that are within all three municipalities, the Band feels that it has to give very careful consideration to the plans and not rush into any decisions. They also have to consider carefully how useful the road in any particular alignment may be to them.²⁷ While the Band seems to have no real objections to the route proposed through the Mission Reserve, they want to use this in bargaining for changes they do want on Third Street. The Band chairman stated that the route through the Mission Reserve, should not cause too much of a problem in that there is already a 100 foot right-of-way, and there would probably be only two families directly affected. But with the construction of the Lower Level Road, the

Band feels it should be possible to make Third Street in the Mission Reserve a local street again, thereby alleviating the problem of through traffic within the reserve. The nature of these problems and the history of the Third Street controversy will be discussed in detail later in this chapter. The City of North Vancouver seems determined to keep Third Street as an arterial route. The Mayor stated that the City had offered money for the right-of-way through the Reserve, but the Band rejected this and insisted on Third Street. The City then proposed exchanging a different piece of land for the right-of-way, but at the time of the interview, the Band had made no response to this offer.²⁸

The District of North Vancouver has a traffic problem involving the connections between the Deep Cove and Mount Seymour Parkway areas, the part of the District located east of the Second Narrows Bridge approaches, and the rest of the North Shore. To improve traffic links in this area and complete the connections between the Lower Road and several other arterial routes and the bridge, the District needs to provide for an overpass of the Trans-Canada Highway and a new interchange located in part on the Seymour Reserve. While there is no residential use of this Reserve, and most of it is leased for commercial and industrial purposes, the Band has expressed concern about the proposed right-of-way. Rather than going through the Reserve land, the Band would prefer that the road be routed north of the Reserve, so as to give the Band a larger contiguous land base.²⁹ According to Mayor Bell, the Band not only wants to determine where the road should be located, it wants to be paid for the right-of-way. The Mayor finds this position irritating, feeling that the

construction of the road at the expense of the District will provide better access to the Reserve land, thus increasing its value, and so the Band should at least provide the right-of-way. The realignment of the road suggested by the Band was not favoured by the Mayor, and considered technically unfeasible by the Planning Staff.³⁰

There are still many problems to be worked out between the Band and the municipalities. The most difficult of these seem to be the road through the Seymour Reserve, the Mission Reserve right-of-way, and the alignment of the road through I.R. 5. The West Vancouver Council has tentatively agreed that the road should continue from Park Royal west to Marine Drive, and is now in the process of studying the best route for this.

Resolution of these problems seems a long time away, and the Squamish Band is in no hurry to make commitment to the road, and as far as they are concerned, the development of the Lower Level Road is tied to at least two other issues of primary importance to them, the development of I.R. 5, and the settlement of the controversy about the ownership and use of Third Street through the Mission Reserve.

I.R. 5 Development

The second issue chosen for examination is the proposed development of the Capilano Reserve. The future use of this land has been a source of controversy and concern for both the Indian Band and the surrounding municipalities. The Capilano Reserve is strategically located on prime waterfront land, and it is both central to the North Shore and

in close proximity to downtown Vancouver. The advantage of the Reserve's location was stated in a recent urban design study of the area commissioned by the Squamish Band as follows:

Conceptually speaking, the Capilano Reserve is at the symbolic entrance to Vancouver and the North Shore. The First Narrows, framed to the north by the Capilano Reserve, to the south by Stanley Park and overhead by the delicate web of Lions Gate Bridge, constitutes a symbolic "water gateway" to one of the world's largest natural harbours and to Vancouver. The Lions Gate Bridge constitutes the original and still most impressive vehicular gateway to the North Shore.³¹

During the last few years, there has been a substantial change on the North Shore in peoples' attitudes toward growth and development. As already discussed, this is reflected in the candidates who wish to serve on the municipal councils of the North Shore. Mayor Jones of West Vancouver, when discussing this change in philosophy, noted that "people are coming on to the council today who have a greater concern about the quality of life in the municipalities; their major interest is in preserving both the quality and size of their communities."³² With a negative attitude toward growth, any proposed development on I.R. 5, is regarded with a certain degree of hostility, if not by the municipal councils most certainly by the general public that they represent. While the larger White population is in a position at this time to reject the notion of further development and focus on the preservation of the communities and environment as they are, the Squamish who have not benefited from previous economic growth and population expansion on the North Shore, feel that it is now time for them to take advantage of

the economic potential of I.R. 5, and develop the land in order to improve the economic, social, legal and political conditions of the Band members.

Background to the Development Plans

For many years, the Band has been approached by developers, planners, citizen groups and others, with a variety of ideas about how the Reserve should be developed. In 1964, the Band Council decided to place a freeze on the undeveloped and unleased Band land. In the words of the Squamish Band Council:

The purpose of the land freeze was to enable the Band to develop its legal and local government powers under the Indian Act. To a large extent, this aim has been realized and a number of by-laws, regulations and permits have been passed by the Band Council, primarily in the field of economic and land development. Another reason for the land freeze was to enable the Band Council to develop policy in the areas of land use planning and land development.³³

Since this time the Band has experienced tremendous growth and development in its administrative affairs, and has assumed a greater degree of control over these matters. For as is stated in the preface to the urban design study they have now developed:

the ability to set goals, determine policy, make plans and provide direction for the social, political, legal and economic advancement of the Squamish Band.³⁴

As a result of this progress, in 1968 the Band retained an economic and real estate consultant, Acres West, to determine and evaluate the highest and best use for all three of their reserves on the North Shore; the

Capilano (I.R. 5), Mission (I.R. 1), and Seymour (I.R. 2) reserves. This study resulted in the development of two-dimensional land use plans and maximum and minimum development programs for the Band to consider.³⁵ In 1969 the Squamish Band and the Park Royal shopping centre owners formed a joint development committee to consider the development and administration of I.R. 5, the cut-off lands and the Park Royal lease lands. They engaged the services of a consulting firm to produce a comprehensive three-dimensional design program and concept plan focusing primarily on the Capilano River and the land that lies north of the B.C. Rail. right-of-way.

At this time, the City of North Vancouver, the District of North Vancouver and the District of West Vancouver were cooperating in the development of a joint long-range planning study of what they considered to be the strategic part of the North Shore. In the forward of the report on this work, released in October 1970. it was stated that:

It was recognized at both the Council and staff levels that the general area extending from Lonsdale Avenue to Ambleside and lying south of the Trans-Canada Highway, had a special value to the North Shore as a whole, not merely to the separate municipalities, each concerned with the problems of its own segment and operating more or less in isolation.³⁶

While emphasizing the need for cooperation among the municipalities, at this time the Indian Band was ignored with the exception of suggestions for the use of their reserve lands:

Understandably, the Squamish Indian Band, finds itself torn between the realization that it holds land of great value in terms of future development that could provide the means of economic and social uplift for all

...of its membership and the nagging doubts that spring from the traditional Indian way of looking upon land. Great care will have to be exercised in the handling of this land and, in our view, imposed and basically contrived architectural solutions should be avoided. Impertinent as this may sound, the Squamish Band should be even more of a guardian of the natural heritage that surrounds the harbour and First Narrows than any of the three municipalities on the North Shore. The responsibility for the preservation of beach, shoreline, riverbank and wooded area does not rest solely with the three local government bodies, we suggest.³⁷

While cooperating in the North Shore study, the West Vancouver planning staff had also been instructed by their Council to prepare a comprehensive development plan for Capilano I.R. 5. Part of the intention was that this plan would form the basis for a municipal by-law on Indian lands. The development plan produced a schematic land use plan, along with a three-dimensional model illustrating what the planners on the West Vancouver staff considered to be desirable types of development in that area for the period of the next fifteen to twenty years. But a 1970 judicial decision prevented the operation of a municipal by-law such as West Vancouver was contemplating.

The Surrey v. Peace Arch Decision

The attitude of the municipalities toward the Band and its reserve lands, underwent a major change in 1970, when a precedent setting court decision defined what had previously been a gray area in municipal jurisdiction over an adjoining reserve. The decision in the case of The Corporation of the District of Surrey v. Peace Arch Enterprises Limited, dealt with the use of reserve land conditionally surrendered to the Crown for leasing. The Surrey municipal government had wanted to apply its

by-laws to an amusement park being constructed by a White firm that held a lease to land that had been part of the Semiahmoo Reserve:

Mr. Justice Maclean said that such lands remained "lands reserved for Indians" within the category of lands described in section 91 (24) of the B.N.A. Act. As a result, he held: ... "that the exclusive legislative jurisdiction over the land in question remains in the Parliament of Canada, and that Provincial legislation (including municipal by-laws) which lays down rules as to how these lands shall be used, is inapplicable." Regrettably, the Court of Appeal made no finding as to whether conditionally surrendered lands remained "reserve" within the meaning of the Indian Act.³⁸

The ruling in this case has raised some additional, complex legal problems, for while it is held that the provincial and municipal governments cannot regulate the use of reserve lands conditionally surrendered for leasing, there has also occurred a difference of legal opinion as to whether an Indian band can control the land use of such surrendered lands directly. The Justice Department feels that the Indian Act as it stands at present, does not afford a clear answer to the status of leased lands. They feel that until such time as the Indian Act is amended there will always be some uncertainty as to the validity of by-laws enacted by a band to apply to surrendered reserve lands. The position of the Justice Department is summarized as follows:

If a Band Council passed a by-law under s. 81 (a) (of the Indian Act), "to provide for the health of residents on the reserve", under s. 81 (g) for "the dividing of the reserve or a portion thereof into zones", or under s. 81 (1), for "the raising of money by (i) the assessment and taxation of interests in land in the reserve of persons lawfully in possession thereof", the Justice Department would consider such a by-law to be inapplicable to surrendered lands. Whether a band is leasing to non-Indians

or developing itself (when the financing group will probably require the security of a mortgagable lease), a surrender will be imperative under the present Indian Act. Yet as soon as this has taken place, in the view of Justice, the band through its Council will have lost the power to control such development through band by-laws.³⁹

There are, of course, legal opinions which disagree with the position that has been taken by the Justice Department. Mr. Paul Reecke, the legal advisor to the Squamish band, has said that in his opinion:

the most consistent and satisfactory construction of the Indian Act is one which holds that surrendered lands are a special category of reserve which retains all the characteristics and features of the reserve prior to the surrender, except insofar as these characteristics and features have been specifically altered in accordance with the terms of the surrender.⁴⁰

Mr. K. E. Norman has expressed the view as Counsel to the Indian Claims Commission, that these lands when "conditionally surrendered for leasing for the use and benefit of a band do not thereby change their character as reserve lands".⁴¹

A further complication to the above problem, is that there is some doubt as to the Federal ability to regulate and control these leased lands. In a letter to the Alliance, an Associate Deputy Minister of Justice wrote:

We have now considered this question more fully and while I am still of the view that the Band Council does not have that regulatory power, neither under section 81 nor under section 83 of the Indian Act, I am now of the opinion that the Governor in Council could not without specific legislative authority impose regulations with respect to that land. Admittedly, Canada has legislative jurisdiction over lands surrendered for leasing because they remain Crown land but we would not find any statutory authority for the Governor

in Council to make regulations with respect to surrendered lands. Section 73 (3) of the Indian Act allows the Governor in Council to make provisions of the Indian Act but I am of the opinion that, for example, the making of zoning regulations on lands surrendered for leasing would not be carrying out the purposes and provisions of the act. Specific legislative authority would be required. In search for statutory authority allowing the Governor in Council to make regulations with respect to lands surrendered for leasing, we have perused the Public Lands Grant Act and the Public Works Act but neither of those Acts appear to be applicable to solve the problem at hand.⁴²

In summary, the Justice Department position is that land use control of reserve lands conditionally surrendered for leasing is a matter of Federal jurisdiction to the exclusion of provincial, municipal or band authority, and there is no Federal legislation providing for the exercise of this power. It appears obvious that this issue will have to be resolved by legislation. At the present time, the only way that an Indian band can control their leased lands is through conditions written into terms of band surrender to the Crown, and on that basis, into leases negotiated between the Ministry and developers, binding the developers by contract to conform to band by-laws. This mechanism is obviously not applicable to lands that have already been surrendered, and is not a very satisfactory process in any situation.

The 1971 Proposal

The ruling in the Surrey v. Peace Arch case came as a shock to the municipalities on the North Shore and to West Vancouver in particular for before this decision, they had exercised zoning and land use controls over any development on leased reserve land. For example,

West Vancouver had controlled through by-laws the development of the Park Royal Towers apartments, which were constructed shortly before 1970 on I.R. 5 land. In 1970, the three municipalities joined with the Squamish Band and formed a Capilano development study committee to discuss and promote the satisfactory development of I.R. 5 and the cut-off lands. Because of the involvement of cut-off land, the Department of Indian Affairs and the B.C. Department of Lands, were also invited to participate in the committee.⁴³ About the same time this committee was formed, the Squamish joined with the Park Royal developers to form Kapilano Salish Limited. In 1971, when the band made a public announcement of the formation of this firm, they also announced a plan for a \$400 million real estate development on 450 acres of I.R. 5. At a press conference Chief Joe Mathias of the Squamish Band stated:

"In terms of economics, this land cannot remain undeveloped", he said, "we must provide a better standard of living for our people". Mathias said Indians want to participate in the business community and will cooperate with the municipality of West Vancouver. "It is the policy of the band council to provide a development that will be an outstanding amenity to the entire North Shore." Mathias said the project will accommodate 20,000 persons in upper and middle income families. He said about half of the band members are unemployed, and a training program is planned to enable them to participate in the development. The band, he said, owns about 4000 acres in the Howe Sound area and it is hoped revenue from the project will provide future funds to house Indians. "We are not looking for quick profit.", Mathias said, "the development is based on long term population projections for the North Shore". The development is expected to take between twenty and twenty-five years.⁴⁴

This project was favoured by Indian Affairs and Northern development, with the regional director of the Indian Affairs department voicing his wholehearted support for the proposed project. The president of

the Park Royal development company, in discussing the development, stated it would include town houses, apartments and cluster housing, plus commercial and recreational facilities, and that there would be over 100 acres of park land in the project. The first part of the project that was to be built was a thirteen storey office building on the west bank of the Capilano River. In a press release at the same time, the band also stated that while the ultimate responsibility for determining the development on the reserve rested firmly with the band; they hoped to reach agreements with West Vancouver for the provision of services and the payment of taxes, saying:

While the band council is empowered under the Indian Act to arrange for services, and to levy taxation, it is the feeling of the band council that this would create unnecessary duplication of municipal activity on the North Shore. It is felt to be in the interest of all North Shore citizens that the same results can be achieved by consultation and cooperation.⁴⁵

North Shore residents were generally unenthusiastic, especially those in West Vancouver, where Alderman Don Lansdale was reported as saying:

West Vancouver might have to scream to Ottawa to get zoning control on Indian land at the Mouth of the Capilano if the development plans were not satisfactory to the municipality, and that the over 400 acres of land controlled by the Squamish was the most important single issue facing West Vancouver at that time.⁴⁶

It was at this time, apart from the Capilano Development Committee that the Band and the municipality of West Vancouver began to engage in serious negotiations about the use and development of I.R. 5. Three hundred acres of this reserve is undeveloped and within the boundaries

of West Vancouver, along with an additional 120 acres of cut-off land adjacent to the reserve, which are also within the municipal boundaries. The development of this prime land of the Squamish is then of more direct concern to West Vancouver than to the other two municipalities on the North Shore.

Since the Band was not entirely satisfied with the design plans that had been done for the I.R. 5 land through Capilano Salish, nor with the current status of their relationship with West Vancouver, they came to the decision in late 1971, that they needed another planning and urban design study of I.R. 5. Finally in 1973, with the cooperation of the Department of Indian Affairs, the Band retained E.J. Gaboury and Associates, to produce a plan that would be: "both a comprehensive concept and three-dimensional development plan that reflected the aspirations and priorities of the Squamish people."⁴⁷

West Vancouver and Squamish Agreement

In 1971 during the period that the Band decided they needed a further urban design study, an agreement on policy was reached between the Band council and the West Vancouver government which provided that:

1. An overall comprehensive plan of Indian lands should be produced by the Band with a view to arriving at one that could be agreed to by both the Band and West Vancouver;
2. An immediate program to allow two projects to proceed before this plan was ready:
 - (i) the office tower;
 - (ii) the Plaza International Hotel;

These projects would provide some income to the people of the Band.⁴⁸

In the summer of 1974 the Squamish Band presented their plans for a proposed addition to Park Royal, and in March 1975 they formally asked that the District of West Vancouver supply services to the addition. The West Vancouver Council stated that the addition to the Park Royal complex was not part of the agreement that was made back in 1971, and that they would not supply services until it could see and debate the proposals for the expansion of Park Royal in public. In a letter to Mayor Jones, responding to the position taken by the municipal council, David Jacobs as Chairman of the Squamish Band Council said:

The difficulties between us stem from the fact that you do not seem willing to accept us as a neighboring municipality or community with a separate jurisdiction from your own. You want us to give up control of our lands to your Municipality and make everything we do with our land subject to your prior approval... Your municipality has consistently since 1969 attempted to delay our proposals to expand the southside of the Park Royal centre on the grounds mainly of traffic problems. But on the other hand you permitted the original building and expansion six years ago of the northside centre which is not on Indian land... You will recall that your council had previously zoned much of our waterfront land for industrial purposes and some 55 acres of that land had been leased out for industrial development. We succeeded in buying out the long term industrial lease at very considerable cost to our band members, and concluded an agreement with the Department of Environment for a long term lease that would keep the waterfront portion of our reserve in low density development with a high proportion of landscaped area. On the other hand your municipality has permitted highrise apartment development right on the waterfront in your apartment zone. In general it is our opinion, and we think it is shared by others, that our planning for land use in such matters as traffic, use of waterfront lands and reserving space for recreational parkland and open space and preventing piecemeal development stand up very well in comparison with the planning of your municipality. Can you not understand then, why we are confident that our council and its consultants can plan and control the development of our reserves at least as well, if not better than your council could do the job.⁴⁹

The Band also stated that they were not prepared to change the basic fundamentals of the design for the expansion of the south side of Park Royal, for they considered this expansion to have been carefully planned by competent people and already revised at the Band's request. After their study of recommendations from their own consultants, they would however, consider the modifications that had been suggested by the municipality to see if they were compatible with the requirements of the Band. This would be undertaken after confirmation by the municipality that they would supply services such as building inspection, fire protection, water and police, to any of the band's future development within the municipality.⁵⁰ At a press conference dealing with this issue Chief Joe Mathias stated that the band had been considering establishing a separate municipality since 1968 because of the difficulty of cooperation with West Vancouver, and although it would cost more for the band to form a municipality and provide their own services they could take that step if cooperation proved impossible.

From August 1975 the Squamish Band and the Municipality of West Vancouver were engaged in negotiating what were considered to be three interrelated matters. These were the overall approach to the "Indian lands" in general, control over any future development on Park Royal lease land, and what was then the current Park Royal south expansion proposal. There were many meetings between the two groups, and these resulted in 1976 of the development of a position paper on land use control of the Indian lands in West Vancouver. The major point of the document was that the Band and the district intended to find cooperative

ways of arriving at a mutually acceptable plan for development. Some of the detailed points stated in the paper are:

3. The Squamish Band is preparing a comprehensive Urban Design Study of the Indian Lands. This study is expected to be completed in May 1976 in a form equivalent to a standard zoning plan.
4. West Vancouver, as a municipality within the North Shore Community and part of the Greater Vancouver Regional District, has a major interest in proper urban planning at both municipal and regional levels.
5. Both parties share a common goal in principle with regard to the need for high standards of land use planning.
6. The B.C. Court of Appeal has ruled that municipalities do not have land use control over Indian Lands within their boundaries.

In light of the foregoing premises, the parties agree on the following principles:

1. West Vancouver will provide normal municipal services to:
 - a. The present Park Royal South Expansion as generally shown on plans dated June 9, 1975 modified to be acceptable to both West Vancouver Council and to the Squamish Indian Band Council;
 - b. The Federal Environmental Centre.
2. West Vancouver will provide, under terms and conditions to be negotiated, normal municipal services to future development on Indian Lands conforming to an Urban Development Plan acceptable to both West Vancouver Council and to the Squamish Indian Band Council.
3. Problems between the Band and West Vancouver arising from the development of Indian Lands will be resolved, if possible, by direct negotiations between the parties and in the meantime the issue of land use jurisdiction will be set aside.
4. The Squamish Band will not allow projects to proceed past the preliminary planning stage in the Indian Lands until the Urban Design Study is completed and discussed with West Vancouver. Except:

- a. Continuation of the Squamish Band program of housing for its members;
 - b. Federal Environment Centre;
 - c. The current Park Royal expansion proposal as generally shown on plans dated June 9, 1975.
5. Other future development of the Indian Lands will be in accordance with the Urban Design Study. No developer has, or will be given, rights to develop otherwise.
 6. The Band will discuss the Urban Design Study with West Vancouver before and after completion with a view of attempting to resolve any problems or differences that arise, if any. If plan changes are made as a result of such discussion, the planning cost of making such changes will be shared in a manner and ratio to be negotiated by all the parties.
 7. Should negotiations break down, it is understood that each party has recourse to other actions.⁵¹

As a result of the agreement reached and outlined in this position paper issued by the West Vancouver Municipal Council, plus negotiations with the shopping centre and the Band to improve the traffic plan and some of the public amenities of the plan, the West Vancouver Council at a special meeting on Thursday May 13, 1976, voted to provide services to the shopping centre expansion. The services to be provided included construction inspection, fire and police, for as long as the development plans met with the approval of the council.

The 1976 Plan

The Urban Design Study was finally completed, and was presented to the public at a press conference in the Plaza International Hotel on March 22, 1976. In presenting the plan the Band disclosed that they had been given three density options by the consultants:

1. Maximum quantity of floor space, with emphasis on high-rise buildings and a large area of land including the present Indian village eventually used for new development.
2. Medium density, with emphasis on low-rise buildings but the same land are used for development as in the first option.
3. Low density, with the same emphasis on low-rise buildings as in the second option but with an expansion of the band housing and thus a smaller amount of land for development than in the other two options.

The third alternative was the one that was chosen by the Band and was the focus of the plan presented to the public. This plan envisioned a mini-city to eventually accommodate 10,000 residents in single-family homes, town houses and apartments, a considerably smaller population than that projected in the 1971 development plan. The total concept projected that the proposed development would occur in stages over a twenty five year period. Since the Band wanted to have complete control over the project, they stated that they were seeking amendments to the Indian Act that would abolish the land surrender requirement that at present requires that reserve land to be leased to a developer, must first be surrendered by the Band, to the Governor in Council so that the Minister of Indian Affairs can then lease it to a developer. Though the lease is for the benefit of the Band, the Band is not a party to it because of the surrender clause. The differing legal opinions, as to who does actually control such land have already been discussed, and it was said that a band can indirectly control use of leased land through contractual provisions. The proposed amendments desired by the Squamish would guarantee certain rights in respect of leased land to the Band, and allow the Band

Council to make its own final decisions about development. As stated by Chief Joe Mathias;

The Indians wish to establish a legal entity which would have the same rights as Indian citizens, "that is", he stated "the federal Indian company which would oversee the proposed development would be exempt from provincial and federal taxes"... "Our largest restraint at the present is lack of a legal entity to proceed with development. From past experience we have learned that we cannot rely on non-Indian companies to employ Indians in development projects. With our own company formed, we would ensure that even management positions on the project would be held by our own Band members."⁵²

During the press conference, Chief Mathias also noted as he had in 1971 when the first plan of development was released, that the Band did not have to cooperate with surrounding municipalities, but as a practical matter the Band could not develop in isolation from them. Therefore the Band was negotiating with the surrounding municipalities to provide services to the proposed development.

In general, the reaction of West Vancouver and the other municipalities toward the design study as presented by the Squamish Band in 1976, has been one of cautious optimism. The fact that the Squamish seem to favor a relatively low density for the area has pleased all three municipal governments. In some respects increased population on the reserve would be beneficial to West Vancouver as it would encourage less growth in other areas of the municipality that are more difficult to service. In fact, one of the options being developed in the present community plan study for West Vancouver is to encourage all new growth in the municipality toward the Indian lands.⁵³ The present size of the proposed development is much more attractive than what was suggested in

in 1971, and as the mayor said, realistically speaking, the land would be developed in pretty much the same way regardless of who owns or who develops it.⁵⁴ There is some feeling on the part of West Vancouver, that the projected office space may not be realistic from a market point of view, and both the mayor and the chief planner of West Vancouver, feel that in order to cope with transportation demands generated by the proposed development, the Band will not only need the Lower Level Road but much improved access roads to the reserve.⁵⁵ A resident of West Vancouver, who is a transportation engineer, feels that the proposed development is much too big, because it will create major traffic problems on the Lions Gate Bridge. He feels that the possibility of creating jobs in the area, for a substantial proportion of North Shore residents, is quite unlikely and as a result there will be an increase in commuter traffic from south of the Inlet, without any substantial decrease in commuting from the North Shore to the south.⁵⁶

The mayor of the District of North Vancouver also has reservations about the proposal, because of the traffic problems that he anticipates, and said that if this development does occur, there will have to be a third crossing of the Inlet.⁵⁷ To date then, the general reaction seems to be one of "wait and see". There is some feeling that the development will not occur because of the political and legal problems that are involved. There are certainly some major issues and problems facing the Band before it can proceed as it would like. Some of these are discussed in the Urban Design Study where they are summarized as follows:

Band Participation in the Development Process

- How can development be most meaningful to the Band as a whole, and to the individual member?
- Who will develop the land (Band, developers, jointly)?
- When will the land be developed?

Band Involvement in Regional Planning

- Participation on inter-related issues such as sewers, water and transportation
- Coordination with neighbourhood municipalities
- Direct negotiation with Regional and Provincial planning agencies

Legal Issues due to Special Status of Indian Lands

- Alternatives to land surrender
- Application of development controls on Indian land
- Formation of development corporations
- Financing for Reserve development
- Municipal status of Band and Reserves
- Direct taxation options

Band's Internal Housing Strategy

- Type and location of accommodations
- Timing
- Funding

Waterfront Policy - Capilano River and Burrard Inlet

- Foreshore control
- Land reclamation
- Flood control
- Land Use

Air Rights-Marshalling Yards, Treatment Plant, Lions Gate Bridge

- Securing and utilization of air rights where possible

Cut-Off Lands

- Securing disputed property
- Negotiating future uses

Lastly, if the individual members are to participate, enjoy and benefit from the development of I.R. 5, an extensive training program is warranted - a program that affords them not only employment opportunities but also managerial and executive involvement.⁵⁸

Of the preceding issues, two that require additional discussion at this point, are the relationship of the Band with the Greater Vancouver Regional District, and the issue of the cut-off lands.

The Greater Vancouver Regional District

The Greater Vancouver Regional District (G.V.R.D.), represents and adjudicates the regional planning interests of seventeen municipalities and electoral areas, including the three North Shore municipalities. In 1971 the G.V.R.D. Board established as their major objective, "to manage growth and change so as to maintain or enhance the livability of the region".⁵⁹ From 1971 through 1972, the "G.V.R.D. staff met with citizens throughout the Region to see what livability means to the people who live here".⁶⁰ As a result of the issues raised at these public meetings, the G.V.R.D. board adopted thirty policy statements to deal with issues of growth in the region, and these policy statements became the basis for the future work of the G.V.R.D. planning staff. During 1973, the G.V.R.D. established seven citizen committees who reviewed and de-

veloped policies in the areas of residential living, education, recreation, transportation, health and public management, environmental management and pollution control, and social services.⁶¹ At the same time, the G.V.R.D. staff were studying several policies which included transportation, regional town centres, government office decentralization, and living close to work.⁶² In 1974, the G.V.R.D. staff planners reviewed their own studies along with the recommendations of the citizen policy committees, and presented to the board policy papers on the following areas:

bringing the overall growth rate under control, sharing the population growth among municipalities, sharing the financial burdens of growth, defining the G.V.R.D.'s role in developing a regional transportation system, conserving open space, decentralizing downtown work and cultural opportunities to Regional Town Centres, and creating more compact residential communities.⁶³

As a result of this process, the G.V.R.D. board developed certain policy changes that are discussed in the "Livable Region Report" released in 1976, which is a discussion of the problems of growth in the region and sets out proposals to manage this growth. As stated in that report, the objective of the G.V.R.D. was to develop a better balance in the distribution of population, jobs, regional centres, transportation and open spaces throughout the region. To achieve this a five-part strategy for the management of growth was outlined, which the Gaboury report for the Squamish Band summarized as follows:

1. To control residential growth targets in each part of the region for the period between 1976 and 1986;
2. To promote a better balance of jobs to population in each part of the region;

3. To create Regional Town Centres in suburban locations in order to bring jobs, shopping and cultural opportunities closer to where people live;
4. To provide an appropriate transportation system linking the distribution of residential areas, Regional Town Centres and major work areas; and
5. To protect and develop regional open space in association with other uses.⁶⁴

The Gaboury report goes on to say that "it should be noted that as the Squamish Band is not represented by the G.V.R.D., the calculations and projections did not include Capilano I.R. 5."⁶⁵ The only reference to Indian reserve land on the North Shore in the Livable Region Plan is as follows:

A third factor is the future use of the lands of the Squamish and Burrard Indian bands. The aspirations and plans of these two bands will have important impacts on any plan of development for the whole North Shore... However, we would suggest that it is appropriate now for the municipalities, the Region, and the Indian bands to examine the question of future form and scale of development on the North Shore.⁶⁶

During the whole period that the Livable Region Plan was being developed, the Squamish Band was busily engaged in promoting their own development plans, which as already discussed, had received considerable publicity in the newspapers. In addition, the Surrey v. Peace Arch case had been decided and that too had received considerably publicity, and it does therefore seem surprising that the G.V.R.D. seems to have had little or no contact with the Band at the political or staff levels. The present Chairman of the Band Council could recall no consultation between the G.V.R.D. and the Band.⁶⁷ The then Planning Director of the

G.V.R.D., believes that the Band might have been invited to send a representative to the technical planning committee, and that a representative did come to a few meetings but then did not show up again. Mr. Lash stated that of course this might be considered understandable, since the agenda of this committee would not have been really relevant to the Indians.⁶⁸ The general attitude of the G.V.R.D. toward the Squamish Band and reserve land on the North Shore as reflected in an interview with Harry Lash might be summarized in the observation that what will happen on these lands will happen and it is not possible to set any target for them.⁶⁹ As yet, there seems to have been no negotiations or interactions between the Band and regional planning agencies.

Cut-Off Lands

A very important part of the future development of I.R. 5, revolves around section D.L. 5521, commonly referred to as the "cut-off lands". The history of these lands has been discussed earlier, but it is important here to describe the economic value of this parcel of cut-off land and its relationship to the development potential of I.R. 5.

In 1975 about 100 acres of the 132 acres cut off of I.R. 5, was returned to the Band by the Provincial government. One of the structures that is located on the land returned is the North Shore sewage treatment plant, and the Squamish Band feel that in any settlement that occurs, the Provincial government must pay the Band a fair market rent for the use of this land. As well as the treatment plant, there is a highways department storage facility and the northern approach to the Lions Gate Bridge.

The District of West Vancouver leases 26 acres of the cut-off lands from the province for use as a park, and pays \$3,206 per year to the Band, through a formula under which 50% of the rent goes to the Band as part of the 1912-1916 commission findings. The province pays the Squamish \$5700 per year for the use of the land. Thus the Indians receive in total, less than \$9000 per year for the use of the cut-off lands. An excerpt from a report on the cut-off lands by Paul Reecke, the Band Counsel, is quoted in the Province as follows:

Said Reecke, "The municipal assessor of West Vancouver has placed a market value as of 1968 on the 112 acres remaining unalienated ranging from \$60,000 to \$283,000 per acre and stated that if office buildings were included the per-acre value for them would exceed \$283,000. Reecke then assumed, conservatively, that the land was worth \$100,000 an acre, and using the assessor's 1968 figures, then based on seven per cent return on capital, estimated an annual rent on the land would be \$786,590.⁷⁰

This unused portion of the cut-off lands, plus the rest of the parcel, make up a very valuable piece of real estate for which the province is paying a minimal amount of rent. Settlement of this issue, and decisions on how this section cut-off land, will fit into the overall plan for the reserve, is of vital importance to the total planning concept for the Capilano reserve.

The overall situation as it stands now, is that the Urban Design Study is before the Band Council, awaiting its approval, modification or rejection. If the Band Council seems in no hurry to come to any definitive conclusion this is quite understandable, noting the complexities involved in the development process, and the possible ramifications that its decisions might have on their future life. The last of the

three issues to be examined in this thesis, involves past relationships of the Band with the White population, not one that is oriented to the future.

Third Street

The third of the issues to be examined involves the Squamish Indian Band and the City of North Vancouver. West Third Street, east of Keith Road, is an arterial street and a major connector between the Lonsdale area and the Lions Gate Bridge with Park Royal to the west, and the Second Narrows Bridge to the east. It carries a great deal of heavy truck traffic, because heavy vehicles are not permitted on the Lions Gate Bridge; Third Street is the most southerly through route, and it is influenced by the B.C. Rail terminal southwest of Third Street. Where it passes through the Mission Reserve, between Forbes and Bewicke the roadway narrows from four lanes to two, with wide gravel shoulders and ditches but no curbs. A majority of the children who live on the Reserve, have to cross Third Street to go to and from the school which is located at the northern edge of the Reserve. Close to where most of the children cross, there is a major intersection linking the western end of the existing Lower Level road to the Third Street route that is the southernmost crossing of Mosquito Creek. This intersection of Third and Forbes is particularly heavily used by trucks because they are limited to the Lower Level route during evening and night hours by regulation. Thus there is a tendency to use it during the day, because it avoids a very steep grade at the eastern end of Third Street.

As the traffic on the North Shore has increased, particularly between the two bridges, the problems of pedestrian safety and vehicular movement in the portion of Third Street that crosses the Mission Reserve. have increased substantially.

The Mission Reserve is at the present time the largest in terms of population of the Squamish Reserves, and the fact that the Reserve has been divided by the arterial road has been a source of frustration to the members of the Band for many years. This particular road through the Reserve was actually constructed in 1910. In return for a cash payment and water supply to the Reserve, the Indians agreed to deed a strip of land through the Reserve for West Third Street. The details of the negotiations that led to this, have been discussed in Chapter Two of this thesis. Two votes of Reserve residents were taken on the issue of the land surrender for the right-of-way, and the circumstances of the votes have become a source of controversy and litigation that will be described shortly.

Background and Development of the Issue

In the fall of 1975 the matter of safety in the Third Street area, was brought to a head, when a young pregnant member of the Band was struck by a car while attempting to cross the road, and as a result lost her baby. After this incident, members of the Band proceeded to picket the area along Third. within the Reserve, carrying placards and handing leaflets to motorists, during the morning rush hour. Though there was not an actual blockade of traffic, motorists slowing down in the vicinity of the pickets caused a tie-up of the morning traffic as far

back as Lonsdale. The mayor of the City, Mr. Tom Reid, obtained an injunction to prevent the Band members holding further demonstrations. Shortly after this action, a delegation from the Band attended a council meeting and presented to the City government, a petition in regard to the traffic and safety problems. Philip Joe, representing the Band, pointed out that in the past twenty years, 37 pedestrians, all members of the Band, had been involved in accidents in this area; usually while attempting to cross the street. Of the thirty-seven people, he stated, seven had been killed in pedestrian accidents.⁷¹ The petition presented by the Band, asked that the City provide for:

- Installation of sidewalks along Third Street;
- Flashing intersection lights at Forbes and Third;
- Reduction of the speed limit from 30 to 20 miles per hour;
- Tougher radar patrols during peak hours; and
- Flashing intersection lights at Mission and Mahon.⁷²

The delegation went on to state that they had been petitioning the City Council for many years about the conditions and problems that they faced in this area, and especially the fact that there were no traffic controls between Marine Drive and Lonsdale. The reaction of the Council to the Band's petition, was to state that the complete upgrading of this portion of Third Street was a major priority in the 1976 budget of the Council, but because the cost of widening the street and installing curbs, sidewalks and lighting would run upwards of \$320,000, the City would not have the money to start the project until the fall of 1976. It was also said that they would make an appeal to the Minister of Municipal Affairs, for a grant to enable them to begin the work earlier.⁷³ A representative of the local RCMP detachment made a statement to the Council, in which

he said that it was not possible to use radar during the rush hour period because of the traffic congestion in the area. He went on to say:

The department is understaffed, and we have to staff the municipality on a priority basis and our statistics indicate that there has been no fatalities at any of these three intersections during the past three years.⁷⁴

The Council then adopted three motions as a stop gap measure, that hopefully would alleviate some of the hazards in the area. The city would attempt to get the school district administration to provide a crossing guard during school hours; it would study the feasibility of installing precast concrete barriers at the points where the four lanes narrowed to two; and they would have one member of the Band sit on the City's Traffic Council.

After this Council meeting, the city engineer, Mr. T. J. Scott, proceeded to develop proposals for roadway and safety improvements in this area of Third Street. The proposals that he presented, were focused primarily on improved movement of traffic through the Reserve, and while having some aesthetic consideration, gave little or no evident consideration to the fact that the arterial split the Reserve community, and was lined on both sides by single-family homes of Band members. The three alternative plans for the improvement of Third Street through the Reserve, were reported in a local newspaper as follows:

The first plan is for four lanes with a sidewalk on the south side; cost \$302,500. The second plan is for six lanes and a sidewalk on the south side; cost \$361,700. The Third alternative means four lanes, a central divider, and a sidewalk on the south side; cost \$375,900.⁷⁵

The City Council then formed a committee to meet with the Band, to give the Band the opportunity of participating in the selection of the plan to be used in the upgrading of the road. However, the mayor had been quoted as saying sometime earlier that:

"The city should go first class and choose the third alternative, four lanes with a central divider, sidewalks and a boulevard and lighting". This would, he said, "give the people of the area an incentive to undertake improvements on their own property".⁷⁶

Negotiations between the City Council and the Squamish Indian Band continued throughout the year. A complication in these negotiations arose, however, when the Band sent the City Council a letter in which they claimed ownership of the portion of Third Street running through the reserve. They stated that their solicitor, Paul Reecke, had advised them that they could be successful in court in a legal attack on the validity of the 1910 surrender agreement with the City.

The 1910 Agreement to the Surrender of Reserve Land

The Indian Act lays out clearly and specifically the steps and obligations that must be undertaken to effect a legal surrender of the Reserve land. But because of amendments to the Act over the years, each surrender must be considered in relation to the text of the Indian Act that was current at the time of the surrender.⁷⁷ Until 1886, a surrender of land had to be agreed to by a majority of the male members of the Band who had reached the age of twenty-one. The 1910 agreement between the members of the Mission Reserve and the City of North Vancouver, came under the provisions of the 1906 Indian Act, which includes

the following:

- 49 (1) Except as in this Part otherwise provided, no release or surrender of a reserve, or a portion of a reserve, held for the use of the Indians of any Band, or of any individual Indian, shall be assented to by a majority of the male members of the Band of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose, according to the rules of the Band, and held in the presence of the Superintendent General, or of an officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General.
- (2) No Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near, and is interested in the reserve in question.
- (3) The fact that such release or surrender has been assented to by the band at such council or meeting shall be certified on oath by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some of the chiefs or principal men present thereat and entitled to vote, before some judge of a superior, county or district court, stipendiary magistrate or justice of the peace, or, in the case of reserves in the provinces of Manitoba, Saskatchewan or Alberta, or in the Territories, before the Indian commissioner, and in the case of reserves in British Columbia, or, in either case, before some other person or officer specially there unto authorized by the Governor in Council.
- (4) When such assent has been so certified, as aforesaid such release or surrender shall be submitted to the Governor in Council for acceptance or refusal.
50. Nothing in this Part shall confirm any release or surrender which, but for this Part, would have been invalid, and no release or surrender of any reserve, or portion of a reserve, to any person other than His Majesty, shall be valid.⁷⁸

The Squamish Band is challenging the surrender of their land to the City of North Vancouver on the basis of a procedural irregularity, for a review of the 1910 agreement revealed that two separate votes were taken on the Mission Reserve, one in April and a second in December of 1910.⁷⁹

Details of these events have been discussed in Chapter Two. As noted there, the Indian Affairs administration of the day accepted as valid the second vote of the Band in December, when only seven members of the Reserve voted in favour of the surrender. The surrender may thus be challenged on the grounds of an improper majority of the Band, and improper witnessing that the surrender was valid. The Squamish Band further stated that the city had also violated the 1910 agreement in the matter of the supply of water to the Reserve, for the homes on the Reserve, north of Third Street, were being charged for their water, unlike those in the area south of Third, which had received free water supply as agreed in the terms of the 1910 agreement. According to the Band chairman, this problem arose when the Band expanded and built north of Third Street, and somehow the Department of Indian Affairs assumed payment of the water rates in the newly settled area.⁸⁰

In an opinion responding to the position taken by the Band, the City solicitor noted that the city was free to proceed with any improvements on Third Street, even though the Band was claiming ownership. Negotiations between the Band and the City continued, and in November 1976, it was reported in the press that the Band had tentatively approved one of the proposals for upgrading the road, but there were still some minor points to be negotiated.⁸¹ The negotiations proceeded into the following

year, as the Band was also preparing their case with respect to the ownership of the land under Third Street. Basic points of disagreement in the negotiations, seemed to center on the determination of the Band to preserve the residential character of this part of West Third Street. They had agreed to four traffic lanes, but wanted sidewalks and parking allowances constructed on both sides. The City disagreed with this on the basis of traffic control considerations and also for financial reasons. The present Mayor has noted that the Band wanted all of the conveniences without making any financial contribution to the costs of construction. He also expressed the view that the Band must realize that they live in an urban environment, and therefore have to accept some of the problems and compromises necessary in such an environment.⁸²

In April 1977, the City of North Vancouver appealed to the Minister of Indian Affairs, the Hon. Warren Allmond, asking him to sort out the question of ownership.⁸³ The city was fearful of the problems that might occur if they chose to proceed with the upgrading, such as the possibility of demonstrations or blocking of traffic by the Band. When it did not seem possible to get a satisfactory resolution of the question in this way, the City decided that the only option left was recourse to the courts. According to the Mayor, this approach did not meet with the approval of the Department of Indian Affairs at that time.⁸⁴ Today, this is where the ownership issue lies, awaiting adjudication in the courts.

When interviewed, the Mayor stated that if the City loses the case and Third Street reverts to a local reserve road, the City may be forced to allow the Band only minimal access from the Reserve. "We may be forced to fence them in, so to speak".⁸⁵ As far as the Band is con-

cerned, David Jacobs noted that the construction of the Lower Road could take care of the problem of Third Street, by diverting the major flow of traffic onto a parallel route.⁸⁶ The consulting report on North Shore Transportation, recommended in addition to the Lower Level Road, that Third Street as an arterial, jog around the disputed area by following the eastern and northern boundaries of the Reserve. The Mayor said, that this jog was completely unacceptable to the City. Even assuming construction of the Lower Level Road, and substantial diversion of through traffic to it from Third Street, there would be much more than local residential traffic in the Third Street corridor.

For both the Band and the municipality, the issue is far more complex than a matter of traffic flow and safety. The history of distrust and tension between the Band and municipality are a part of the problem, and it also transcends the local arena to involve land claims and aboriginal rights.

Summary

The three issues that have been discussed have many characteristics in common. They all involve the use of Indian Reserve land. In a minor way they also serve to illustrate some of the major problems involved in urban life, such as scarce land resources and transportation problems. Individually the issues demonstrate the complexities of Indian-White relationships, and all three together provide a basis for examination of the processes of interaction and negotiation that occurs between the Band as a quasi-municipality and the three adjoining municipalities. In order to do this we shift now from history and description

of the issues to analysis, starting with the segment of Simeon's model of negotiation and bargaining that is concerned with the goals and objectives of the participants.

Footnotes to Chapter III

¹Stephen William Kozey, "Administrative Planning Issues of Native Communities: A Case Study Evaluation" (M.A. Thesis, University of British Columbia, 1976).

²Greater Vancouver Regional District, "The Livable Region 1976/1986: Proposals to Manage the Growth of Greater Vancouver" (Vancouver, the District, 1975), p. 6, (Subsequently referenced as G.V.R.D.).

³H.B. Hawthorn (ed.), A Survey of the Contemporary Indians of Canada (Ottawa, Indian Affairs Branch, 1966), p. 1-19.

⁴Kozey, p. 47.

⁵Kozey, p. 46. Kozey goes on to comment on the employment situation of band members: "No other community has the potential for a zero rate of unemployment of the Squamish. That is, there are approximately 250 employable persons and of these, approximately 150 are already employed. If each development and business interest leasing Squamish land would hire a mere five per cent of their staff from the local native community, this in itself would remove the necessity of social assistance for employables." p. 49.

⁶G.V.R.D., p. 12.

⁷Nirmula devi Cherukupalle, Indian Reserves as Municipalities: Problems and Prospects (Vancouver, Centre for Continuing Education, University of British Columbia, 1972), p. 19.

⁸Simeon, p. 43.

⁹Interview, Mr. Paul Roer, professional transportation engineering consultant, June 1978.

¹⁰IBI Group, North Shore Transportation Study: Draft Report (Vancouver, the consultant, January 1978), p. I-1.

¹¹Interview, Mr. Peter Jones, Mayor of the District of West Vancouver, May 1978. Mr. Jones will retire as mayor in December 1978, but since he was in this office throughout the period of the research he will be referred to as mayor in the present tense.

¹²Interview, Jones.

¹³IBI Group.

¹⁴Ibid.

¹⁵Citizen, 22 February 1978, p. 1..

¹⁶Ibid.

¹⁷Mr. Davis subsequently resigned his seat, for reasons that had nothing to do with this issue. The Executive Assistant to the Minister of Highways said that the statements reported here reflected commitments of the provincial government and thus are not affected by Mr. Davis' resignation. Personal communication, Mr. Peter Hopkins, November 1978.

¹⁸Interview, Mayor Jones.

¹⁹An exception to this was a statement by Mr. Tom Reid, a West Vancouver alderman and former mayor of the City of North Vancouver, which in a tone very clearly antagonistic toward the Squamish said, "We need to get legislation to prevent the Indians tying up everthing on the North Shore". This was received with a round of applause.

²⁰Citizen, 3 May 1978, p. 1.

²¹At the time the provincial government offered financial participation in the costs of the Lower Road it had stated to the three municipalites and the band that this offer was contingent on a firm agreement among them covering the whole of the Lower Road. Interview, Mayor Jones; personal communication, Hopkins.

²²Citizen, 3 May 1978, p. 1.

²³Interview, Mr. David Jacobs, Chairman, Squamish Indian Band Council.

²⁴Interview, Mayor Jones.

²⁵Ibid.

²⁶Citizen, 2 August, 1978.

²⁷Interview, Chairman Jacobs.

²⁸Interview, Mr. Jack Louks, Mayor of the City of North Vancouver, April 1978.

²⁹Interview, Chairman Jacobs.

³⁰Interview, Mr. Donald Bell, Mayor of the District of North Vancouver, July 1978.

³¹E.J. Gaboury & Associates, Squamish Indian Band Capilano Reserve No. 5 Urban Design Study (North Vancouver, the consultants, 1976), p. 6.

³²Interview, Mayor Jones.

³³Gaboury, preface.

³⁴Ibid.

³⁵Ibid., p. 3.

³⁶A. de Jong, M. Chesworth, and D.B. Walton, North Shore Joint Municipal Study (mimeograph, October 1970); (The authors were respectively city and municipal planners for the City and District of North Vancouver and District of West Vancouver), p. i.

³⁷Ibid., p. 29.

- 38 UBCIC, Socio-Economic Study, p. 306.
- 39 Ibid., pp. 307-308.
- 40 Ibid., pp. 308.
- 41 Ibid., pp. 308-309.
- 42 Ibid., pp. 309-310.
- 43 Gaboury, p. 3.
- 44 The Province, as reproduced in Indian Voice, July-August 1971
- 45 Ibid.
- 46 Times (North and West Vancouver), clipping in North Vancouver Library, no date.
- 47 Gaboury, p. 3.
- 48 Mayor Jones, Memorandum to Council, 10 May 1976.
- 49 Citizen, 20 August 1975.
- 50 Ibid.
- 51 "Position Paper re: Land Use Control of the Indian Lands in West Vancouver", April 26, 1976. This "position paper" was a record of an agreement between the Band Council and the Municipal Council.
- 52 Times (North And West Vancouver), 23 March 1977, p. 1.
- 53 Interview, Dr. Robert Collier, Director of Development, Municipality of West Vancouver, January 1978.
- 54 Interview, Mayor Jones.
- 55 Interviews, Jones and Collier.
- 56 Interview, Roer.
- 57 Interview, Bell.
- 58 Gaboury, p. 44.
- 59 G.V.R.D., p. 8.
- 60 Ibid.
- 61 Ibid.
- 62 Ibid.
- 63 Ibid.
- 64 Gaboury, p. 8.
- 65 Ibid.
- 66 G.V.R.D., p. 39.
- 67 Interview, Chairman Jacobs.
- 68 Interview, Mr. Harry N. Lash, former Director of Planning, Greater Vancouver Regional District, July 1978.

- ⁶⁹Interview, Lash.
- ⁷⁰Province, 20 January 1976.
- ⁷¹Citizen, 17 October 1975.
- ⁷²Ibid.
- ⁷³Citizen, 17 October 1975; Times, same date.
- ⁷⁴Citizen, 17 October 1975.
- ⁷⁵Times, 31 March 1976.
- ⁷⁶Citizen, February 1976.
- ⁷⁷Gordon Burrell, Robert Young, and Richard Price (ed.), Indian Treaties and the Law: An Interpretation for Laymen (Edmonton: Indian Association of Alberta, 1975), p. 33.
- ⁷⁸As quoted in Burrell, et. al., p. 42.
- ⁷⁹Citizen, 6 June 1976; Express, 11 March 1970.
- ⁸⁰Citizen, 9 July 1976.
- ⁸¹Ibid., 10 November 1976.
- ⁸²Interview, Mayor Louks.
- ⁸³North Shore News, 24 April 1977.
- ⁸⁴Interview, Mayor Louks.
- ⁸⁵Ibid.
- ⁸⁶Interview, Chairman Jacobs.

Chapter IV

ANALYSIS

Institutional, cultural and historical variables are clearly reflected in the three issues described in Chapter Three. There are, however, many other factors that impinge on these issues, and affect the processes of negotiation and bargaining. This chapter focuses on the actual negotiating process and analyzes some of the variables that are a central part of the process. The first of these, the goals and priorities of the actors, plays a central role "in defining many of the characteristics of the issues".¹

Goals and Objectives

Many of the goals and priorities of the municipalities on the North Shore and the Squamish Band are related to and influenced solely by conditions in that local environment, but other goals and priorities, particularly those of the Squamish, are substantially influenced by forces and events outside of the local area, at a regional or national level. The source of goals has a very definite effect on the issues and conflicts that arise between municipalities and the Band, and on the processes of negotiation and bargaining that occurs between them.

In his study of Federal-Provincial relations, Simeon states that,

goals on any particular issue are to a large extent rooted and derived from a set of ongoing concerns. Therefore one should begin with an examination of some of the basic goals of the governments. These overall concerns may derive from many sources; some may provoke conflict, some not.²

Most of the goals of the Squamish are conditioned by their ongoing concerns as Indians within Canadian society. This affects the issues that arise between them and the municipalities, and the positions that they assume during the process of negotiations. Simeon identifies the four overall concerns that are most important in determining the goals of Canadian governments, and thus the nature of conflict and consensus among them, as:

Basic economic conditions, ideology, status concerns for each government, and differences in reference groups and foci of attention.³

So these concerns are also important elements in the interactions between an Indian band and municipal governments, contributing greatly to the sources of conflict between them.

In the introduction it was stated that the municipalities have over the years developed a strong economic base through the industrial and commercial development on the North Shore. In contrast, however, the Indians on the North Shore have had little if any benefit from the good fortune of their White neighbours. The reasons for the slower and separate growth of the band have already been discussed in the historical background of the Squamish. Now that the Squamish Band is finally reaching a point in its development at which it can demand a share in the prosperity of the North Shore, it is ironic that it finds itself again out of step because of a change in the philosophy, goals and priorities of the White community. Development to the maximum of economic potential is no longer in style, and the municipalities have now taken on the role of the guardians of the North Shore environment.

Their objective is to control growth and development, meaning to allow little if any more residential and commercial construction.

Ideological differences certainly exist between Indians and Whites, and this fact is evident in the interactions between the Squamish and the municipalities. Simeon conceives of "ideology" in quite broad terms, "as providing a basic set of prescriptions about the nature and purpose of the system"⁴ and goes on to state that, as such, many elements of ideology should affect the nature of the bargaining process. That the Squamish have a different ideological perspective is unquestionable. This is demonstrated in their interpretation of their aboriginal rights, their separate constitutional status, their Coastal Salish mores, and a different political culture. The last element is clearly evident in their consensual decision-making process and the representation of interests within the band itself.

Because of these ideological differences, the concern for status as a decision-making body has little effect on the positions taken by the Squamish in negotiations with the municipalities. Status concerns are evident in the positions taken by each of the three municipalities. The differences in reference groups and foci of attention are of great importance and are directly reflected in the interests and priorities of the various participants. As explained by Simeon:

Each government has a set of interests and priorities it is committed to, and each, not suprisingly, feels that its priorities are the most important ones. Each has a different electorate it must appeal to, and a different set of interest groups it must be responsive to. These differences in focus of attention take several forms. They are visible in all the negotiations under consideration.⁵

In all three issues examined in this study, the differences in reference groups and foci of attention are particularly relevant. As the discussion proceeds in more depth, the goals and objectives of the Band and each of the municipalities, the roles of all of the factors discussed above in issues of conflict between the Band and the municipalities will emerge.

Squamish Goals and Objectives

While some of the goals and priorities of the Squamish focus on their situation and well-being at the local level, it seems that their overriding goals and priorities have a strong national focus which relates to their position as Indians, and as the original inhabitants of North America. These reflect the rights and priorities that they derive or feel they should derive from this position. The goals of Canadian Indians concern their political development, and involve their separate status under the Constitution and the concept of aboriginal rights as discussed in Chapter II. By political development, Indians mean the right to a form of self-government and self-determination. Indians today talk of Indian sovereignty, and it is necessary to discuss what this goal means for local bands and their relationships with municipalities. In the words of a Union of B.C. Indian Chiefs position paper:

Indian sovereignty means strong Indian governments on our Indian lands. The goal of the Union of B.C. Indian Chiefs, for a settlement of the Indian land claims, is to increase the lands over which our Indian governments will have political control and power. Indian sovereignty means that Tribes and Bands can establish their own form of government. We can write and formulate our own constitutions.

We can create Indian courts to deal with Indian laws. We can establish our own systems for Bands or Tribal membership. We will be masters in our own house. No other government will be able to make regulations or impose taxes on Indian people living on Indian land. If there is overlap in authority with Municipal, Provincial or Federal Government authority, we will negotiate joint agreements to prevent conflict.⁶

With respect to the role of the Band Council on reserves, the Union of B.C. Indian Chiefs have stated as their position that:

1. Chiefs and Councils must be maintained as the recognized legal governing authority of our people.
2. Chiefs and Councils' range of jurisdiction must be broadened to encompass all those areas of concern to our people.
3. Chiefs and Councils' authority must be expanded to allow our people's legitimate governing authority to address their problems adequately.⁷

In 1976, the Squamish Band were one of the principal supporters of a proposal calling for changes in the Indian Act to allow bands to be designated as local governments. This position was presented in a brief, delivered by the Sechelt Band to a meeting of the B.C. Federal Liberal caucus in June 1976. While believing that Indian communities could not take on the role of municipalities, the brief went on to state it was believed that a similar unit of local government could be created under Federal jurisdiction. The brief stated:

we believe that Indian communities are sufficiently like provincial municipalities that a satisfactory relationship for amicable interaction between Indian communities and adjacent provincial municipal communities can be established. It would be a relationship whereby the powers of the Indian community would be recognized by the province and the powers of the adjacent provincial community would be recognized by the Indian band. The issue may appear insignificant, yet it forms

the crux of Indian people dealing with their lands and their people as functioning communities within this province. It is our assertion that now is the time to begin resolving an equitable form of local government autonomy for people of Indian lands and toward this end we request your active support.⁸

An important goal of the Squamish is then, to move from the status of a quasi-municipality as described in the introductory chapter, to one which affords them the same rights and responsibilities as those of local governments set up under provincial powers. They want to be in total control of their own administrative affairs, including the management and control of their reserve lands, while maintaining their separate status under the ENA Act. These goals are clearly reflected in the mode of the public presentation of the I.R. 5 Urban Design Plan. They are emphasized in the written report of that Plan and in the negotiating process on the Lower Road issue. To achieve this goal of local government power, along with another major goal, that of economic development, the Band seeks changes in the Indian Act, which at the moment limits and restricts their independent decision-making powers with respect to reserve land and as such impedes their economic development. They have therefore been most active on local, regional and national levels in developing proposals for changes in the Indian Act, dealing with land surrenders for leases, taxation and Indian corporations.⁹

The objectives of the Squamish Band, with respect to control of its reserve lands, may be seen in the National Indian Brotherhood position quoted below. This proposed scheme of amendment to the Indian Act, was approved by a B.C. Indian workshop on economic development,

hosted jointly by UBCIC and the Alliance in August 1976, by the General Assembly of the National Indian Brotherhood in Whitehorse a month later, and by the Executive Council of NIB in February 1977.¹⁰ It is likely that the Alliance took a leading role in the development of this position, and that Chief Joe Mathias, with the support of his Band was particularly active in its drafting and in negotiating its approval by Indian organizations, up to the level of acceptance as official NIB policy.¹¹ The NIB position on leasing of reserve land would amend the Indian Act to provide:

1. No further surrenders of Indian reserve land;
2. All lands which have been surrendered and which have not been permanently and irrevocably alienated will automatically be unsurrendered and returned to full reserve status;
3. All leases, easements and rights which have been granted to surrendered lands shall continue in effect, in accordance with the terms of the lease, easement or agreement creating these rights;
4. For future leases, the Band, by referendum, can delegate authority to the Band Council to directly approve leases. That delegation can be limited or unlimited, conditional or unconditional. The band by a later referendum may revoke or alter the authority delegated to the Band Council to approve leases. When authority to approve a lease has not been delegated to the Band Council, leases can only be approved by a Band referendum. A sale of reserve land can only be approved by a referendum of the band.
5. When a lease has been issued by the band or by the Band Council, the Minister will issue the lease in the name of Her Majesty. If members of the Band have been appointed under section 53 of the Indian Act, they would be able to issue the lease directly in the name of Her Majesty.¹²

The Socio-Economic Study, goes on to comment that acceptance of these changes to the Act would:

thus abolish the need for surrendering and would clarify that all reserve lands which had been conditionally surrendered for leasing purposes had retained the status of "reserve" within the meaning of the Indian Act. This would not only remove one of the greatest anomalies of the Act that Bands have to surrender to lease whereas individual Band members can lease without surrendering (under section 58 (3)) but it would also ensure that henceforth, Band control of lands intended for development would be indisputable.¹³

A second national Indian priority which is equally a principal objective of the Squamish, has to do with provision in amendments to the Indian Act for "Indian Companies", a form of legal personality which like other corporations would have perpetual succession, limited liability of members, etc., but would also have the taxation status of "Indians" so long as the incorporators and shareholders were entitled to Indian status.

In the press conference called to present to the public the Urban Design Study of I.R. 5, Chief Joe Mathias discussed this concept of Indian companies operating on Indian reserves. Again this objective is stated in a position adopted by the National Indian Brotherhood for presentation to the joint NIB-Federal Cabinet Committee concerned with amendments to the Indian Act.¹⁴ The nature of the objective is clear in a preamble to this position statement:

Goal - A band created, Indian-owned entity which can conduct business on reserve;

The entity would be an Indian legally;

It would have full powers to contract and do business;

It would have the tax status of an Indian;

It would be able to use reserve land without the need for a surrender;

It would give limited liability to business owned by bands or individual Indians;

In law it would be treated as a federal company and would be registered in a new Indian Companies Registry (to be created by new sections in the Indian Act and located in the Department of Indian Affairs).¹⁵

This proposal is vital to the development of I.R. 5, if the band is to take a major, entrepreneurial role in the development process. In the same way, band members tend to see the development of reserve land as a matter that is inherently tied to Indian self-government and Indian band control of leased land. National Indian goals are the goals of the Squamish, both in their concern for the status of Indians throughout Canada, and for the future of the band. Since these goals can only be achieved through changes in the Indian Act, which are highly controversial and likely to take many years to even achieve in part, the band is in no hurry to proceed with development of the I.R. 5. It appears they see the Urban Design Study as a flexible, overall, guide that can be adapted to suit their needs whenever they are ready to proceed with the physical and economic development of their reserve land.

In addition to these Squamish goals and priorities that partially derive from national Indian objectives, the Squamish also have goals and priorities that are derived from their local situation. There is no question that the Band Council is concerned about the rate of unemployment among its members, and that it wants to improve the educational opportunities available to the younger members of the band; and to improve both the quality and quantity of band members on the Squamish Reserves.

With the cooperation of the North Vancouver school district, the Band has obtained an alternative school located on the reserve for Indian teenagers. Improved housing is a particular concern of the social services committee of the Band, and they are attempting to make maximum use of Federal Government programmes to construct new houses for Band members. The Band is conscious of the fact that the employment of Squamish in businesses located on leased land is negligible, though the volume of employment in these enterprises is large enough so that if Squamish were a relatively small proportion of the total employment, there would be no unemployment of Band members. The Band Council is very conscientious in its efforts to preserve the social and cultural heritage of the Squamish, by maintaining as much of their land base as possible, including the cut-off lands. They also go to great lengths, unlike some other bands, to ensure that each member does share equally in the benefits from all of the Band's resources; thus putting into practice, a communal sharing of resources that is consistent with a socialist ideal.¹⁶

Municipal Goals and Priorities

In general, the goals and priorities of the North Shore municipal governments have much less relation to national and regional affairs than is the case with the Squamish. One exception to this is the effect of the Greater Vancouver Regional District on the planning and development objectives of its member municipalities including the three on the North Shore. The Livable Region Plan, prepared by the GVRD, has set out

guidelines for growth and development that do affect land use planning in each of these municipalities and necessitate some measure of cooperation among them. Though the GVRD plan proposals have not been adopted as an official regional plan, there is no question that they are having an effect on the actions of the municipalities.

During the past ten years there has been a major change in the long range and short term goals of the three municipalities, which is consistent with the objectives of the Livable Region Plan and reflects national and international changes in attitudes. The environmental movement in North America has had strong effects on many aspects of government, but none of these areas have been affected more than land use and development planning. Each of the three municipalities has shifted from a pro-development position, toward very selective and limited growth through careful land use planning for undeveloped land. With the possible exception of West Vancouver, this has not proceeded to the point of a firm "no growth" commitment in their constituencies. Instead, each of the municipalities is basing its planning on the principle of limited and selective growth. Each of the mayors stressed this point in interviews. Each of the municipalities has now a sufficiently strong tax base to afford this position from an economic point of view, particularly as the general perception is that the costs of extending municipal services to much of the potential development land might be as much as the tax revenues after development. A major concern of all three municipalities is transportation, both in the Lower Road corridor, and particularly facilities for commuters employed in Vancouver and Burnaby.

In terms of ideology, one can say that the three municipalities have in common a middle-of-the-road set of political attitudes toward local, provincial and national issues; a set of perspectives that are distinguishable from those of the Indians. Status concerns do seem to affect the positions and attitudes taken by the municipalities in their interactions with each other and with the Band. What Simeon defined as the psychological aspect of status goals is evident in the interactions of the municipalities with the Band in the three issues studied. Simeon suggests that the psychological aspect of status operates:

in addition to, and complementary to, the status concerns based on the desire to maintain political support and to avoid threats to their programmes, each government's personnel are concerned with maintaining their own status, prestige and power. They will try to enhance this prestige and influence and oppose developments which threaten it. "The eternal struggle of politicians for recognition is one of the curses of the country", Prime Minister Robarts observed to reporters...¹⁷

During interviews with the political leaders of the municipalities and in reviewing the press accounts of negotiations there were definite hints of status concerns, particularly on the part of one of the municipal governments as demonstrated by some positions and actions taken by its mayor. It was suggested in some interviews that this was often a cause of some difficulties with other municipalities as well as the Band. Differences in interests and priorities among the three municipalities will be highlighted in providing more detailed descriptions of each.

West Vancouver

The major concerns facing the municipality of West Vancouver are

related to issues of growth and transportation. Its goals as expressed by the Mayor are controlling and managing growth within the municipality, and improvement of traffic conditions, so as to preserve the very special environment of West Vancouver, that makes this community such a desirable place to live.¹⁸

West Vancouver undoubtedly has the highest proportion of senior, successful managerial, professional and technical persons among its residents of any community in British Columbia, and perhaps in all of Canada. This factor is reflected in the active, articulate role that its citizens take in municipal affairs. Until a few years ago, accommodating population growth was a dominant concern for West Vancouver, as it was growing at a rate of more than a thousand people per year. Now this rate of increase has dropped to less than two hundred per year, and there is much more concern about the effects of the unbalanced age structure that has resulted from the nature and rate of growth during the past thirty years. In 1977 deaths exceeded births among West Vancouver residents, for the first time. Nevertheless, the major concerns expressed by the general public in meetings and in statements to Council, have to do with opposition to further growth, and preservation of the amenities that the present residents enjoy. The municipality is now engaged in drafting a new community plan, and public meetings were held to find out what the citizens want in that plan. Among the suggestions reported in a local magazine were:

- Again charging tolls on bridges (presumably Lions Gate);
- Shift ferry traffic from Horseshoe Bay (West Vancouver) to Richmond (south of Vancouver) because ferries are an imposition on the community;
- Keep non-residents, including tourists, out of West Vancouver parks and beaches.¹⁹

While these quotations are rather extreme statements, there is no doubt a substantial isolationist sentiment among West Vancouver residents, that is particularly strong among those that have moved up to West Vancouver in the not-too-distant past.

The municipality is plagued by traffic congestion, especially in the Park Royal and Lions Gate Bridge area. This has led to active participation in the effort to get a Lower Level Road, which would help considerably in alleviating the most serious congestion problems. With respect to growth, future development of I.R. 5 is of particular concern. While many residents feel that this development would be most inappropriate, others are suggesting that it is desirable, because it would preserve the integrity of other parts of West Vancouver.²⁰ Either way, the goal is preservation of good areas of the community, and the only disagreement is about the means of reaching this goal.

District of North Vancouver

The management of growth and development, and the improvement of transportation routes, are major goals and priorities of the District of North Vancouver. There is a willingness on the part of the District to assume a fair share of the increase in population on the Lower Mainland. But there is, however, an emphasis on careful planning and control to ensure the protection of the present amenities and natural environment.²¹ The District has for several years been working on a major development plan for the Seymour area, in the foothills east of the Second Narrows Bridge approaches, which contain the largest amount of vacant, developable land remaining on the North Shore. Much of this land

is in municipal ownership. The planning process has involved active participation of many residents of this area, who have made several strong demands, including rejection of the concept of a major regional shopping mall in the approaches to the Second Narrows Bridge. It is interesting to note that while the Mayor of the District expressed in an interview his dismay at the expansion of Park Royal, on the grounds that there should instead have been a new centre developed in the eastern part of the District, he and the current council had rejected a staff recommendation for such an eastern shopping mall, to which citizens objected.²²

Vehicular transportation improvement is a major concern of the District, and within this the Lower Level Road and its connection to the Upper Levels (Trans-Canada Highway) and Second Narrows Bridge, are the highest priorities. The District is ready to go to tender at any time for the portions of these that fall within its jurisdiction.²³ In order to relieve the bottlenecks around the north end of the Second Narrows Bridge, it is imperative that the District obtain a right-of-way across the Seymour Reserve. As the situation is now, any substantial backup on the Second Narrows Bridge, or the Trans-Canada, blocks traffic on the east-west routes between the central part of North Vancouver and the Deep Cove and Seymour areas. At the western end of the District, traffic congestion on Marine Drive, caused by heavy truck traffic to industrial and port facilities, and that caused by the Park Royal shopping centre, are also problems that would be alleviated by the Lower Road.

There are, of course, many other issues and concerns on the agenda of the Municipal government of the District, but the two that are

relevant to the issues dealt with in this study are of as high priority as any.

City of North Vancouver

The major goal of the City, as described by Mayor Louks, is to preserve a reasonable mix of industrial, commercial and residential segments of the community, thereby preserving North Vancouver City as a good place to work and live.²⁴ In terms of future development, there is very little land that is not presently in use, and so during the last ten years, and for the foreseeable future, population growth involves zoning changes, to allow the single-family homes in the Lower Lonsdale area to be replaced by higher density apartments. Areas rezoned for apartments have been redeveloped, and in the past two years, there has been a change in policy so that the single-family houses are now being replaced by smaller, duplex and four-plex structures, rather than large walk-up apartment blocks, which had had a perceptible effect in slowing the population growth rate.

A concern of the City has been revitalization of the business area at the foot of Lonsdale, between Third Street and the new "Seabus" ferry terminal. This is an area of small businesses, which has become more and more depressed, making it difficult for the remaining merchants to survive. A committee of businessmen and citizens, including a member of the Squamish Band, is working on plans for improving parking and some commercial redevelopment. This area is of concern to the Band because it is in close proximity to the Mission Reserve.

Transportation is also seen as a major concern of the City, and

construction of the Lower Road, as suggested in the transportation study, has for many years been a goal of the City. The new Seabus terminal close to Esplanade and Lonsdale, and the increase in residential density in this area and along Third Street, adds urgency to this issue. For much the same reasons, the City would like to upgrade Third Street through the Mission Reserve, and so wants to see a resolution of the land ownership issue that is now in the courts.

The goals and priorities of the three North Shore municipalities, taken as a whole, are heavily influenced by a concern for the preservation of the quality of life presently enjoyed by the majority of their constituents. While the Band cannot be accused of indifference to the protection of the residential environment of the North Shore, their main preoccupation at this time is to gain for the Band members a share in the economic and social advantages so long and so visibly enjoyed by the White majority surrounding them. These goals and objectives of the Squamish are reinforced by the national Indian objectives, and so the Band has been influenced in its priorities by provincial and national organizations, while the municipalities are responding much more directly to local concerns.

Political Resources

Political resources are, according to Simeon, often subtle and complex. In no arena is this more likely to be evident than in conflicts between an Indian band and a suburban municipality. Some of the resources that the parties to the issues studied here bring to bear on each other

are tangible and obvious, but often, as Simeon says:

resources are often not tangible, "objective" facts; rather they are predominantly subjective. They depend on the beliefs and perceptions of the participants.²⁵

An Indian band council and a White municipal council are two groups of people with very different political cultures and worldviews. Their divergent backgrounds may bind and govern the perceptions each has of their own resources and the resources of the other, so that these perceptions are vastly different. An "objective" resource may enter into the process of negotiation and bargaining as two quite different subjective realities.

The resources with which the Squamish and municipal governments interact have a variety of sources which in addition to obvious factors may include political, cultural and social differences and historical considerations. The resources of each party will also differ to some extent from one issue to another. But for purposes of discussion of resources, as used in the issues studied in this thesis, it is useful to group the resources into three broad categories: institutional, including constitutional and legal resources; human resources; and cultural resources.

Institutional Resources

A theme developed throughout this thesis is that the major resource of the Squamish Band on the North Shore is their reserve land. This land is, of course, a tangible, physical resource and an economic asset, but more importantly this land has a special constitutional status. The wording of section 91 (24), of the B.N.A. Act, is that

"Indians and lands reserved for the Indians" are within the exclusive jurisdiction of the Parliament of Canada. The federal administration of reserve lands, under the Indian Act, is a resource that the Squamish have used in negotiations with the municipalities on all three issues.

The unique and powerful resource of the institutional status of reserve land has been enhanced by the Surrey v. Peace Arch decision, denying to municipalities zoning and land development jurisdiction over reserve land, including that surrendered for lease. This has particular relevance to West Vancouver and I.R. 5, as legally there is little if anything West Vancouver could do to prevent the Band from developing I.R. 5 in any manner that is acceptable to the Federal government. While the general population of West Vancouver seems to have little awareness of this fact, it certainly is understood by their Mayor and Council.

The separate status of the Band and the reserves, also makes it possible for the Band to hold up or deny right-of-way for the proposed Lower Road, where geographic and technical considerations dictate that the road pass through reserves. In the past, the Federal government was quite willing to allow expropriations of Indian land for street and railroad right-of-way, and indeed the Band has in the past lost considerable reserve land directly, and in cut-off lands used for rights-of-way. But it appears that both the Band and the municipalities believe that this is no longer possible.

The issue before the court, with respect to the Third Street right-of-way, is whether the vote certified by the Federal agents in 1910, met the procedural requirements of the 1906 Indian Act. If it is shown that the vote was not conducted properly, the Band may well regain this land.

The municipalities provide the Mission and Capilano Reserves with urban services, as described in the introductory section, though they are not legally bound to do so except for some services provided to parts of the Mission Reserve by the City. It would be both inconvenient and expensive for the Band to obtain these services in other ways.

At the present time, the municipalities are empowered to collect real estate taxes and license fees from non-Indians leasing reserve land, and all three municipalities do so. In the case of West Vancouver this is a very substantial amount, as Park Royal is a major share of its non-residential tax base.

The Band cannot afford to develop in isolation on the North Shore, and it clearly recognizes this fact. It needs the goodwill and cooperation of the municipalities and their White residents, not only in terms of services, but also in human terms. The fact that the Indians are an invisible minority, as discussed earlier, means that they receive notice in the local press only on issues relating to their land. Members of the Band have to work, go to school, and at least to some degree, interact with the population off the reserves, and any isolationist policy on the part of the Band would increase the possibility of overt discrimination and racism. As was stated clearly by the mayor of the City, it is imperative that the Band recognize the fact that they live in an urban environment, and as such have to make compromises when problems associated with urban life necessitate some infringements on their reserve lands.²⁶

Provision of municipal services, the taxation of leased land, and the interdependencies of urban life, add considerably to the political

resources of the municipal governments in dealing with the Band.

Human Resources

The populations of each of the municipalities are far larger than the size of the Band, so in terms of numbers of people, the municipalities have far greater resources. These numbers are a definite asset when the municipalities want to mobilize public support in their positions. The use of this resource, was evident in the publicity surrounding the release of the IBI report on the Lower Road. However, contemporary interest in Indians and their culture, and sympathy for their situation, makes it possible for the Band to appeal for support for their position from outside of the North Shore, should they decide to do so. The media is very useful in activating what has been called "third party support".²⁷

Technical and professional expertise seems at this time to be fairly equally distributed between the Band and the municipalities, taken as a whole, though the quality of expertise does vary among the individual municipalities. In West Vancouver the professional and technical expertise found, among both elected officials and municipal staff, is generally of a very high calibre. Mayor Jones is a respected civil engineer, who has given freely of his professional competence as an alderman, and more recently as mayor. One of the aldermen who is frequently in the role of negotiator for the municipality in its relations with the Band is an attorney and the senior labour negotiator for a major forest products firm. The Director of Development,

Dr. Robert Collier, was an Associate Professor of Community Planning at U.B.C., before joining the municipal staff, and in addition to his qualifications in planning and urban affairs, shows considerable knowledge and understanding of the culture and decision-making process of the Squamish.

The mayors of both the City and the District of North Vancouver, had considerable experience as aldermen, before election to their present positions. Neither have education or occupational backgrounds that afford professional or technical competence as relevant to the issues in which they are involved with the Band as West Vancouver currently enjoys. In its administrative staff, the District of North Vancouver has several planners, including the planning director who has been with the district for more than twenty years, and thus has long experience with development and land use planning on the North Shore. It is evident that he has developed a fair knowledge of the Band and its decision-making processes, through this experience. The City does not have a fulltime planner on its staff but does retain a firm of planning consultants. This arrangement is quite consistent with the relatively small volume of land use planning work in the City, but it has the disadvantage of not affording either daily contact or the continuity of personnel that the other two municipalities have in their planning staffs.

Until about ten years ago, most of the technical and professional expertise available to the Band came from people on the staff of the Department of Indian Affairs. But since 1969, and the Trudeau government's

White Paper on Indian Policy, there has been a significant change in the sources of expertise available to the Band. The Band has advisors on its staff and as consultants, in addition to the greater range and number of technical and professional staff now available in the Indian Affairs office. It should be noted, however, that while the Band often contracts directly with its consultants, all or a major share of the fees are paid by the Department of Indian Affairs budget. In addition, the Band has the benefit of professional research that is done by national and provincial Indian organizations, again supported by the Federal Indian Affairs budget. There appears to be an example of this in the Band's litigation over the Third Street right-of-way through the Mission Reserve, in that it is a type of case suggested by what is almost an Indian law "how to do it manual", published by the Alberta Indian Association.²⁸ Mr. Paul Reecke has since about 1969, done a great deal of legal work for the Band, and according to a staff member of one of the municipalities, Mr. Reecke serves from time to time as a broker or middle-man between the Band and the municipalities, exploring the reactions and attitudes of municipal governments and the Band prior to formal meeting or proposals.

The increased activity and business of the Band has led to the employment of some professionally-qualified staff to work with various Band committees. The expertise and professional competence of the Band Council has, according to municipal staff members in a position to observe its work, increased tremendously in recent years. Three Band members who generally represent the Band in meetings with municipal governments are mentioned specifically in this connection. One of the three,

Chief Joe Mathias, has a law degree, and hence professional training in negotiation and bargaining, and as mentioned earlier, has been involved in the work of the joint Cabinet-National Indian Brotherhood Committee.

On balance, it appears that the Band has resources of technical and professional expertise that are equal if not superior to those of the municipalities.

Cultural Resources

The political representation model and decision-making process employed by the Squamish are unfamiliar to most others, because they arise from a quite different culture than that of the majority of Canadians, and this cultural difference constitutes a political resource of the Band. The Squamish tradition is within the consensual type suggested in the Hawthorne report:

We know each band has its own style of processing alternatives and of formalizing a decision that is made public and official. Where the process is highly programmed, little discussion is necessary for sufficient people to know what the decision will be. Were it not as highly programmed, in some bands where overt consensus and unanimity are strongly desired, the Indians are highly skilled in carrying out backstage work to ensure unanimity before the onstage decision is formally made by council.²⁹

Membership on the Squamish Band Council, as it seems, a combination of traditional and contemporary practices. The history of the development of the Band Council and the role of chiefs within the Council are discussed by Richard Band:

When the different Squamish speaking bands amalgamated to form the Squamish tribe, the sixteen chiefs of the tribe were seated in the council to represent the interests of their respective bands. Since each band was essentially composed of one large extended family, each chief was actually representing the interests of his own family. Because of the tremendous shift of the population to the two North Vancouver reserves, the band as a territorial and social unit has ceased to exist. As a result of this development, the general membership decided that when a chief died or retired from council, he would be replaced by a member that was elected by the entire Tribe membership. Although the Band has ceased to exist as a territorial unit, the representative character of the present chiefs and councillors has carried over to the present day. Thus, when Chief Norman Joseph, for example, is defined as a "chief", he is "correctly" defined as such only in relation to those individuals that trace their descent to his family. He cannot claim to be chief of all the Mission Reserve (the family's "traditional" territory) residents, because most of them originated from other areas and trace their descent to other families. Thus, although he does not represent the common interests of the residents of the Mission Reserve, he can claim to represent the common interests of all his kinsmen--no matter what residence area they reside on. Similarly, the rest of the councillors claim to represent, and in fact do represent, their respective kinship groups.³⁰

Richard Band adds, that the councillors also represent the common interests of their respective areas. Contemporary features of the process of representation which is employed by the Squamish include the following:

1. Chiefs and councillors hold office for life (except for voluntary retirement, or conviction of a criminal offence);
2. The Council consists of sixteen councillors, which permits most of the kinship groups to be represented;
3. The Tribe can theoretically be represented by sixteen chiefs, who would then occupy all of the position within the Council; however, at the present time (1969), only two individuals sit on the Council through their claims to chieftainship;

4. Chiefs and councillors are elected by a majority of the votes of electors of the Tribe at large. In order for a chief to take his seat on the Council, he must receive formal approval from a majority of the electors of the Tribe;
5. Any legal-Squamish individual, resident or non-resident of the Tribal territory, can be nominated for the office of councillor.³¹
6. Any member of the Tribe, resident or non-resident who is twenty-one years of age or over can vote in Tribal elections.³²

An important feature of the process of decision-making in the Squamish Band Council, is that both the council and its committees engage in very lengthy debate with the goal of unanimous decisions. In discussing this process, Band explains that this does not mean that there is not any opposition to decisions that are made within the council, but rather that opposition is withdrawn in order to preserve harmony within the group. The process often works as follows:

The semblance of unanimity is often preserved by the employment of various techniques. If it appears that conflict is about to erupt and that a majority of councillors favor an opposing decision, an individual will either move that that decision be taken or he will second it to demonstrate that he has either been won over by the arguments or that he is not vehemently opposed to such a decision. This situation occurs in a great many cases... In other situations, the issue is tabled for further discussion at a later date... At times, the issue is sent into a committee for consideration... I have never witnessed a formal negative vote at any of the many meeting that I have attended, no matter how heated the debate has become.

Formal voting is generally followed through with, although it has been noted occasionally that the Chairman has "sensed the pleasure" of the group, and the decision has been recorded. Voting is ritual act involving the formal registration of the group's decision - necessitated by accepted procedure.³³

There is evidence that elements of this process are carried by the councillors into their meetings with the municipalities. This is demonstrated in lengthy debate over issues, the tendency to postpone a decision when the outcome is not clear to all involved, and withdrawing from the negotiations in order to give the matter further study, are all elements of the internal decision-making process of the Band which are open to misinterpretation by those not experience with that process.

The style, attitude and approach of the individuals engaged in the process of negotiations are in themselves cultural resources that may be used in inter-cultural situations. Aggressiveness is often a major attribute of White leaders, and at times of Indian leaders involved in community conflict resolution. But in a community where the consensual approach to decision-making is employed, an aggressive posture is not necessarily associated with the power to influence others. The councillors representing the Band will not necessarily assume the air of aggressiveness and authority that is quite characteristic of those representing the municipal governments. From their process of arriving at a decision, it might well be assumed that Squamish councillors will be less likely to engage in verbally aggressive behavior since it does not play an active role within their political culture.

In the Squamish case, the extent to which aggressiveness can occur is limited. When it is less subtle, the individual's motives may become public. If they become public knowledge, then certain factors will come into force to reduce the effectiveness of his approach, and, as a consequence, the influence that he is able to exert will decrease. In any case, (the aggressive) type of leader does not possess personal influence.³⁴

While allowing for the fact that Richard Band's study of the Squamish was written almost ten years ago, it would seem that his analysis is still very relevant. However, this does not mean that a councillor may not adopt a style in interactions with the municipalities and others that within his own band would be unacceptable or ineffective. One of the councillors who often plays a major role in interactions with the municipalities seems to set himself up in the role of the "bad guy", exhibiting aggressive and at times quite hostile positions and acting, according to municipal sources, as if he had a large chip on his shoulder. This style is, of course, reminiscent of the militant Blacks in the United States in the late 1960's who would deliberately "act ugly" for its effect on the other party to negotiations, and then step aside to let the "good guy" consummate the bargaining.

In general, however, those representing the Band bring with them attitudes and postures that arise from their different cultural background and specifically their political culture. The positions that they take often reflect the fact that they do not have the power to make decisions for the Band Council, but must return to their community for the assent of the councillors or of the full membership of the band.

These differences in behavior, of the band councillors who represent the Band in meetings with others, can prove very puzzling to those who are unfamiliar with Band governance and etiquette. One technical expert who had been involved in negotiations with the Band, made a comment regarding the great difficulty he had in meetings with the Squamish. when he tried to analyze their reactions to a proposal or

plan being presented to them. Usually, he said, the proposal would be met with a polite impassiveness which made it very difficult to estimate or evaluate their reactions.

The relative isolation of the Squamish from the social and political life of the North Shore, their status as an "invisible minority", adds another dimension to their resources. Competition and jealousy that occurs within the Band is generally hidden from outsiders. Within and among the municipalities, however, competition, friction and jealous are often quite evident and frequently act as source of headlines for the local press. One example of this is the threats made by the District against the West Vancouver expedient for handling traffic generated by the new addition to Park Royal. The petty frictions that occur between the municipalities add to the resources that the Band brings to its negotiations with them, as their existence makes it very difficult for the municipalities to present a united front in meetings with the Band even when the municipalities have in fact a common position on the issues at hand.

The political resources of the Band and the municipalities in the three issues examined are derived from many sources, among which the different political cultures and understandings about proper public behavior are particularly important. Examination of the major resources of the groups leads up to consideration of the ways in which they use and exploit their respective resources to work toward their different goals and priorities.

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Strategies and Tactics

The historical, cultural and institutional elements conditioning the relationships of the Squamish Band Council and the municipal governments on the North Shore generate issues of conflict among them, influence their respective goals, priorities and resources, and in addition affect the strategies and tactics they use in their interactions. The effects on strategies and tactics appear clearly in the three issues that are the empirical focus of this study. Shubic defines "strategy" in a quite idealistic way:

A strategy in politics or business or war or chess can be defined generally, as a general plan of action containing instructions as to what to do in every contingency.³⁵

None of the parties in the issues described have followed a strategy of that kind, and it would be almost impossible for them to actually devise and use a rationally planned strategy in negotiations over such issues. There are some elements of strategic thinking in the background to the positions taken, and tactics seem to emerge in response to situations, rather than as deductions from an overall bargaining strategy. Simeon states well some reasons for strategies and tactics being chosen as they appear to be in the issues studied:

while the potential range of actions may range the gamut from armed conflict to amicable discussion, in fact a series of constraints - some self-imposed by the decision-makers' own values, others stemming from the structure of the bargaining situation - places important limits on the kinds of behavior that can be used, and encourages some tactics and discourages others. Among these are the participants' own widely shared norms and beliefs, the perceived attitudes of the wider public about what is permissible and what is not, political resources, some dynamic characteristics of the process itself, and the individual personal qualities of the decision-

makers.³⁶

Thus contextual factors, resources, changing environmental conditions, political considerations and personalities of the actors all combine to make the use of rationally planned strategies most unlikely. This results in a negotiating process which demonstrates strong similarities to Lindblom's model of the usual policy making process, in which the participants are seen to:

"muddle through " a limited number of closely related alternatives (incrementally rather than qualitatively different) without evaluating all the possible ramifications and consequences of each one. Furthermore, the set of policy-making actors does not arrange its policy deliberations and decisions in such a way as to match interacting policies, but proceeds in a rather disjointed fashion.³⁷

West Vancouver did not work out all of the details of the Lower Road, its extension or links west of Park Royal, not to mention an overall growth plan including the role of the I.R. 5 in the community plan, prior to reaching an agreement on the expansion of Park Royal. The District of North Vancouver initially took the position that the whole of the Lower Road package had to be negotiated at one time, but in fact seems to be proceeding with a priority list of segments to be resolved one by one. The City might have insisted that the Third Street right-of-way be negotiated as one aspect of a plan that would also involve the Lower Road, redevelopment of Lower Lonsdale, and Band commitments to the future development of the Squamish community on the Mission Reserve. But in fact, one of these is being handled in the courts, the second in negotiations, with the Band, the third by a quite separate planning effort, and the last is being ignored at this time. The Band too, is

proceeding in a piecemeal, incremental fashion rather than following an explicit, rational strategy for developing all of its resources and relating these to its external environment. As Lindblom suggests, this disjointed muddling through is a rational response to constraints and has a logic of its own which is evidenced in the strategies and tactics used in negotiations and bargaining.

The general political environment of the larger Canadian system, which all of these groups are a part, limits to a degree the means that the Band and municipalities will use in attempts to gain their objectives and resolve their conflicts. The concept of the Canadian mosaic, implying that those of differing ethnic background should retain their identity (unlike the American "melting pot" model), while working together toward common goals, is one element of this environment that has particular relevance to this study. With this model of Canadian political culture as the norm, at local as well as national levels, confrontation tactics such as those used by racial and ethnic minorities in the United States are less likely to be used. There are, of course, Canadian examples of their use, including some by militant Indian organizations, but this is an approach which is alien to a political culture that places great emphasis on the concept of cooperative federalism. In part because intense confrontation and antagonist behavior are generally rejected by the public, most political conflicts at the local level tend to be rather low key, and in many respects reflect the apathy that characterizes general public attitudes toward local issues and local politicians. There is, however, a code of behavior that is expected by the public of political leaders at local, provincial and federal levels, and neither

the Band, nor the municipalities can violate this code without adverse consequences. Neither side can afford overly aggressive or hostile behavior by their representatives, for they need to play to the interests, concerns and sympathies of the public.

The individual style and personality of each of the actors representing the municipalities, and the Band, are important constraints on the tactics that they can use. As was said earlier, one of the Band councillors does bring to negotiations with the municipalities a "chip on his shoulder" attitude, which is noted as hostile by others. This does limit the range of tactics available for him to use, for a quite different attitude on his part would not be credible to others. The other Band councillors who frequently represent the Band in negotiations with municipalities, are equally firm in reiterating the goals and priorities of the Band, while presenting quiet, level personalities, that suggest a willingness to bargain and cooperate. Though the one with the chip on his shoulder has limited his own options, the options of the band are maintained in the sense that there is no real counterpart in the band structure to the mayor of a municipality. The Band maintains a "team approach" in which it is represented by one or another, and often more than one of the band councillors, each of whom has equal status. So when one has lost his effectiveness in negotiations, they can simply substitute another member of the team at that point in the game. On the municipal side, there is only one mayor at a given time, and a member of the municipal council is not seen as having the same status. •

Significant personality differences are to be found among those representing the municipalities.³⁸ Mayor Jones, has brought to the process an air of quiet confidence and expertise, appearing very rational and polite, in a rather formal courtly way, but quite clearly guarding the assets and advocating the interests of West Vancouver. Mayor Loucks of the City of North Vancouver, has in his bearing an easy going, personable, kind and cooperative manner, appearing to want to work amicably to attain what he considers to be reasonable objectives that are in the interests of his constituents. His predecessor, Mr. Tom Reid, was in that office a strong individualist whose term in office was a constant drama of confrontation between the mayor and the various members of the council, as well as between the City and the Band. It appears that as a leader it was very difficult for him to share power and authority, and his personality may have had much to do with the development of Third Street as an issue, polarizing relationships between the City and the Band. Mayor Bell of the District of North Vancouver brings to the negotiations the air of a man who is in a hurry to go places. He is articulate, but appears somewhat careless in what he says, and gives the impression that in the positions and actions he takes on local issues he is perhaps playing up to a larger electorate than that of the District. The positions that he has taken on the Lower Road and access to Park Royal seem to suggest more concern for publicity than for the decision-making process.

Finally, it should be noted that there seems to be a national Indian influence on the strategies and perhaps tactics adopted by the

Band in dealing with local interactions with governments. A similar point was made earlier, about the strong relationship between the goals of the Band, and the goals of national and regional Indian organizations. It was also said then that maintenance of this congruence of band, regional and national priorities was facilitated by the fact that a band councillor was involved in the NIB negotiating team, and in some of the activities of the Alliance. An illustration of the point, with respect to tactics, is that soon after the NIB withdrew from the joint NIB-Cabinet consultative committee, claiming that the government was by-passing the committee, the Band has been pulling back from negotiations on the development of I.R. 5, and has taken a more cautious if not negative attitude toward the IBI recommendations for the Lower Road. At about the same time the councillor who had been involved in the NIB process at the federal level refused to be interviewed by the author about the Band's position on local issues, for the reason that relations had broken down at the national level. There appears to be no counterpart to this vertical integration of goals and tactics on the municipal side.

The elements discussed here are brought together with the institutional, resources, and other factors that interact to shape the process of negotiations observed in each of the three issues.

The Processes of Negotiations

The actors involved in the Lower Road issue are all three municipalities, the Band, and because of its financial commitment, the Provincial

government. The actors in the I.R. 5 development issue are the Band and the District of West Vancouver. In the case of Third Street, the actors are the Band and the City of North Vancouver.

The first round of activity in the development of a negotiating process, says Simeon, is a general exchange of information in which that offered by each of the parties is:

designed to change the perceptions of the other participants about the probable advantages and costs of different courses of action both for themselves and others.³⁹

In the early interaction between West Vancouver and the Band, the Squamish presented quite clearly their goals regarding the development of I.R. 5, which were to use reserve land in order to advance the social and economic conditions of the band members. At this early stage, the municipal government assumed that any development would be on land surrendered for lease, and, because this was before the Surrey v. Peace Arch decision, subject to municipal zoning. So while the Band joined with the Park Royal development company to form Salish Limited and plan a multi-million dollar development, the municipality was busily drawing up its own land use controls for the reserve land. The perceived resource of the municipality, in its zoning power, afforded West Vancouver the confidence at that time to take a sympathetic attitude toward the plans and aspirations of the Band. Finally, they stated their position in terms of land use controls over lease land, and the need for municipal services to be supplied to any such development. The position of the municipality at this point was quite strong. To this point the interaction had involved the statement of positions followed by an evaluation of each others' resources.

The issue then moved to a new phase which involved the use of tactics, "which actually change the situation which confronts the other actors, forcing them to react".⁴⁰ It was in fact, an unexpected shift in the legal resources, caused by the Surrey v. Peace Arch decision, that initiated the new phase. As the municipality was re-evaluating its resources, and preparing to enter into another round of negotiations, the Band released the first development design for I.R. 5. The municipality wanted an agreement with the Band that would protect its interests, and the tactics used were to maintain the highest possible level of uncertainty about the legal resources, but get an agreement between equals that would protect the interests of both. The uncertainty about the quality of the legal resources is in the West Vancouver position that the Peace Arch decision would not stand up on appeal; the grounds of equality are that the municipality controls the services to the site which are as important to the development as the control of design through land ownership. It appears that the Band was not particularly happy with the design that had come out of their association with the Park Royal Development Company, and in any case, the developments at the national level caused a shift in the Band's goals and priorities. They were taking a longer time perspective on the development issue, and they were starting to think of band enterprises rather than rents and royalties alone. Thus the Band and the municipality agreed that a comprehensive development plan for the I.R. 5 land should be prepared.

Meanwhile, the Band and Park Royal together saw the opportunity for further development of the shopping centre on reserve land, and announced an intention to proceed with this, which the municipality saw as being

inconsistent with their interests. In negotiations over this issue, both sides took hardline positions, exchanging conditional threats and promises for more than a year. West Vancouver threatened to refuse services to the development, and to start litigation with the intention of getting the Peace Arch decision reversed. The Band threatened to set up a new municipality, taking I.R. 5 and much of the existing Park Royal development out of West Vancouver's municipal boundaries and taxing jurisdiction. The use of such threats is a difficult and often dangerous course to pursue for:

threats and promises, more than most tactics, require the possession of certain kinds of resources... Made too often, they lose their force and become like cries of "Wolf!" More importantly, they might have to be carried out--which explains why the threats are very seldom bluntly stated. Rather the consequences are left unspecified and vague.⁴¹

It was obvious in this case, that if either side carried out its threat, the result would be losses for both sides. A separate municipality at that time would be more of a problem than an asset to the Band, for it would under Provincial statutes have a council made up of representatives of the residents of whom a majority would be non-Indians. West Vancouver would lose a substantial part of its tax base, which would have to be compensated for by a big increase in the tax rate, and it would lose the influence they had over the development plans. West Vancouver would gain nothing by forcing the Band to go to the expense of obtaining municipal services from other sources. An appeal of the Surrey v. Peace Arch decision would resolve the uncertainty one way or another, but there could be no assurance as to which way it would go, and it would clearly be a significant step toward Indian-White confronta-

tion, in other arenas. The negotiations were carried on in private meetings, and also in letters that were often released to the press, thus involving the general public and perhaps adding to the level of tension between the negotiating parties. Excerpts from several of these letters were quoted in the earlier, descriptive part of this chapter. As both sides recognized that they were in a no-win situation, negotiations progressed toward a position of cooperation rather than conflict, and thus a situation in which bargaining and compromise were possible. The essential features of such a position are described by Morton Deutsch and Robert Krauss as:

a situation in which the participants have mixed motives toward each other: on the one hand, each has interest in cooperating so that they reach an agreement; on the other hand, they have competitive interests with regard to the nature of the agreement they reach. In effect, to reach agreement the cooperative interest of the bargainers must be strong enough to overcome their competitive interests. However, agreement is not only contingent upon the motivational balances of cooperative to competitive interests, but also on the situational and cognitive factors which would facilitate or hinder the recognition or invention of a bargaining agreement that reduces the opposition of interest and enhances the mutuality of interest.⁴²

Out of this situation came the position paper, "Land Use Controls of the Indian Land in West Vancouver", which is considered the basis of an agreement for cooperation between the Band and the municipality. The strategies and tactics described are, of course, not all of those that were employed at some time during the long negotiations between the Band and the municipality, but have been singled out as major factors in this particular process of interaction. It should not be expected that the same process of interaction will be found in analysis of the other two issues, for:

Tactics vary from issue to issue not only because resources vary, but also because issues which... involve wide public interest lend themselves to strategies designed to involve the public, while others encourage more private activities.⁴³

Similarly, the goals and personalities of the various actors will be more apparent in tactics employed with some issues than others. The I.R. 5 issue seemed to lend itself more to private activities, meetings between representatives of the two groups, with only peripheral involvement of the public. On the other hand, the Lower Road issue has involved the use of strategies and tactics which are intended as appeal for public support, and the use of tactics in which the personalities of the actors have been vital elements.

Transportation issues, are of course, a major concern to most North Shore residents, particularly commuters caught in morning and evening traffic jams, and shoppers caught in the stop-and-go congestion in the major commercial districts. The ways in which the proposed new road facilities would relieve this congestion have already been described in terms of the issue, and the goals and priorities of the municipalities. The basis for negotiations on the Lower Road issue were laid with the agreement by the five actors involved to jointly sponsor the IBI study.

But they began in earnest with the release of the consultant's report in January 1978. Because of the perceived public interest in the subject, the study findings received a great deal of publicity in the press, and it was reported as a final breakthrough in the long quest for a Lower Road and a satisfactory overall solution. It is not clear whether this misleading impression was generated by the newspaper writers themselves, or whether it was a tactic employed deliberately by one or more of the

actors. It could possibly have been a strategy of one or more of the governments to use popular support to overwhelm the Band and pressure it into quickly accepting the report, and agreeing to provide reserve lands for the rights-of-way. It could well be that the Provincial government wanted to get maximum publicity and public credit for their promise to pay for more than half of the dollar costs, particularly since much of the area that would benefit was in the riding of the minister responsible for road construction.

Conflicting interpretations have been put forward by the various actors involved, all of which point to other actors and leave the speaker as the innocent party. All that is reasonably certain is that the Band was not an instigator of the misleading or premature publicity. The early strategy of the municipalities attempted to state the position that the municipalities would stand together with the province in insisting on an agreement to all elements of the plan that affected the Band. The province's role in this was in making their participation in the costs, conditional on a comprehensive agreement. But this position did not survive long.

A by-product of the publicity was pressure in West Vancouver for a public meeting to review the plan as it affected that community. As a result of that meeting, the council found itself in the position of supporting and promoting a plan which quite clearly was opposed by its constituency. The mayor dealt with this by promising further study of those aspects of the proposal that were opposed by West Vancouver residents. But the united front of the municipalities was coming apart for

another reason, as they responded to the most pressing of their individual priorities by starting separate negotiations with the Band on these. As it happened, West Vancouver was the first of these, because of the interim access route into the south side expansion of Park Royal that was to open for business some six months after release of the IBI report.

As described previously, this led the District of North Vancouver into negotiations with the Band, for the right-of-way through the Seymour Reserve, in exchange for interim use of local streets as access to the new "middle level bridge" pending construction of the Lower Level Road. When this strategy failed, because the Band did not feel pressured by the situation, Mayor Bell used the tactic of threatening the Band and West Vancouver, with closing to Park Royal traffic routes through the district except for Marine Drive.

It is possible that at this point the personality and personal objectives of Mr. Bell played a major role. It appears that the other actors did not feel that the threat could be carried out effectively, and from a technical land use point of view the Welsh Street route that the mayor would have closed is unusually well suited for this kind of traffic.⁴⁴ The threat was endorsed by the council, and noted with commendation in one of the local papers.⁴⁵ The Mayor of West Vancouver took it as simply a threat, and hinted at retaliatory action. In fact, the grand opening day for the new part of Park Royal. came and went without any part of the promised action by the District. It appears that this tactic has backfired, with the Band becoming less cooperative and each of the other municipalities continuing to follow an

individual approach in negotiations with the Band. There is as yet no visible evidence of progress toward any form of resolution of the Lower Road issue.

The Third Street issue is made up of several important factors, pedestrian safety for residents of the reserve, widening of the street and the legal ownership of the present right-of-way. Looking back at what started the whole process, a demand for a traffic signal after a child was injured in an accident, it is surprising that the issue could become so complex. The protest by members of the Band, following council rejection of the demand, council's reactions to the protest, and subsequent actions on both sides illustrate how an issue can grow in scope and complexity because of strategies and tactics used in a process of negotiations.

During the early negotiations with the Band about installation of a traffic light or some other form of traffic control on Third Street at Forbes, the major representative of the City, was its then mayor, Mr. Tom Reid. His personality and political stance was quite evident in his tactics. Instead of supplying the traffic control, which would have been virtually automatic in a typical White neighborhood with a similar accident record, the mayor enlarged the issue by posing the alternative of widening and upgrading Third Street where it passes through the Reserve. This was perceived by the Band as a further loss of Reserve land to the additional right-of-way, and as no real solution to the problem of pedestrian safety. Negotiations proceeded by the mayor asking the Band to choose one of three plans for the widening of Third

Street, and making public the choices to gain public support for his position, as a means of relieving a minor traffic bottleneck. There was another appeal to the public, and compromise of the negotiating process, when the mayor publicly stated his preference among the three plans.

The Band responded, with a conditional change in its resources, in the form of the argument that the municipality did not have a legal right to the land under the existing two-land Third Street. At this point, it seems possible that a compromise might have been reached. had the City attempted to change the priorities of the Band, by offering certainty with respect to the Band's immediate objective, in exchange for the possibility of winning more through litigation. Whether this would have been successful, given the Band's perceptions of its legal and institutional resources and influences from national and regional Indian organizations, is impossible to know.

The purpose of this discussion has been to illustrate the difficulties and complexities of the process of negotiation and bargaining, with particular attention to the major role of strategies and tactics. Many, often imponderable factors are involved in shaping strategies and choosing tactics, and it is clear in these examples that, as Simeon concluded, the kinds of tactics used by the participants in a process of negotiation. are a critical determinant of the final results.⁴⁶ The Third Street issue shows that tactics employed, may lead to a result that neither party wanted, at least at the outset, regardless of the judicial decision, and this process has almost certainly reinforced a

historical atmosphere that will affect future negotiations between these two parties. On the other hand, the careful use of strategies and tactics, along with a realization of common interests and goals, can lead to creative compromises, as is illustrated by the management of the I.R. 5 issue. Though not yet finally resolved, this issue is in a state of equilibrium and neither party has had to give up its underlying objectives.

It should be noted that it is relatively easy for an observer to look back at decisions that have been made, and with the knowledge of events that occurred subsequently point to mistakes that were made and opportunities that were missed. The intention, however, is to illustrate the complications in real negotiating situations which make it easy to see why the use of rational models of such processes is not likely to be useful, or used, by parties such as the municipalities and the Band studied here.

Relationships Between the Municipalities and the Band

This concluding section of this chapter will not discuss the final outcomes of the three issues, for there are as yet no such outcomes, and for reasons that will be discussed in the final chapter, they may not be resolved for a very long time. But there is a set of relationships among the municipal governments and the Band as a quasi-municipality, which have been shaped in part by the issues that have been studied. In focussing on these relationships, it is difficult to assess the factors that are structural and thus relatively durable elements, and those that

are more matters of personality and thus subject to change as individuals move in and out of the decision-making roles.

In the case of West Vancouver, there is at the moment a fairly satisfactory relationship, and this is recognized by both municipal and Band officials.⁴⁷ Credit for this must be given in large part to the attitudes and actions of Mayor Jones and key members of his staff and council, who have led the process of negotiations from a point of potential confrontation, to the present relationship of mutual respect and cooperation. The problem with this is that Peter Jones is not a candidate for re-election, there will be changes in the council after the next election, and the municipal staff members that have been most involved in recent negotiations with the Band are so closely identified with the present mayor that they may be unacceptable as policy advisers and negotiators to the new administration. One of the strengths of the present West Vancouver government is that they do seem to respect and at least to some degree understand the cultural differences between the Squamish and themselves. On the other hand, it is evident from public meetings and other statements by citizens that these attitudes and understandings have not been effectively communicated to even the more involved and vocal elements of their constituency.

As far as the District of North Vancouver is concerned, negotiations on the Lower Road issue seem to have been a source of extreme frustration for the mayor, and to a lesser extent, the municipal staff. They do not have the same kind of understanding of the cultural differences that is found in the West Vancouver municipal hall, or even a good working knowledge of the jurisdictional limits and complications in their own situation

with respect to the Band. The relations at the moment, are rather cool and distant, and unless the Band is willing to make some concessions, for example on the Seymour Reserve right-of-way, there is a real possibility that the relationship will deteriorate further. An important factor in this may well be the very different time perspectives of the Band and the district.

With the possible exception of Third Street, the Band has no immediate need for the Lower Road, and may well have an interest in waiting for changes in the Indian Act before proceeding with the development of I.R. 5, and its access routes using the Lower Road. This willingness to wait is quite incompatible with the desire of the mayor of the District to resolve as quickly as possible present traffic problems, and to build a record of achievement consistent with his image of himself as a young man on the go, and destined for higher office. The city is waiting, and indeed has no choice but to wait, for a decision in the Third Street litigation. If the Band wins that case and attempts to close it to off-reserve traffic, there will undoubtedly be a confrontation leading to further problems for both parties. If the city wins the case, they will still not have the right-of-way for widening of the roadway. In either case, it is hoped that the party which wins the court case will have the sensitivity to use that as a means of reopening negotiations and moving toward a mutually acceptable plan for traffic circulation and municipal services to the Mission Reserve.

In general terms, the process of negotiations has forced the development of a political relationship between the municipalities and the Band.

The Band Council, is slowly moving out of its situation of invisibility to the municipalities, and in the municipal halls if not in the press, the councillors who represent the Band in various negotiations with the municipalities, are becoming recognized as political leaders with their own constituencies. This is due in part, to the personalities and efforts of these councillors, and perhaps in part to a growing public awareness of Indians and of the complexities of Band administration, because of the role that the Indian Act, the Justice Department and the Department of Indian Affairs play in their lives.

Preceding chapters of this thesis have examined the background of conflicts between Bands and municipalities in urban British Columbia, and the major elements used in negotiations over three issues that involve a Band and neighbouring municipalities. It has been shown that past history and factors in the national political system affect the relationships between the Band and the three municipalities. The future relationships among them will no doubt be complex and strained.

Footnotes to Chapter IV

¹Simeon, p. 161.

²Ibid., p. 163.

³Ibid.

⁴Ibid., p. 168.

⁵Ibid., p. 189-190.

⁶George Manuel, President, Union of B.C. Indian Chiefs, "Indian Sovereignty: The Indian Bible of British Columbia" (mimeographed, October 1977), p. 2.

⁷R. Manuel, "Union of B.C. Indian Chiefs" Position Paper on Indian Reserve Lands and Indian Government" (mimeographed, draft dated December 7, 1977).

⁸As quoted in Sun, 20 June 1976, p. 9.

⁹Chief Joe Mathias, one of the Squamish Band Councillors, was a member of the NIB negotiating team in the joint Cabinet-NIB committee working group on changes to the Indian Act. He mentioned these as among the NIB priorities and of particular interest to his own band, in a report on his NIB activities in Ottawa to a meeting of Alliance and UBCIC chiefs and councillors, Vancouver, 2 March 1978.

¹⁰UBCIC, Socio-Economic Study, p. 315.

¹¹This inference is based in part on the fact that the correspondence from the federal officials in the Justice Department and from the Minister of Indian Affairs about the "regulatory vacuum" discussed earlier in connection with the Surrey v. Peace Arch decision was addressed to the Alliance, and in part on a description of the oral report and ensuing discussion at the 2 March 1978 meeting referenced above.

¹²UBCIC, Socio-Economic Study, pp. 314-315.

¹³Ibid., p. 315.

¹⁴Ibid., p. 325.

¹⁵Ibid., p. 322.

¹⁶Interview, Mr. Alain M. Cunningham, Regional Planner, B.C. Yukon Region, Department of Indian Affairs, October 1978.

¹⁷Simeon, p. 188.

¹⁸Interview, Mayor Jones.

¹⁹Vancouver, October 1978, p. 28.

²⁰Interview, Collier.

- ²¹Interview, Mayor Bell.
- ²²Ibid.
- ²³Interviews, Mayor Bell; and Mr. Martin Chesworth, Municipal Planner, District of North Vancouver, September 1978.
- ²⁴Interview, Mayor Loucks.
- ²⁵Simeon, p. 201.
- ²⁶Interview, Mayor Loucks.
- ²⁷Michael Lipsky, "Protest as a Political Resource" (1968), reprinted in William A. Gamson, SIMSOC: Simulated Society (New York: Free Press, 2nd ed., 1972), p. 51.
- ²⁸Burrell et. al.
- ²⁹Hawthorn, p. I-245.
- ³⁰Richard W. Band, "Decision-Making and Leadership Among the Squamish" (M.A. Thesis, Simon Fraser University, 1969), pp. 85-86.
- ³¹In the summer of 1978 Lois Guss, a grand-daughter of Chief Squamish Jacob, became on her third attempt, the first woman elected to the Squamish Band Council.
- ³²Band, pp. 155-156.
- ³³Ibid., pp. 168-169.
- ³⁴Ibid., p. 182.
- ³⁵Martin Shubik, Game Theory and Related Approaches to Social Behavior (New York: Wiley, 1964), p. 13.
- ³⁶Simeon, p. 228.
- ³⁷Peter Aucoin, "Theory and Research in the Study of Policy-Making", in G. Bruce Doern and Peter Aucoin (eds.), The Structures of Policy-Making in Canada (Toronto: Macmillan, 1971), pp. 13-14.
- ³⁸These characterizations of the political personalities of the mayors are based in part on a subjective compilation of images projected in the local media, and in part on personal reactions in interviews with them and observations of them in public settings. They are not inconsistent with statements about them volunteered by some staff members and consultants and by some of those with whom formal interviews were conducted.
- ³⁹Simeon, p. 242.
- ⁴⁰Ibid., p. 247.
- ⁴¹Ibid., p. 251.
- ⁴²Merton Deutsch and Robert Krauss, "Studies of Interpersonal Bargaining", in Shubik, p. 326.

⁴³Simeon, p. 253.

⁴⁴Interviews, Chairman Jacobs, Collier, Chesworth.

⁴⁵Citizen, 2 August 1978.

⁴⁶Simeon, p. 225.

⁴⁷Interviews, Chairman Jacobs, Mayor Jones, Collier.

Chapter V

CONCLUSIONS

This study has documented the complexities of the political interactions between an Indian band council and the councils of the adjacent municipalities. Conflict and tension seem to be inherent factors in the process of interaction among them, as a result of the complicated and interconnected structure of political and other circumstances, and factors intervening in their relationships. The major contributing factor in these complexities, is the separate constitutional status of the Indians and Indian reserve land.

It was stated at the outset of this thesis, that within every society there occurs conflict and competition between different groups for the use and control of scarce resources in their environment. In terms of the struggles that have involved competition between Indian and White groups in Canada, both in historical and contemporary times, land and land use have been dominant elements. This basis for contention will continue so long as land remains the major resource and foundation of Indian life and culture, and so long as the majority community seeks to alienate all or parts of Indian reserves.

Conflicts between Indians and the majority population of Canada, are most readily felt at the local level of political life, as is demonstrated in this study. Although issues of conflict between the Squamish band and the municipalities have their immediate focus at the local level, the very fact that the major issues seem to involve land

tenure and land use moves them out of the local arena to become part of the national, historical, cultural and constitutional struggles of Indians in Canada. These directly or indirectly relate to the interpretation of aboriginal rights as presented in Chapter II and are seen by many Indians as the cornerstone of their future political, economic and cultural development.

The interactions between the Band and the municipalities are further complicated by their location in an urban area. The fact that the reserves on the North Shore are well within the densely developed parts of the metropolis, tends to obscure the bounds of these reserves, and this results in the reserve communities being far less distinct than their rural counterparts. As the residents of the reserves have over the years become more assimilated into the larger urban community there is a loss of separate identity that affects both Whites and Indians. As stated in the Hawthorn report:

In cases where the band members work in nearby non-Indian communities, commuting daily or weekly, the reserve may be more of a suburb than a true community. If in such cases there is a lack₁ of positive identification with the reserve as such . . .

Members of the Band may share equally with others in many of the problems of living on the North Shore. They often get held up in traffic jams around the bridge approaches in the Seymour area and near Park Royal, and they have to drive along the dangerous part of Third Street, where it passes through the Mission Reserve. Therefore while the goals and priorities of the Band may differ from those of the municipalities,

particularly as those of the Band take on a national Indian perspective, the members of the Band are not totally removed from the concerns of their non-Native neighbors.

Background Factors

In order to fully explain the conflictual nature of the relationship between the Band and the municipalities, it has been necessary to devote considerable attention to the historical and cultural as well as the institutional contexts in which the very different policy-making structures of the Band and the municipalities are situated; for clearly these governments do not operate in a cultural, social or historical vacuum. As Simeon says:

These underlying social and institutional factors should be expected to play a major role in determining the overall pattern of relations between the governments. They should also affect the issues that arise and the goals, tactics and resources of individual participants as they debate the issues.²

This has indeed been the case in this study, where the institutional differences between the Band and the municipalities, the history of Indian-White relations, Federal Indian policies, Indian organizations, and aboriginal rights have all influenced to a great degree, the kinds of issues that have arisen between the groups and the processes of interaction, as there have been attempts to resolve these issues. In the case of the Third Street issue it is clear that:

Many conflicts which appear to be centered around other issues are in fact a result of the existing hostility between two groups in the community. In such disputes, the particular issue involved can hardly be considered a unit in itself--it is only part of a continuing conflict, periodically active, the rest of the time languishing. These antagonisms are vestiges of previous disputes which often leave

the community divided, and thus "load the dice" against peaceful resolution of future problems. The antagonism seems to keep the community alerted, open at any time to new dispute.³

While Coleman is referring in this quotation to splits within a local community, his analysis can be applied equally to conflictual situations between communities, especially when one of those communities is composed of a minority group. Antagonisms between the Mission Reserve and the Municipality of North Vancouver can be traced back to the early days of the first municipal government on the North Shore, when it sought actively the alienation of the land of the Mission Reserve. Since that time, controversies have continued between the city and the reserve residents, and were re-ignited by the pedestrian accidents in the mid-1970's and then further exacerbated by the lack of foresight and sensitivity on the part of the leadership of the City of North Vancouver.

As history has been a major factor in the Third Street issue, so the issues surrounding the development of I.R. 5 have their roots, both in history and in the concept of aboriginal rights. The Band positions on local government and economic development have been substantially influenced by modern interpretations of aboriginal rights. All these factors are also evident in the issue of the Lower Road, along with the considerations that the road would interfere with the cultural autonomy of the Mission Reserve, and would also result in some further loss of reserve land which is at the present the most precious resource of the Squamish.

Cultural Differences

A fact clearly demonstrated in the interactions between the Squamish and the municipalities, is that a strong awareness of cultural differences is vital for any measure of success in negotiations involving Whites and Indian groups. The Squamish, like most other Indian communities, prefer to reach decisions by consensus, and, as stated by Lurie:

Although predictably patterned and effective, the methods of consensus are difficult to grasp for people who equate democratic procedure and efficiency with majority rule binding on the opposed minority.⁴

In this respect compromise decisions, one of the basic features familiar to those involved in the decision-making processes of municipalities, is not a feature of the Indian policy making arena. Within Squamish society compromises, if they come at all, will come before the issue is raised for decision in the formal proceedings of the Band Council. If agreement cannot be reached quickly, then accord will be achieved through processes discussed in Chapter Four. One of these, long oral discussion, plays, according to Lurie, a very important role in Indian society:

A high value is placed on oratory as pure artistry and on reasoned persuasion as a means of achieving agreement... There is a distinctive quality to Indian oratory, even in English, that is remarkably reminiscent of the many speeches translated and recorded during treaty proceedings of the nineteenth century.⁵

As discussed in Chapter Four, withdrawal is often a feature of the Squamish decision-making process, and one which is a source of frustration or despair for one trying to reach an agreement with an Indian group who does not understand the role that withdrawal plays in Indian culture.

Again this is described by Lurie:

Withdrawal from situations fraught with anxiety...deserves special consideration. It is accepted easily by Indian people but is a source of despair and exasperation to non-Indians trying to work with them. Retreat may consist of no more than sudden uncommunicativeness or an actual departure. When most members of a group are agreed upon a course of action after hearing all the dissenting opinions, the dissidents are free to withdraw their participation if they wish. The others may regret their going, but if all arguments are exhausted, well... that's their way. Perhaps they can agree on some other issue some other time. The decamping of dissatisfied segments of larger tribal and intertribal entities during the treaty period is illustrative of withdrawal behavior.⁶

Withdrawal is then a very well accepted social and political stance within Indian society, and one that is part of the process utilized by the Squamish in their interactions with the municipalities.

A different concept of time is one of the most difficult cultural differences to understand, and has been the cause of much misunderstanding and conflict both in contemporary times and in past history. This element is discussed by Fenton in his article on the Iroquois as follows:

Concepts of time are among the most difficult understandings to communicate between cultures. All Europeans who did business with the Indians suffered from the delays of Indians arriving for a meeting in their own time and chaffed at the deliberateness with which they conducted business. Indians were never in a hurry. They would arrive "in so many moons, when the corn is knee high, when the bark is ready to peel for canoes; when the corn is in the milk; or when they get done hunting"-- concepts that were important to them, but all too vague and uncertain for gentlemen attuned to a calendar.⁷

This is not to say that the Squamish representatives do not keep their appointments with Whites on time, but in their internal decision-making processes, they may be unimpressed by the calendars and deadlines of others.

In terms of the development of I.R. 5, they are not in any hurry for other reasons as well. For this reason the municipalities should be wary of relying too heavily on the Urban Design Plan as a programme for development. When the time is right, the Band will proceed, but that is framed in terms of their time rather than the concepts of the White man's time. Historically, and traditionally in the terms of the Squamish and other Coastal Salish groups, time has been tied closely to the cycle of salmon runs.

Institutional Differences

The Hawthorn report in its discussion of the Federal system of Canada, points out the fact that Indians, unlike the rest of the Canadians, have virtually lived in a unitary state, with the Federal government uncritically accepting its special responsibilities for Indians, on the grounds that they were wards of the Crown.⁸ Since 1945, policy changes have come into effect to lessen this dependency of the Indian population on solely the Federal government; to all intents and purposes, the situation still exists. This factor causes a variety of problems for both the Indians and the municipalities in their negotiations with each other. The role of an Indian band as a quasi-municipality which is due primarily to their depending status, as discussed earlier, demonstrates clearly the limitations of the Indians power to determine their own destiny.

In the actual processes of decision-making and negotiation, a critical problem that is caused by Federal Indian status, not yet discussed as it does not arise in the issues considered here, is that of policy approval and implementation. As pointed out by one municipal represent-

ative, even when an agreement is reached between the Band and a municipality, the agreement then has to go to Indian Affairs; from there it is often passed on to the Justice Department for legal scrutiny. Thus the whole process may then stretch over a long period of time.⁹ This additional time factor, and insuing uncertainty, adds of course to the frustrations of both Indians and municipal governments during any negotiation between them.

Thus it becomes clear, that the process of negotiation between the Band and the municipalities is composed of an interaction of social, cultural and historical settings, the constitutional and institutional frameworks governing the Band and the municipalities, and the behavior of the political actors involved in the process. Even though the possibility of resolving these issues at this time seems most unlikely, the process as it has evolved so far, has resulted in a recognition on the part of the Band and of one of the municipalities that, they are in fact interdependent. This minimal consensus is most necessary for any more complex forms of bargaining to take place. This interaction has, to this time led to some political change, however minor, as evidenced in the small, but positive attempts at an accommodation which has led to a change in the relationship between the Squamish Band and the District of West Vancouver.

Future Intergovernmental Relations

The issues analyzed in this study, form part of the continual cycle of Indian-White relations and as such there is at this time little chance

of a permanent resolution. The complexities of the issues already stressed, and the varying resources of the participants, their differing cultural values, political divisions and past history, make the possibility of an equitable resolution or indeed a compromise highly unlikely. It is extremely important to note that at this point in time, one set of actors cannot impose a solution on the others. The time when imposed solutions were sometimes acceptable between Indians and Whites has long since passed. What will continue to happen is that the issues will be readjusted, as goals and priorities of the various actors change to correspond to local environmental conditions or to the trends and pressures from the national level.

The negotiating process will hopefully continue, for it provides in itself a very valuable service in that it:

provides a framework for discussion and decision. (Negotiations) help to channel the conflict through leaders who although they may disagree can be made aware of each others problems, of the possibility for compromise, and of the dangers involved in irrevocable split. The personal contact which takes place in negotiations may help to reduce barriers to effective compromise such as personal hostility, lack of trust, and inadequate communication.¹⁰

This excerpt from Simeon, states most precisely some of the major achievements that have been gained by the Squamish and the municipal governments, that will continue to accrue, by the continued attempts to meet, discuss and negotiate. The contacts between the Band and the municipalities have undergone considerable change during the past ten years, with the municipalities gradually recognizing the fact that the Squamish Band is indeed a fourth unit of government on the North Shore.¹¹

The negotiation process is fostering a better understanding of cultural differences, and the goals and priorities that are held by each of the participants. This interaction is indeed an important factor in controlling the conflictual relationships between the groups and keeping the issues that arise between the Band and the municipalities to a relatively low profile. The increased action of the Squamish Band in the local political arena, as they become involved in these processes of negotiation and bargaining, has certainly increased the visibility of the Band and its members at the local political level.

Several questions developed to guide the research reported here, were stated in the first chapter. It was presumed that the municipalities do not accord to the Band the same respect and consideration that they give to one another. It was further suggested that the way the municipalities deal with the Band and its members, will differ from one functional area to another, depending on the relevance of reserve land to particular functions. It was thought that whenever possible, the Band would be ignored by the municipal governments. Only in areas where the Band is in control of its land resources, and a municipality has interests in Band land, as in some traffic and land development issues, was it proposed that the municipalities consult with and negotiate with the Band as an equal. It is also felt that to the municipal councils, as to most people on the North Shore, the Indians are invisible people, and the Band council is an invisible government.

The interviews with the mayors and staff of the municipalities, and with the Band council chairman, support the proposition that reserve land conditions relationships between municipalities and the Band.

When representatives of the municipalities were asked if they consulted with the Band in areas of mutual interest or concern, the response was in each case negative. One municipal staff member admitted that his government had been very remiss in this respect, and added that the Band was generally ignored except when problems arose between the Band and the municipality.¹² Some formal invitations had been extended by the City and the District of North Vancouver to the Band, asking them to send a representative to certain advisory committees, the planning advisory committee in the case of the District, and the traffic and Lower Lonsdale development committees in the case of the City. The Band, it seems, is often informed of meetings by the municipalities, especially West Vancouver, that might be of interest to them. However, the casual nature of the invitations, shows a lack of sensitivity to social and cultural differences. While it is relatively satisfactory to throw out casual invitations to residents of the municipality who are secure in their knowledge of their place and position within the society, a casual invitation to members of the Band is both alien to their cultural practices and difficult to accept for someone who is apart from the mainstream of North Shore life. One of the mayors seemed to be surprised at the interview question about consulting with the Band, and said that he could not think of any interests that the Band and his municipality might have in common, apart from reserve lands.

In terms of the three issues examined, the interviews and other data showed that in issues of land use, the municipalities were forced to some degree, to negotiate with the Band as an equal. The primary reason for this, seems to be the Surrey v. Peace Arch decision.¹³

However, even in this area a certain air of paternalism is exhibited. Representatives of the Band were judged by some of the municipal representatives as being not entirely competent to handle the technical and political decisions facing them, unlike their counterparts on the municipal councils. There was however, a grudging recognition that the Band had progressed tremendously over the past ten years in the competence of its leadership. But it is clear that even in the land use area, where the municipalities bowed to the superior resources of the band they were reluctant to recognize the abilities of the Band council representatives to negotiate and to utilize and protect their resources. Again the major exception to this was that a staff member of one of the municipalities commented very favorably on the abilities shown by Band council representatives responsible for presenting the Band position in negotiations with the senior governments on the cut-off lands.

The fact that the municipalities have been forced to the position of negotiation and interaction with the Band on issues relating to reserve land does in this regard negate the assumption of the invisibility of the Squamish on the North Shore. With respect to its land use interests, the fact that there are negotiations in process, between the Band and the municipalities, is moving the Band council toward the role of a politically visible government on the North Shore. Whether this has had any beneficial effect with respect to regard for individual Indians in social and cultural areas is very dubious. Band members still appear to be relatively invisible to others on the North Shore. There is rarely a reference to the Band, or to identifiable Band members in the press, except for problems and in a rather negative

context. In early summer of 1978, there was a large pictorial history of the development of the Vancouver area in the Park Royal north mall (not on Indian land), including a number of maps showing early settlements around Burrard Inlet. There was not a single reference to Indians in the whole exhibit. In terms of local cultural events, such as those promoted by the historical society at Presentation House, which is a few blocks from the Mission Reserve, there is little if any reference to the historical role of the Squamish on the North Shore. Indian children still grow up feeling apart and different from the rest of society. This is reflected in a newspaper report of an interview with Lois Guss, when she became the first woman member of the Squamish Band Council, and incidentally a rare exception to the nonreporting of Indian affairs in the local press, which would be more positive had the press used the normal form of reference to an adult of some stature in the community, rather than referring to Ms. Guss by her first name:

Having to leave the reserve to go to school is upsetting for for the children, Lois says, since they are brought up in freedom and find it hard to adapt.

She knows how they feel. She went to St. Paul's Indian School as far as grade eight, to the Convent of the Child of Jesus for grade nine and to North Vancouver High for grade 10. And then she dropped out. "I just couldn't take it. There were only three Indians and we felt isolated, outnumbered. It was not that the students were unkind--we were just oddities to them."¹⁴

There is little or no mention of the Band in terms of social life, and interaction with the general population on the North Shore in the press and, as stated earlier, when there is, it is often in a negative context such as the following:

When the people... The last time I stood cocktail glass to cocktail glass with Percy Paull, executive member of the wealthy Squamish Indian tribe, I greeted him with, "Ugh. How, chief?" With a twinkle in his eyes he shot back, "Not how, white brother, but when."¹⁵

In general, the Indian residents of the North Shore, on and off the reserve, are still very much an invisible minority. It is only the strategic location of their reserve land and the decision in the case of Surrey v. Peace Arch, that has moved the Band Council from the status of an invisible government to a position in which the municipal governments are forced to recognize the interests and authority of the Band Council. But this recognition is limited to the land use area, and even in the land use area does not extend beyond the municipal governments to the regional government, as the Greater Vancouver Regional District still ignores the Band and its reserves in their planning for the North Shore as a part of the metropolitan area.

The Actors

In Simeon's case studies, the parties involved were the Federal and Provincial governments, and his analysis deals with interactions and influences between these levels. In the three issues dealt with here, the interactions are horizontal relationships between the parties at the local level, but in addition there are vertical influences on these actors from the senior governments, although the senior governments were not, with the exception of provincial involvement in the Lower Level Road issue, parties to the negotiations and bargaining. Nevertheless, it is possible to identify significant influences of the

senior governments and of the national level of Indian political organization on the local negotiations.

It appears from the case study data, that cultural differences in decision-making processes as well as different perceptions and knowledge of historical events, has also affected the course of negotiations. One cannot ask representatives of the parties whether they were consciously using such differences as tactics in their negotiating, or at least one could not expect full and truthful answers to that question, when the parties will be engaging in further negotiations. But whether deliberately used for tactical advantage or simply remaining in the unarticulated background that forms a part of the political personalities of the Squamish representatives, considerations such as the attitude of the City toward the Mission Reserve before World War I, do appear to have had an effect on current relations in the Third Street case.

In each of the issues studied here there is a process which is continuing in one way or another, but there is no outcome at the time this is written. As stated earlier, there is a real possibility that in the Lower Road and I.R. 5 issues there will be no real resolution in the foreseeable future.

The Future

Indians in North America have continued to exist both in small, definable communities and as an unassimilated minority.¹⁶ They occupy places in urban society both as individuals who have migrated from reserves in hopes of finding a better life, and as with the Squamish Band, as communities that have been surrounded by growing metropolitan areas.

In both situations, Indians face decisions as to the future path they should take:

Indian communities seek a way out of their historical dilemma posed by a dominant, encompassing society: the choice between economic marginality as Indian communities and prosperity through individual assimilation. The solution is seen as successful redefinition of their socio-geographic environment from a condition of marginality to one of productivity in terms of more or less formalized, interactive relationships with the larger socio-economic system. Communities resist pressures to absorb and assimilate them as part of the surrounding culture and society. The larger system is recognized as inescapable and even necessary, but to be dealt with on a contractual basis. Ideas and experiences are diffused among the different Indian communities in the search for successful models to articulate the communities and the general Indian minority into the larger pattern. Such models assure a decent material foundation for existence, with Indian identity maintained and actively utilized as an essential component of satisfactory community life.¹⁷

This represents a very realistic appraisal of the position of Indian groups such as the Squamish Band in contemporary society, as they struggle to combine the old and valued parts of their culture with the complexities and benefits of modern urban life.

The process of negotiations between the Squamish and the North Shore municipalities can in this context be seen as part of the continuing history of Indian-White relations throughout North America. Because of the complexities of the constitutional status of Indians in Canada, the bitterness of past experiences and the great differences in values and norms that divide the Indian and majority cultures, it can hardly be expected that compromise between representatives of these groups will be easily achieved.

For a variety of reasons the Squamish Band has been able to resist the pressure to become absorbed and assimilated into the larger Canadian society. Though there are many negative factors surrounding the past relationships between Indians and the various levels of Canadian government, one fact that has enabled bands like the Squamish to maintain their identity and their land base, is the seriousness with which the Canadian Parliaments have taken their responsibilities toward Indians and Indian land. Had this not been true there would be no Squamish reserves left on the North Shore today, and the band members would have long since disappeared or been assimilated into the general Canadian population. The federal protection itself has made a large contribution to the fact that the Squamish have negotiable assets which they can and do use in the processes of bargaining and negotiation to assure their continued survival as a distinct Indian group within the surrounding Canadian society.

This study has focused on issues of conflict that arise between an urban Indian band and surrounding communities. One important element that has emerged from this conflictual situation is the general realization that the municipalities and the band do at times share common interests and goals. In fact there is today a strong sense of interdependence between them. This realization that these groups cannot live in isolation is an encouraging note for future interactions on the North Shore between these groups. Processes of negotiation and bargaining often help to clarify the similarities between groups as well as their differences.

Footnotes to Chapter V

- ¹Hawthorn, p. I-208.
- ²Simeon, pp. 12-13.
- ³Coleman, p. 6.
- ⁴Nancy Oestreich Lurie, "The Contemporary American Indian Scene", in Leacock and Lurie (eds.), p. 434.
- ⁵Ibid., p. 444.
- ⁶Ibid., p. 447.
- ⁷William N. Fenton, "The Iroquois in History", in Leacock and Lurie (eds.), p. 150.
- ⁸Hawthorn, p. I-199.
- ⁹Interview, Collier.
- ¹⁰Simeon, p. 290.
- ¹¹It should be noted that the Burrard Band may in the future emerge as a fifth unit of government on the North Shore, though at this time it appears that they are virtually invisible to the municipalities.
- ¹²Interviews, mayors and municipal staff.
- ¹³Interviews, Mayor Jones, Chairman Jacobs, Collier.
- ¹⁴Citizen, 28 June 1978, p. 3.
- ¹⁵Citizen, 11 October 1978, p. 1.
- ¹⁶Lurie, p. 418.
- ¹⁷Ibid., p. 419.

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Interviews were conducted for the most part from January 1978 through July of the same year.

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Mayor of the District of North Vancouver

Martin Chesworth
Municipal Planner
District of North Vancouver

Robert Collier
Director of Development
Municipality of West Vancouver

Alaine M. Cunningham
Regional Planner
(B.C.-Yukon Region)
Department of Indian Affairs

Peter Hopkins
Executive Assistant
Minister of Highways, Victoria

David Jacobs
Chairman
Squamish Indian Band Council

Peter Jones
Mayor of the District of West Vancouver

Steven Kozey
Social Planner
Squamish Indian Band

Harry N. Lash
Former Director of Planning
Greater Vancouver Regional District

Jack Loucks
Mayor of the City of North Vancouver

Tony Moody
Member of Squamish Band Council

Paul Roer
Professional Transportation Engineering Consultant

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