POLICY SECTOR CONVERGENCE:
AN EXAMINATION OF ABORIGINAL POLITICS AND FORESTRY POLICY IN
BRITISH COLUMBIA

by

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ABSTRACT

British Columbia is undergoing a transformation in both its forestry policy regime and its regime governing aboriginal policy. Forestry policy has evolved from what once was a closed network, dominated by the ministry of forests and the forestry industry, to a more expansive network that includes a variety of interests. British Columbia's aboriginal policy now recognizes the legitimacy of aboriginal claims to traditional territories, and has correspondingly initiated a treaty negotiation process with B.C.'s First Nations.

A synthesis has emerged between aboriginal politics and the provincial forestry regime in some parts of the province. Consequently, two independant policy sectors have converged and this new policy phenomenon has been unexplored by political scientists. Clayoquot Sound, on the west coast of Vancouver Island, is an area at the forefront of forestry policy development. This thesis, therefore, uses Clayoquot Sound as a case study of sector convergence. In doing so, this thesis explains the phenomena of inter-sector penetration and explores its consequences to policy theory.

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Preface

The supporters of ecological policies were right...in the long run, a balance would have to be struck between humanity, the (renewable) resources it consumed and the effect of its activities on the environment. Scientific expertise could no doubt establish what needed to be done to avoid an irreversible crisis, but the problem of establishing such a balance was not one of science and technology, but political and social.

Eric Hobsbawn, 1994

It has often been said that Canada is country more accurately defined by its geography than its history. A country that encompasses 9 million square kilometers and has only 28 million inhabitants, Canada is a place of unparalleled natural wealth and beauty. From a political science perspective, even more incredible than the geographical statistics, is the fact that 95% of this land falls within the public domain. Each individual citizen shares the ownership of this natural endowment. Governments, therefore, have the responsibility of managing the country's natural wealth, a situation that by its very nature is an implicit political undertaking.

Economic historians have documented the importance that Canada's natural resources have played in its economic and cultural development; Canada is a society built on the exploitation of its natural resources. The historical partnership between government and industry has yielded spectacular economic results, and has helped build one of the most prosperous countries in the world. Yet, the traditional approach to resource development and exploitation is undergoing a profound change.

The management and development of natural resources is a complex task. Unfortunately, we now realize that the historical path of Canadian economic development is unsustainable; one can pursue a finite amount of resources only for so long. Paramount to the long term health of Canada's resource economy is an acute sense of time trajectories -the realization that human technology can far outpace natural regeneration. In hindsight, it is somewhat surprising that we have put so much faith in the management capability of industry and government, both of which are particularly unsuited to perform visionary tasks. Industry and government are inherently short term planners. The government's first priority is reelection and its behaviour continuously reflects that endeavor, and industry is obsessed with quarterly results and must please its shareholders on an annual basis. As a result, an activity that had once been dominated by the values of enterprise, competitiveness, and profitability is under attack. Canadians are demanding that a greater range of values be incorporated into the management of the country's resources. For instance, sustainability and biodiversity are but two aspects of resource development that are now considered by many to be of crucial importance to society's future well being. The forces that are active in transforming the relationship between citizens, government, and resources industries make for a fascinating political phenomenon. This thesis focuses on a small but important part of that larger phenomenon.

Another aspect of Canadian society that is in the process of transformation as well is the place First Nations occupy in the country's cultural and political fabric. The state of

Canada's aboriginal population has been a source of domestic shame and international disgrace. The summer of 1995 has been witness to protest, violence, road blocks, and death, in what has become an all to familiar episode in the struggle of Canada's First Nations. The questions surrounding aboriginal peoples and their place in or outside of Canadian society are some of the most vexing and pressing dilemmas facing contemporary governments.

This thesis has two purposes, one academic and the other more practical. First, it is an attempt to contribute to the theoretical advancement of the discipline. The concern here is with public policy and the contemporary literature of policy analysis, evolution, and change. The second purpose of this work is too offer a succinct and clear analysis of British Columbia's forestry economy and its relationship with the demands of First Nations for a just settlement of land claims. The issue of land claims in B.C. has become a topic of considerable controversy; a controversy largely fueled by misunderstanding and ignorance. It is the hope that this work may provide some insight into the admittedly complicated world of aboriginal politics, forestry policy, and the process of achieving satisfactory settlements for all concerned.

Introduction

There are two issues of inescapable importance to the future for British Columbia: natural resources and First Nations. To date, scholars have treated these two issues as separate matters. Political scientists have provided succinct analysis of the politics surrounding the struggle of British Columbia's aboriginal peoples. So too, have many political scholars provided invaluable insight into the development of B.C.'s rich natural resources, be they forests, minerals, fossil fuels, wilderness, or the fishery. Yet, rarely have the two issues overlapped. This phenomena is understandable given the provincial government's persistent denial of the existence of aboriginal title in B.C. The development of B.C.'s natural resources and subsequent land-use decisions were historically made without much regard or consideration for the province's First Nations. Recent political developments, however, have signaled a dramatic change in B.C.'s position towards the province's First Nations and has subsequently affected the province's authority in resource development decisions. These changes are sweeping in nature, and are sure to alter dramatically the traditional political order governing the development and use of the province's natural endowment.

A complete analysis of the recent developments surrounding natural resources and aboriginal people in British Columbia is beyond the capacity of this thesis. Forestry in B.C. has always been, and remains to be, the principle activity driving the provincial economy. It was the rich forests of B.C. that financed the province's initial development, and it is those same forests which represent the province's continued prosperity. As will

be made clear, any study of natural resources in Canada will necessarily focus on the provincial domain. It must be understood, however, that this is not a study in provincial politics per say; it is a study of public policy. Specifically, it is a study of natural resource policy and the evolving political struggle of B.C.'s First Nations. The purpose of this study is to illustrate the effect of recent developments in provincial aboriginal policy on B.C.'s forestry sector. In so doing, the following analysis will highlight some of the weaknesses that can be found within the contemporary theoretical literature on public policy.

Using the conceptual framework outlined below, this thesis will explain the dramatic transformation that has taken place in B.C.'s forestry regime over the past two decades. This will be followed by an explanation of recent developments in the land-claims struggles of B.C.'s First Nations -which have been equally dramatic- and the increasing significance of these developments to the current forestry regulatory regime. A case study of the events surrounding the land-use controversy of Clayoquot Sound, situated on the west coast of Vancouver Island, will then be presented in chapter 2. Clayoquot Sound has been at the forefront of recent developments in forestry policy and aboriginal people, and clearly demonstrates the changes that are occurring in this policy sector. Finally, I conclude with some comments about the consequences of my analysis, and about what we may expect in the future.

CHAPTER I

<u>Theoretical Framework</u>

The conceptual framework that will be used to explain the changing nature of forestry policy in B.C. will be that of a *regime* analysis. The concept of a regulatory regime is crucial to understanding the evolution of the province's forestry policy. A regulatory regime can be best understood, as explained by Marc Allen Eisner, as "a historically specific configuration of policies and institutions which structures the relationship between social interests, the state, and economic actors in multiple sectors of the economy."[1] George Hoberg has refined the concept of a regulatory regime even further. According to Hoberg, a regime consists of eight elements: policy objectives, policy instruments, government institutions, decision making procedures, government officials, interest group environment, knowledge base, and supporting norms.[2] Hoberg concludes that "the primary purpose of the [regime] concept is to acknowledge the importance of the systemic nature of policy making."[3] In short, a regime framework analysis is useful because it allows one to recognize the interplay of forces that affect the nature of the system and its outcomes.

A second approach to public policy analysis uses the conceptual tools of policy *communities* and policy *networks*. The community/network approach developed as a means to better understand the interaction of participants and subsequent policy outcomes

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[1]Marc Allen Eisner, <u>Regulatory Politics in Transition</u> (Baltimore: John Hopkins University Press, 1993), 1.
[2]George Hoberg, <u>Pluralism by Design</u> (Praeger Press: New York, 1989), 5.
[3]Ibid, 5.

in a specific policy sector. In effect, this approach allows the analyst to identify who the participants are in a particular policy sector (the community), and what the power relationships are among these participants (the network). Although policy analysis normally distinguishes between regime analysis and community/network analysis, or ignores one approach in favour of the other, there is a considerable amount of overlap in the conceptual definitions and understandings of these frameworks. Indeed, the regime framework developed, partly, as a means to address the limitations of the community/network approach. As a result, it is possible to integrate the community/network approach into a regime framework without weakening the principal components of either concept. A synthesis of the two approaches is in order. Such a synthesis both simplifies and enriches the theoretical concepts of policy analysis.

There are three important components to a regime framework: interests, institutions, and ideas. A proper appreciation of these three components is necessary to understand the policy outcomes generated by the specific regime under observation. Eisner emphasizes the importance of these three components by declaring that ideas and interest groups shape the politics and policies within a regime.[4] Institutions, in turn, structure human interaction and define the parameters of political and procedural activity through formal and informal rules. It follows, therefore, as Eisner explains, that the emergence of a new regime is normally combined with institutional change as well.[5] A detailed examination of each component will further clarify their conceptual relevance.

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[4]Eisner, 10.
[5]Eisner, 11.

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The interest component attempts to identify the various factions and stakeholders that have an interest in a particular policy area. All policy sectors have various participants who attempt to achieve a particular policy outcome that favours their own material well-being, particular philosophy, or world-view. Traditional pluralist models of public policy emphasized the interaction of organized interests in determining policy outcomes.[6] It was thought that a policy outcome was a direct result of the interaction between various groups - a battlefield of groups, if you will, that saw its victor determine policy output. Although the pure pluralist model of public policy was eventually rejected as being too crude and simplistic, a clear understanding of interests and organized groups is still an essential component of policy analysis. It is in this endeavor that the use of the policy community as a conceptual tool proves to be useful.

The concept of a policy community, as it is used in this thesis, is largely inspired by the work of Paul Pross. Pross defines a policy community as "that part of a political system that has acquired a dominant voice in determining government decisions in a field of public activity."[7] A policy community, therefore, consists of all those concerned with a specific field of public activity. In many instances, this definition would include a great many people. For the sake of clarity, Pross has further defined the community as consisting of two categories. The larger category called "the attentive public", Pross points out, is neither tightly knit nor clearly defined but may include:

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[6]See Earl Latham, "The Group Basis of Politics" in *American Political Science Review*, #65 (1952).
[7]Paul Pross, <u>Group Politics and Public Policy</u> (Toronto:Oxford University Press, 1986), 119.

> ...any government agencies, private institutions, pressure groups, specific interests, and individuals -including academics, consultants and journalists- who are affected by, or interested in, the policies of specific agencies and who follow, and attempt to influence, those policies, but do not participate in policy-making on a regular basis.[8]

In other words, all those who have a specific interest in a particular public activity, but do not directly participate in policy-making, are members of the attentive public. Those who do directly participate in policy-making belong to the other category that Pross calls the "sub-government" which consists "primarily of government agencies and institutionalized interest groups."[9] The concept is useful because it clearly illustrates the participants involved in public activity. Of course, any description of a regulatory regime must account for the policy community that concerns itself with the particular issue in question. Pross, through his development of the policy community concept, has provided a convenient tool which helps scholars to understand the configuration of the participants involved in determining a policy outcome. Yet, a description of the configuration of participants in a policy community in and of itself has limited meaning. To understand the dynamics of a particular regulatory regime properly, one must appreciate the power relationships that exist amongst the various participants of a particular policy sector. That relationship is determined, in part, by the position a group holds within the community - it may be located on the periphery or firmly entrenched in the sub-government. The position of a group within a community, and its ability to reposition itself, is also determined by the institutional structure that is in place governing the policy sector in question. This brings us to the second component of the regime framework: institutions.

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[8]Ibid, 121.
[9]Ibid, 120-121.

Contemporary political scientists have been increasingly emphasizing the importance of institutions in policy development. "Bringing the state back in", became the rallying cry for a new breed of political scholars who reintroduced institutional structure as an important component of the public policy process.[10] Institutions defined the structure, organization, and rules within which interests were able to further their policy goals. These structures, organizations, and rules were not neutral. On the contrary, they would give certain groups advantages and exclude others from the process. Michael Atkinson, using the work of Fritz Scharf, defines institutions, within the context of policy, thus:

> Institutions can be thought of as configurations or networks of organizational capabilities (assemblies of personal, material, symbolic, and informational resources available for collective action) that are deployed according to rules and norms that structure individual participation, govern appropriate behaviour, and limit the range of acceptable outcomes.[11]

Institutions define the environment in which interests are able to pursue their policy goals. It is interesting to note that within Atkinson's definition we find the use of the term *network*. A policy network, as used by political scientists, illustrates the nature of relationships that exist within a particular policy community and, consequently, it provides greater insight into the resulting policy outcomes of that community. Coleman and Skogstad explain a network as "a concept reserved for describing the properties that

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[10]See, for examle, P.B. Evans, D. Rueschemeyer, & T. Skocpol (eds.), <u>Bringing The State Back In</u> (Cambridge: Cambridge University Press, 1985).
[11]Micheal Atkinson, <u>Governing Canada: Institutions and Government Policy</u> (Toronto: HBJ Holt, 1993), 6.

characterize the relationships" among the participants of the policy community.[12] In addition, the concept of a network integrates and illuminates the relationship between interests and institutions. By integrating the concept of a policy network within the institutional component of the regime framework, policy analysists are better able to understand the structure and relationships of the interests that participate in a particular policy sector.

The final component of the regime framework is ideas. It is the inclusion of ideas that makes the regime framework more comprehensive than the traditional community/network approach. Nevertheless, the precise role that ideas play in policy development has bedeviled political scientists. Just as pluralist theorists once emphasized interests, and as the institutionalist school reemphasized institutions more recently, it has lately become fashionable to emphasize ideas as the predominant agents of policy evolution.[13] And yet, the significance of ideas -or even if they matter at all- in the development of policy change has not been satisfactorily explained in contemporary policy literature. Whether or not ideas are the predominant component in determining policy change seems to be the principle source of confusion. The fundamental question is, does the evolution and change of ideas in society, or within the policy community, explain policy evolution? For instance, it can be argued that changes in interests and institutions must be preceded by changes in ideas. Rational individuals behave according

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[12]William Coleman & Grace Skogstad, Policy Communities & Public Policy in Canada: A Structural Approach (Toronto: Copp Clark Pitman, 1990), 26.
[13]See for example, Paul Sabatier & Hank C. Jenkins-Smith, Policy Learning: An Advocacy Coalition Approach (Boulder: Westview Press, 1993).

to a set of ideas they deem appropriate for their particular situation. Once a new idea emerges, and becomes accepted by groups of people, it follows that political forces will reflect these emerging ideas. Subsequently, these forces will attempt to change the prevailing interests and institutions to better reflect their newly adopted conceptions. For example, proponents of this view would suggest that recent changes evident in the B.C. forestry regime were, in large part, driven by the new ideas that emerged from the environmental movement of the late 1980's and early 1990's. It is this logic that led Harris and Milkis to conclude that "new ideas are the critical element" to a change in regimes.[14] Yet, there is a counter view that believes ideas to be of secondary importance to interests. The extreme, and admittedly crude, version of this argument postulates that interest will seize on particular ideas, of which there are numerous at any given point in time, that advance their own self-interests: "ideas are just hooks, competing elites seize on popular ideas to propagate and to legitimize their interests, but the ideas themselves do not play a causal role."[15] In effect, the debate becomes a "what comes first" question between advocates of the competing views.

The tone of this debate, and its attempt to prove ideas as being the definitive agent of change, has obfuscated and belittled the importance of other factors in policy development. Most scholars would agree that ideas are important. If one is to test the null hypothesis, as Robert Keohane and Judith Goldstein insightfully suggest one should,

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[14]Richard Harris & Sidney Milkis, The Politics of Regulatory Change: A Tale of two Agencies (New York: Oxford University Press, 1989), 25.
[15]Judith Goldstein & Robert Keohane, "Ideas and Foreign Policy: An Analytical Framework" in Goldstein & Keohane, eds., Ideas & Foreign Policy: Beliefs, Institutions, And Political Change (Ithaca: Cornell University Press, 1993), 4. The authors reject the position quoted.

that a particular policy change can be "entirely accounted for by changes in factors other than ideas," many would fail. Consequently, ideas need to be accounted for in a theory of policy change, but they do not necessarily have to be the definitive agent of change. John Kingdon in his seminal work, <u>Agendas, Alternatives, and Public Policies</u>, has provided a useful approach to thinking about the significance of ideas to policy evolution.[16] Kingdon describes policy evolution as the product arising from the convergence of three "streams": problem recognition, formation and refining of policy proposals, and politics. Policy outcomes are a product of the three streams coming together at a particular point in time. Ideas float around in what Kingdon calls a "policy primeaval soup" from which specialists and policy entepreneures attempt to couple "solutions to problems and for coupling both problems and solutions to politics."[17] Ideas are but one component of the process. Other factors, such as interests, public opinion, technology, and electoral politics, play a role as well.

Hoberg also veers away from the "what comes first" argument and attempts to deliver a more subtle explanation that incorporates both ideas and interests as sources for change: "Ideas...are not necessarily taken as givens, and in periods of turmoil, such as the one affecting environmental policy in the 1990's, societal and state actors fight to reshape public philosophies in a manner that best suits their perceived interests."[18] Hoberg and Kingdon avoid the pitfall of emphasizing one component over the others, and, in so

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[16]John Kingdon, <u>Agendas, Alternatives, and Public Policies</u> (Boston: Little Brown & Company, 1984).
[17]Ibid,p.21
[18]George Hoberg, "Environmental Policy: Alternative Styles" in Micheal Atkinson, <u>Governing Canada: Institutions and Government Policy</u> (Toronto: HBJ Holt, 1993), 311.

doing, they contribute a more thorough explanation of the policy process. Regrettably, neither provides a conclusive account of the role ideas play in policy change. At any rate, whatever the importance of ideas are to policy change, there can be little doubt that their addition to a conceptual framework is an important development in the study of public policy.

Unfortunately, an examination of the dramatic change that has occurred in forestry and aboriginal policy in B.C. over the past decade does not solve the aforementioned dilemma. Nevertheless, the degree of dramatic change that has occurred in these two policy areas does present some intriguing insight into the process of policy evolution. The significant rise of environmental consciousness -inspired by ideas of finite resources, sustainability, biodiversity, inter-generational equity and so forth- had a major impact on the forestry regime. The question remains, however, whether it was the development and dissemination of these ideas that led to change, or the motivation of self-interest by the middle-to-affluent, mostly urban class which resulted in the significant rise in power of environmental groups that drove policy change. Given the almost universal concerns with the environment that have arisen over the past decade, one is inclined to believe that environmental ideas were simply too powerful to ignore. The "hook" could not avoid grabbing anything but ecologically inspired ideas. As the following case study will show, it was the adoption and consistent unwavering commitment to new environmental sensibilities among the general populace and environmental groups that fueled the dramatic change that has recently taken place in the forestry sector.

Apart from raising questions concerning the nature of policy change, the following case study clearly reveals a further weakness in contemporary policy theory. To date, contemporary policy theory has developed through a sectoral approach. That is to say, policy analysis -whether it be through a regime framework or the more traditional community/network approach- has consistently focused on one policy sector or another. Atkinson and Coleman, for instance, recognize the significance of the sectoral analysis of policy when they write: "Researchers now recognize that in all countries the pattern of governance will vary (sometimes significantly) across policy systems. The dominant pattern in agriculture may be fundamentally different from the one that prevails in, say, energy."[19] Moreover, political scientists have discovered that similar policy sectors in different countries will resemble each other more than different sectors do within the same country. In addition, it is widely accepted by policy theorists that a successful analytical framework must be "sufficiently elastic to stretch across a variety of policy sectors."[20] The criteria of "elasticity" with regard to policy models is perfectly reasonable. After all, a model that describes one policy sector, but is inapplicable to any other, is of limited use. The sectoral approach to policy studies has been a valuable contribution to the theoretical literature. Unfortunately, as this thesis will show, the sectoral approach needs to be reexamined because it ignores a phenomenon that is appearing all the more frequently in policy developments: inter-sector penetration.

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[19]William D. Coleman & Grace Skogstad, eds., Policy Communities & Public Policy in Canada: A Structural Approach (Toronto:Copp Clark Pitman, 1990), 157.
[20]Ibid, 157.

It is now cliché to write of the ever increasing complexity of the society that governments must govern. Demographic, environmental, fiscal, and technological concerns, to name but a few, have made the art of governing all the more difficult in the modern age. As a result, decisions of one sector often have an affect on a different sector. Policy makers can no longer restrict their knowledge to the confines of their particular ministry or policy domain; decisions can have far reaching implications and, as such, responsible policy makers must be cognizant of the implications to other sectors of their actions. For example, The Ministry of Environment must co-operate, or at the very least be aware of, the activities in the Ministries of Finance, Health, Trade, Agriculture, and others. The boundaries separating one policy domain from another are becoming more and more nebulous. Regime analysis does allow for multiple ministries or government agencies participating in policy development. However, a consequence of the phenomena described above, policy observers are beginning to witness the penetration of one regime or network with another - a situation hereto overlooked by political scientists.

The following case study will clearly show the penetration of the forestry regime in B.C. by the regime governing aboriginal policy. To be sure, aboriginal people have participated in the forestry policy community since its beginnings -albeit at the periphery, and usually in a nominal fashion. However, recent developments in B.C. have thrust the entire aboriginal regime into the forestry sector creating a situation, in some areas, in which aboriginal issues have come to dominate forestry issues. In many areas of the province, forestry policy can no longer be made without substantial input from B.C.'s

First Nations. Implicit in this new reality is the recognition that the aboriginal policy regime has made substantial inroads into the forestry regime. These developments clearly indicate the need for a revision to the traditional sector by sector approach to policy studies.

To fully explain the present circumstances of forestry policy in B.C., there are important characteristics of its history that will be introduced at the outset. An explanation of the legal and political evolution of aboriginal title will also be presented. What follows is a brief history of the forestry regime and the regime governing First Nations and how they have begun to intersect with each other.

British Columbia's Forestry Regulatory Regime 1975-1995

Two of British Columbia's most obvious defining characteristics are its mountains and its trees, both which have made it famous around the world. More than half of the province's 929,730 square km. is forested, and 93% of this land is able to grow commercial timber[21] which accounts for 23% of Canada's productive forest land.[22] Throughout the province's forests, one finds such species as Douglas Fir, Red and Yellow Cedar, Lodgepole Pine, Ponderosa Pine, Western Hemlock, and almost any other tree species found in the rest of the country.[23] The ecosystems upon which these forests depend also provide food and shelter for a great variety of wildlife. British Columbia is

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[21]Frank Cassidy & Norman Dale, After Native Claims? The Implications of Comprehensive Claims Settlements for Natural Resources in British Columbia (Lantzville: Oolichan Books, 1988), 86.
[22]The Scientific Panel for Sustainable Forest Practices in Clayoquot Sound, A Vision and its Context: Global Context for Forest Practices in Clayquot Sound -Report 4. March 1995 p.5
[23]R.C. Hosie, Native Trees of Canada 8ed (Markham: Fitzhenry & Whiteside, 1990)

home to 70% of bird species and 74% of land dwelling mammal species that breed in Canada, and most of these are forest-dwelling.[24] Mountains cover most of the province and trees flourish both in the valleys and on the surrounding slopes. The magnificent topography of the province, covered in rich forests, and the recreational opportunities that it provides, have been consistently enjoyed by visitors. Tourism has been a steadily increasing source of revenue for the provincial economy, and generates increasing employment opportunities. In addition to their geographical and biological splendor, B.C.'s forests represent considerable economic wealth.

British Columbia's forest industry represent the single largest component of the provincial economy. In 1994, the industry as a whole generated over $16 billion dollars worth of sales.[25] These sales in turn provided governments with over $4.5 billion in tax revenue.[26] The industry directly employed 95,500 people in 1994, and there are 116 communities that are fully dependent on the forest industry.[27] There is no doubt that forestry is the mainstay of the provincial economy and will remain the key to its prosperity in the future.

The management of forests in B.C. is somewhat different than that in most other parts of the world. In British Columbia, 95% of the forested land is publicly owned.[28] That is to say, the individual citizens of B.C., represented by "the crown", own the land

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[24]Scientific Panel, p.5
[25]"The Forest Industry in British Columbia 1994". Price Waterhouse, p.27-30
[26]Ibid
[27]Ibid, 1.
[28]Ibid, 7.

and its resources which they entrust to their government for management. By virtue of section 92a of the *Canadian Constitution Act 1982*, each provincial legislature "may exclusively make laws in relation to the development, conservation and management of ...forestry resources in the province.." The provincial government exercises its management responsibilities through the Ministry of Forests and its related agencies such as the Forest Service. Because the forestry industry is so important to the general provincial economy, many key decisions are made at the cabinet level. Nevertheless, bureaucrats in the Ministry of Forests and its related agencies exercise considerable discretionary power in the management of virtually all the forests found in B.C.

Forestry policy is an immensely complex undertaking; as such the policy community surrounding the forestry sector has many participants. For the sake of simplicity, these participants can be divided into four broad categories: *government ministries* and *agencies, industry groups, citizen groups*, and *First Nations*. As was already explained, the Ministry of Forests, with its related agencies, and cabinet are the two most significant government actors. Amongst the industry groups, the most powerful actor is the Council of Forest Industries which is an umbrella organization whose members include the province's most powerful corporations. Another significant group is the forestry worker's union, the International Woodworker's of America (IWA). Traditionally, the IWA has been a vehement foe of the industry. However, the IWA has recently shared common political interests with the industry in its opposition to the increasing influence of environmental groups and First Nations. Within the citizens

group category, one finds groups such as tourist associations and wilderness clubs. By far the most powerful actors within this category are the environmental groups. There are generally two kinds of environmental groups in B.C. The first are groups who are concerned with a specific area, the Friends of Clayoquot Sound, for example, or the Valhalla Wilderness Society. Then there are the groups who have a province wide focus. The most powerful of these groups would include the Sierra Club, Greenpeace, and the Western Canada Wilderness Committee. As we shall see, the transformation that has taken place in the forestry policy regime has been largely due to the increasing political power of the environmental groups. Finally, there are the First Nations who are represented by their individual Tribal or Band affiliations, and who are also represented by larger regional organizations such as the First Nations Summit and the various Tribal Councils.

The management of B.C.'s forests has been historically exercised through a cooperative effort between the Ministry of Forests and the forestry industry.[29] This arrangement was mutually beneficial. The industry was assured a continuous supply of wood, which it subsequently processed and marketed, and in return, the province was assured revenues through stumpage fees and taxes. In addition, the industry ensured employment and economic development in the rural areas of the province. Jeremy Wilson has written about the strength and persistence of the industry/state alliance:

> The state is impelled to protect the interests of the industry
> because, by dint of their control over key decisions on investment,

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[29]See Jeremy Wilson, "Wilderness Politics in B.C." in Coleman &Skogstad. See also, George Hoberg, Regulating Forestry: A Comparison of British Columbia and the U.S. Pacific Northwest. Discussion Paper Series, Government and Competitiveness (School of Policy Studies, Queen's University, 1993)

employment and the like, major companies shape the general level of economic prosperity which government actors regard as a crucial determinant of their re-election chances.[30]

The industry state nexus is further strengthened, as Wilson explains, by the fact that "close ties between government and industry foresters are fostered by common values and educational experiences, along with membership in the foresters' organization, the Association of BC Professional Foresters."[31] The result of this close cooperation between industry and government was a closed policy network. This network ensured that any policy outcome would be acceptable to the industry, and would represent the values and views held by the forestry industry irrespective of what other members of the policy community thought. Wilson specifically points out that under this policy regime, the views of environmental groups and aboriginal people contributed little to policy outcomes: "These groups sit on the periphery of the sub-government zone, closely enough connected to allow them to monitor and influence policy decisions but excluded from regular policy participation."[32] First nations, environmental groups, and others, simply did not have the resources or the political clout to penetrate the closed network that had dominated the forestry regime during this period.

George Hoberg, who has also written extensively on forestry policy in British Columbia, describes the policy style of this period as a "bipartite bargaining" process.[33] This process essentially involved governmental departments and industry representatives

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[30]Wilson, 152.
[31]Ibid, 153.
[32]Ibid, 152.
[33]George Hoberg, "Environmental Policy: Alternative Styles" in Micheal Atkinson, Governing Canada: Institutions and Government Policy (Toronto: HBJ Holt, 1993), 314.

to the exclusion of all others in the policy community: "this policy style is characterized by closed, cooperative negotiations between government departments and industry."[34] Through these "negotiations" policy would be created and subsequently implemented. Hoberg and Wilson both confirm the closed nature of the policy network that characterized this period of B.C.'s forestry policy regime; policy was overtly and deliberately created to benefit forestry companies and their investors.

It should come as no surprise, considering the formidable resources of both government and industry, that this regime persisted for so long. Despite the regime's resilience, the provincial government began to find itself embroiled in an ever increasing series of battles with environmental groups. The environment became a high profile issue during the late 1980's throughout Canada and the western world, and British Columbia, due to the nature of its resource economy, was at the forefront of the rise in this new political mobilization. Environmental groups targeted specific areas that were thought to be ecologically irreplaceable, and therefore, had to be saved from the logger's axe. Two of the earliest high profile cases were Meares Island and the Stein River Valley. Paralleling the rise of environmentalism throughout the western world, environmental campaigns in B.C. received considerable media attention and public sympathy. Through the use of B.C.'s magnificent scenery as a backdrop and skillful manipulation of the media, environmental groups were extraordinarily successful at publicizing the issue. The membership of various environmental groups skyrocketed and consequently they gained considerable political clout. In addition, poll after poll indicated that British

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[34]Ibid, 314.

Columbians held an ever increasing skepticism towards the government's ability to

manage the public forests. The result, as George Hoberg explains, was a crisis of public

authority.[35] The rise of environmentalism exposed the closed nature of the policy regime

and, consequently, the legitimacy of government as representing the interests of all

citizens came into serious doubt.[36]

It became quite clear to those in government that the existing regime dictating

forestry policy was untenable. The province was plagued with "valley by valley" battles

that pitted environmentalists, often in conjunction with aboriginal people, against the

government and, inadvertently, against local forestry workers. Places like South Moresby

Island, Carmanah, the Stein Valley, the Walbran Valley, and others became symbols of

B.C.'s beleaguered reputation among both the general public and international investors.

This soon became an unacceptable situation -something had to be done, and nothing less

than a change in the forestry regime would suffice.

The adopted solution was to "open up" the closed network so that a wide range of

interests could participate in the policy-making process. The new model chosen

attempted to do just that. Hoberg explains:

> British Columbia is in the forefront of developing one alternative
> model, known as consensus-based negotiation, or shared decision
> making. These processes go beyond mere consultation with
> competing interests, to actually devolve some authority over
> policy making to a group of stakeholders. Rather than the

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[35]George Hoberg, "Clayquot Sound And The Crisis of Public Authority". Unpublished presentation to the
UBC Law School Forum: Conflict in the Clayquot: The Decision and Response. Fall 1993
[36]Micheal Howlett, "The Round Table Experience: Representation and Legitimacy in Canadian
Environmental Policy-Making" in Queen's Quarterly #97, 1990. p.580-601

majority rule common to legislatures, these new bodies operate under a decision rule of consensus.[37]

The first attempt at this new process was initiated by the Social Credit government in 1989 when it formed the Clayoquot Sound Sustainable Task Force. Despite the failure of this initial attempt (the task force broke down due to disagreements over short term logging issues, and was later replaced with the Clayoquot Sound Sustainable Development Steering Committee which had partial success), the die was cast. A new regime was beginning to take shape in which various interests had a direct say in the development of policy.

The election of Mike Harcourt's N.D.P. government in the fall of 1991 became a catalyst in the development of this new regime. The N.D.P. had, in part, won the election on its promise to resolve the "conflict in the woods", combined with its generally pro-environment rhetoric. The Harcourt government believed that a shared decision-making and consensus-based process was the solution to solving B.C.'s internecine land-use conflicts. To this end, in January of 1992, the government announced the formation of the Commission on Resources and the Environment (CORE) -a new institution that was to develop a comprehensive land-use plan for various regions of the province through multi-stakeholder negotiations. It was this decision more than any other that signalled the end of the old regime. Many of the groups that were simply members of the attentive public under the previous regime suddenly found themselves in the forefront of the policy-making process. For instance, the CORE round-table that developed the land-use

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[37]Hoberg, "Clayquot Sound And The Crisis of Public Authority"

plan for Vancouver Island included representatives of the following interests: Agriculture, Conservation, Direct Forest Employment, Fishery, Forest Industry Independents, Forest Industry Manufacturers and Managers, General Employment, Local Government, Mining, Outdoor Recreation, Provincial Government, Social and Economic Stability, Tourism, and Youth.[38] George Hoberg has defined the policy style that characterizes this new regime as *multipartite bargaining*: "The range of relevant societal interests has been expanded as the traditional bipartite bargaining of the old style has been replaced by an expanded bargaining process including environmentalists and other groups."[39] In effect, the bargaining style, which was once characterized as a closed and highly discretionary network, has expanded to include multiple actors representing various interests that resembles a policy matrix more than a policy network. Nevertheless, this new policy regime represents a radical change from conventional forestry policy practice.

It is interesting to note the relatively neutral stance taken by B.C.'s aboriginal peoples during this period of transition in the forestry regime. Despite initial cooperation between environmentalists and aboriginal peoples, First Nations maintained a resolutely independent stance throughout this period. For instance, there was no aboriginal representation at some of the CORE round-table negotiations. Also, First Nations were notably silent during the summer of 1993 when over 800 people where arrested in a massive civil disobedience campaign organized by environmental groups at Clayoquot Sound. This is not to say that aboriginal peoples where not concerned about

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[38]"Vancouver Island Land-Use Plan", Commission on Resources and the Environment. February 1994
[39]Hoberg, "Environmental Policy: Alternative Styles" in Atkinson, 317.

developments in the forestry sector. On the contrary, aboriginal peoples have always emphasized the importance of forests to their cultural and economic survival. The reason for the seemingly passive aboriginal position during this period of transition was the fact that First Nations in B.C. were themselves in the process of dramatically altering the political landscape of aboriginal policy.

British Columbia Aboriginal Policy

In order to properly understand the regulatory regime surrounding aboriginal people in B.C., one must first appreciate the political struggle that British Columbia's aboriginal people have been waging since the establishment of the first British colony west of the Rocky mountains in 1849. This political struggle has consistently focused on one issue: land. The history of Canadian settlement has always been preceded by Treaty negotiations between aboriginal people and the federal government. The only exception to this process, apart from some places in the arctic and small areas in the Maritimes, is in British Columbia. Despite the initiation of a Treaty process in 1850, by the then governor James Douglas, that produced 14 treaties on Vancouver Island, covering small areas surrounding Victoria, (and treaty # 8 which covers most of northern Alberta and extends into the northeast corner of B.C.), no treaties have ever been negotiated, agreed to, or signed by any First Nation in B.C. Prior to 1991-92, the provincial government had steadfastly refused to recognize the existence of any aboriginal title in B.C. In effect, British Columbia subscribed to the concept of *terra nullius* -a piece of legal fiction that asserts the colonist's settled in an "empty land". Australia, the only other member of the

British Empire to use the legal gimmickry of *terra nullius*, abandoned the practice with the famous Mabo decision in 1993. Furthermore, British Columbia has consistently claimed that all aboriginal matters are in the federal government's jurisdiction as stipulated in the Canadian Constitution; hence, the province conveniently washed its hands of all aboriginal affairs and ignored the issue for over a hundred years. Despite the tenacity of the B.C. government's position throughout most of the twentieth century, it became quite clear by the 1980's that things would have to change.

The policy community surrounding aboriginal policy in B.C. is relatively simple compared to the policy community surrounding the forestry sector. The Canadian Constitution specifically states in class 24 of section 91 that "...the exclusive Legislative Authority of the Parliament of Canada extends to...Indians, and Lands reserved for the Indians."[40] Consequently, the federal government is the most important member of the aboriginal policy community. Of course, by virtue of geography and its jurisdiction over land and resources, the provincial government is also an actor in the policy community, but only since the 1980's has it been of any significance. For most of its history, the B.C. government did not have a ministry of aboriginal affairs. The only public agency dealing with aboriginal people that existed in the province was the Provincial Advisory Committee on Indian Affairs (later the Indian Advisory Committee-IAC). The IAC was established in 1950 and, as the name implies, was a secondary agency with only an advisory role. It was not until 1988, when the provincial government established a

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[40]*Canada Constitution Act 1982*, section 91:Class24

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Ministry of Native Affairs, that the province become a significant member of the policy community.

The final member of the policy community are the aboriginal people themselves. British Columbia has a long history of aboriginal political organization.[41] Historically, two of the biggest and most active organizations were the Union of B.C. Indian Chiefs (UBCIC) and the B.C. Association of Non-Status Indians (BCANSI). During the 1970's -a period which saw a dramatic resurgence of aboriginal ethnicity, traditions, and demands for self-determination- both these organizations were perceived as being too bureaucratic, ineffective, and increasingly isolated from the "grass-roots". They both collapsed in 1975.[42] Aboriginal political organization proceeded at the tribal level: "the collapse of the two big organizations further stimulated the growth of tribalism; new tribal councils were formed and land claims preparation now became focused at the tribal level...tribal councils and the tribal groups would be the major political entities among the aboriginal population."[43] In summary, it must be noted that aboriginal organizations have historically been part of the attentive public and have only recently become directly involved in policy making.

Aboriginal people in Canada have often been referred to as "wards of the state", and historically this characterization has been accurate as they have had little influence or

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[41]See Paul Tennant, Aboriginal Peoples and Politics (Vancouver:UBC Press, 1990).
[42] "Government To Government: Aboriginal Peoples and British Columbia" A Report prepared for the *Royal Commission on Aboriginal Peoples*. Darcy A. Mitchell and Paul Tennant 1994 -Forthcoming publication- p.22-27
[43]Ibid, 25.

power in matters concerning their own welfare. The policy regime that governed

aboriginal people for most of the century was primarily a product of the Federal

Department of Indian Affairs and Northern Development (DIAND). Policy was created

by bureaucrats in Ottawa, and any policy outcome was simply dictated to aboriginal

people. Any policy network that existed was purely a product of internal DIAND

bureaucratic politics. For years, the explicit policy of DIAND was to assimilate

aboriginal people as quickly as possible into the dominant Canadian society. Absolutely

no consideration was given to the preservation of the ethnic and cultural integrity of the

First Nations, let alone to their own political self-determination. As head of the Indian

department from 1913 to 1932, Duncan Campbell Scott introduced much of the Indian

Act, which is still in effect today. Scott did not mince words about his department's

intentions for Canada's aboriginal people: "Our objective is to continue until there is not

a single Indian in Canada that has not been absorbed into the body politic, and there is no

Indian question."[44] Canada's official policy was "no more Indians".[45] The release of

Pierre Trudeau's White Paper in 1968 -a document outlining the governments proposed

aboriginal policy reform- essentially prescribed an aboriginal policy with the same goals

as those expressed by Scott 55 years earlier. This time, however, aboriginal people would

have none of it. The White Paper was intensely criticized and faced a massive political

mobilization by Canada's aboriginal population. The government was forced to

withdraw its proposal, and the beginning of change within the traditional aboriginal

policy regime was about to take place.

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[44]Found in Dan Smith, The Seventh Fire, The Struggle For Aboriginal Government (Toronto: Key Porter Books, 1993), 39.
[45]Ibid, 36.

The political mobilization and organization of aboriginal people that developed in the aftermath of Trudeau's failed White Paper corresponded with the increasing prominence of Canadian courts in the aboriginal policy regime. In fact, it is reasonable to suggest that it has been the Canadian Judiciary that has had greater significance to the changing regime governing aboriginal policy than any other single institution. Through a series of cases at both the federal and provincial levels, the courts have been single-handedly responsible for enhancing the political power of aboriginal people and their demand for substantial policy reform. Over a twenty five year period, from 1969 to 1994, the courts began to articulate the specific rights of aboriginal people. As a result, First nations found themselves in an increasingly powerful position in the policy network. An examination of the legal history surrounding the question of aboriginal title in B.C. clearly illustrates this phenomena, and is critical to understanding the effects of contemporary aboriginal policy on the forestry sector.

In British Columbia, the reform demanded by First Nations has always emphasized land claims as the top priority -often to the exclusion of anything else. The legal force behind a land claim is the recognition of an aboriginal title to land. It is this recognition that governments had consistently denied. First Nations, therefore, have pursued an alternative strategy and sought the confirmation of aboriginal title through the courts. The first significant case in this matter was launched by Frank Calder who represented the Nisga'a people of the Nass river valley in British Columbia, who was

represented by his lawyer Thomas Berger. The Nisga'a "brought an action against the

Attorney-General of British Columbia for a declaration that the aboriginal or Indian title

to certain lands had never been lawfully extinguished."[46] Specifically, the Nisga'a sought

a two part declaration: first, recognition that they had held aboriginal title to their lands

prior to British Sovereignty, and second, that they continue to hold aboriginal title -as no

formal transfer or other extinguishment of title has occurred since then.[47] Inevitably, the

case made its way to the Supreme Court of Canada. It was the first time that the Supreme

Court would have the opportunity to consider the question of aboriginal title. On January

31, 1973, the court announced its decision.

On the question concerning the existence of aboriginal title prior to British

Sovereignty, the court unanimously agreed that it did exist. On the second question of

whether or not that title has since been extinguished, the court split three to three with one

member -in what surely must be seen as the judicial cop-out of the century- abstaining.

Justices Hall, Spence, and Laskin, were unequivocal in their belief that aboriginal title

was still in existence. Justice Hall, writing for the three dissenting judges, stated:

> There is an aboriginal Indian interest usufructuary in nature which
> is a burden on the title of the Crown and is alienable except to the
> Crown and extinguishable only by a legislative enactment of the
> Parliament of Canada. This aboriginal title does not depend on
> Treaty, executive order or legislative enactment but flows from
> the fact that the owners of the interest have from time immemorial
> occupied the areas in question and have established a pre-existing
> right of possession. In the absence of an indication that the

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[46] "Calder et al. v. Attorney General Of British Columbia". 34 *Dominion Law Reports* (3d) 1973
[47] Paul Tennant, "Aboriginal Peoples and Aboriginal Title in British Columbia Politics" in Ken Carty ed.
<u>British Columbia Government and Politics</u> (Vancouver:UBC Press, 1995). Forthcoming

sovereign intends to extinguish that right the aboriginal title continues.[48]

The Nisga'a had won a clear moral victory despite the lack of a clear legal one. And, as we shall see with subsequent court rulings, the Calder decision did have a significant impact on policy. As a direct result of the Supreme Courts' ruling, the federal government embarked on a limited land-claims negotiation process in non-treaty areas which included the Nisga'a territory. However, the provincial governemnt ignored the ruling and the status-quo held firm; the B.C. policy towards First Nations remained unchanged.

The second time the question of aboriginal title arrived before the Supreme Court, the decision was less ambiguous and the definition of what constituted an aboriginal title was further advanced. The case involved the Musqueam reserve in the city of Vancouver. What is particularly germane to our purposes here was the court's affirmation that aboriginal title extended not only to reserve lands but also to "traditional tribal lands".[49] First Nations were no longer restricted in their claims to reserves, but rather they could now lay claim to huge areas of the province. This possibility would soon be tested.

Shortly after the Guerin decision was announced, the Clayoquot and Ahoust First Nations began protesting MacMillan Bloedel's (MB) plan to log Meares Island located in Clayoquot Sound on the west coast of Vancouver Island. The First Nations, with significant cooperation from environmentalists, erected a blockade preventing MB

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[48]op. cit #45, p.146
[49]*Guerin v. Regina* (1984) 6 Weekly Western Reports [1984], [Supreme Court of Canada]

employees from proceeding with logging activity on Meares Island. Both MB and the First Nations sought injunctions from the court to stop the activities of the other (the particulars of the case are explained in chapter two). The case made its way to the B.C. Court of Appeal and a decision was announced on March 27, 1985.

The court -in a three to two decision- granted the injunction to the First Nations. The B.C. Court of Appeal, armed with the recent jurisprudence of the Supreme Court of Canada, decided that the question of Aboriginal title could not be rejected and that until the issue of the Clayoquot and Ahousat land claim is resolved, no development activity could take place on the area of dispute (in this case, the whole of Meares Island).[50] The impact of this judgment on aboriginal politics in B.C. was nothing short of monumental. For the first time, a court of law had suspended the province's authority over a land-use decision. B.C.'s First Nations suddenly found themselves possessing the power of injunction -a considerable weapon for their land claims battle with the province. Soon after the Meares decision, aboriginal people around the province began blockading development activity on their claimed land. In at least a half dozen cases, similar injunctions to those protecting Meares Island were granted by provincial courts.[51] The turmoil that this situation created within government, and more importantly within the investment community, cannot be over emphasized. The province could not allow this uncertainty to continue.

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[50] "Macmillan Bloedel ltd. v. Mullin et al.; Martin et al. v. R. in Right of British Columbia et al." *Western Weekly Reports* [1985] 3 W.W.R. p.577
[51] "Government To Government: Aboriginal Peoples and British Columbia", 27.

Over the proceeding five years, the newly elected Social Credit government of Bill Vander Zalm began a slow process of revisiting the province's aboriginal policy that had remained unchanged since 1871.[52] The government had still not acknowledged the existence of Aboriginal title, nor had it announced any specific policy proposals. However, it was quite clear that the beginnings of a process leading towards policy change was taking place. Part of this process was the establishment of the British Columbia Claims Task Force. As the various participants realized that land claim negotiations were inevitable, many questions were raised about the kind of process through which these settlements would be reached. Accordingly, the Task Force was asked to "recommend how the three parties (The First Nations of B.C., the Government of British Columbia, and the Government of Canada) could begin negotiations and what the negotiations should include."[53] The Task Force's final report was submitted in June, 1991. The Social Credit government at that time was struggling through a period of internal turmoil as it prepared itself for a fall election; no detailed response to the task force's recommendations was made. That fall, Mike Harcourt's N.D.P. party, having campaigned on substantial aboriginal policy reform, won a decisive electoral victory. By December 10th of the same year, both the provincial and federal governments had announced the adoption of *all* the recommendations made by the task force report -the regime governing aboriginal policy had finally changed.

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[52]Ibid,p.28

[53]*The Report of The British Columbia Claims Task Force.* June 1991, 1.

With the emergence of a new regime came the genesis of a new institution; the British Columbia Treaty Commission, as was recommended in the task force report. The Commission was established as a "keeper of the process". Specifically:

> A British Columbia Treaty Commission, sensitive to the realities in the province, should be given the job of co-ordinating the start of negotiations. This will require extensive communication with all three parties to ensure they are prepared to begin negotiations at the same time. Once negotiations begin, the parties must assume responsibility for co-ordination of their activities and set their own schedule. The role of the commission would then change to one of monitoring the progress that the parties make toward the targets they have set.[54]

In other words, the Commission is to oversee a process that will lead to the resolution of treaty negotiations in B.C. The task force report is the Commission's guiding document and its recommendations are the fundamental principles which direct the Commission's operations. Indeed, many participants in the process commonly refer to the task force report as "the Bible".[55] There are two specifics of the report that are germane to our purposes here.

The first, is the report's emphasis on and confirmation of the importance of "Land, Sea, and Resources" to the history and the future of aboriginal people in B.C. The resolution of resource issues is therefore critical to the successful completion of the project. The report lists the following specific issues that need to be addressed and resolved through treaty negotiations:

1. Certainty of ownership and jurisdiction over land, sea, and resources.

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[54]Ibid, 36-37.
[55]Paul Tennant, "Aboriginal Peoples and Aboriginal Title in British Columbia Politics", 19.

2. Identification of territories and resources over which First Nations have ownership, and those over which they exercise jurisdiction.

3. Coordination of management regimes to ensure efficient and effective resource development, as well as sustaining the land, sea, and resource base for future generations.

4. Implications of changes to ownership and jurisdiction.[56]

It is interesting to note the distinction the report makes between resources that First Nations have *jurisdiction* over, and those they *own*. This distinction suggests that First Nations will not necessarily own the land and resources they claim outright. One can easily envision a situation in which the Crown maintains its ownership of land, but gives full or partial management jurisdiction over to First Nations. In effect, a cooperative arrangement might emerge whereby the crown and First Nations share management responsibilities. The exact nature of these cooperative relationships is still unclear. The emergence of this new type of regime would naturally have a substantive impact on the regime governing the forestry sector. First Nations would share power equally with the government over regulatory decisions and responsibilities. In certain areas of the province, First Nations would move from the periphery of the policy community to being a principle participant of the sub-government -a situation unprecedented on off-reserve land. This possibility is no fantasy. It is, on the contrary, a reflection of what is presently occurring with "interim" agreements signed by the Province and First Nations.

The second proposal put forth by the report that has a significant impact on the forestry sector is the need for "Interim Measure Agreements" (IMA). These agreements

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[56]*The Report of The British Columbia Claims Task Force,* 26.

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should be designed to protect the natural resource interests of all parties in the claimed

areas. It is quite obvious that as negotiations take place, resource development cannot

proceed simultaneously without the agreement of all parties -a fresh clear cut forest is of

no immediate good to anyone. The IMA's are recommended by the report as a solution to

this dilemma. Specifically the report recommends "the parties negotiate interim measures

agreements before or during the treaty negotiations when an interest is being affected

which could undermine the process."[57] The report goes on to define what an IMA should

consider:

> Interim measures agreements may affect the management and use
> of lands, sea, and resources and the creation of new interests.
> They may facilitate the access to and development of resources,
> often a useful means of dealing in a preliminary or experimental
> way with a contentious issue, or provide transition to
> implementation of the treaty.[58]

Consistent with its acceptance of all the task force's recommendations, the government of

B.C. has negotiated and signed several IMAs since the treaty process was initiated. As of

July 1995, the province had signed seven agreements with First Nations that dealt directly

with land and forestry management, two of which are in Clayoquot Sound.[59] The Nuu-

chah-nulth of Clayoquot Sound have advanced further in this process than anyone else

(See Chapter 2). As the government points out, these agreements do not include "the

numerous ongoing processes of consultation between government and First Nations

which occur throughout the province."[60] Nor do they include the almost dozen

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[57]Ibid, 65. -Recommendation #16-
[58]Ibid, 63.
[59] Government of B.C., "Signed Agreements Between the Province of Britisn Columbia and First Nations -
Updated July, 1995" p.1-6
[60]Ibid, 1.

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agreements that are presently being negotiated.[61] It is quite evident, as will be illustrated

in the case study of the Nuu-chah-nulth, that First Nations have begun a process of

sharing management responsibilities over resources with the provincial government.

The result of these new agreements is a change in the forestry regime governing

the areas to which First Nations lay claim. Some might dismiss the significance of this

new phenomena as nothing more than a repositioning of First Nations within the forestry

policy community. This conclusion, however, is too simplistic. As the Clayoquot Sound

case study will show, First Nations have moved from the periphery to the sub-government

within the policy community. In addition, a new management regime has been created

that includes the development of new institutions which differ considerably from the old

management regime. Governing responsibilities have expanded from an exclusive state

controlled bureaucracy to co-operative agencies that include substantial aboriginal

participation. In short, B.C. is experiencing a process of transformation in its forestry

and aboriginal policy sectors. The product of this transformation is yet to emerge, but it

will certainly combine elements of the two old regimes while incorporating new priorities

and ideas. The significance and the consequences of these changes within these two

sectors will be explored in chapter 3.

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[61]Government of B.C., "Agreements Under Negotiation Between the Province of Britisn Columbia and First Nations -Updated July, 1995" p.1-5

Chapter 2

The Nuu-chah-nulth and the Management of Public Lands in Clayoquot Sound: A Case Study

Clayoquot Sound is a 262,000 hectare land mass comprised of a complex network of pristine watersheds, islands, waterways, fjords, and old growth forests, located on the west coast of Vancouver Island. It is considered a spectacular example of a Coastal Temperate Rain Forest (CTR).[62] Unfortunately, it is one of the few intact examples of a CTR left on Vancouver Island. Three of the five remaining pristine watersheds with an area greater than 5000 ha. are found in Clayoquot Sound.[63] Clayoquot Sound has long been recognized as a natural wonder. Indeed, prior to the recent land-use decision for the area, the federal government had set aside a portion of the Sound to create Pacific Rim National Park, and the provincial government had included some of the Northeast portion of the Sound in Strathcona Provincial Park. Apart from its natural beauty, Clayoquot Sound also represents considerable resource wealth: 93% of the area is forested and almost 70% of these forests are commercially productive.[64] These forests are predominantly comprised of primary or old-growth forest which represent a valuable commodity in the forestry economy. In addition to its natural and commercial significance, Clayoquot Sound has been home to the Nuu-chah-nulth people since time immemorial, and they have always demanded recognition of, and jurisdiction over, their traditional territory. In an age of industrial forestry, aboriginal self-determination, and

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[62] Scientific Panel, Report 4 -p.7
[63] Scientific Panel, Report 4 -p.8
[64] Ibid, 7.

increasing environmental consciousness, Clayoquot Sound is an excellent microcosm of the larger conflicts and dilemmas that face policy makers in B.C. and Canada.

The primary human activity in Clayoquot Sound has always been economic. Historically, First Nations in the area prospered through extensive trading activity with other Indian peoples. The indigenous peoples of the area, named the Nootka by Europeans, were, like most natives of the Pacific Coast, a sedentary people who relied on the rich marine environment, particularly the abundant supply of salmon, for their food. They developed rich cultural practices and lived according to a complex hierarchical social organization.[65] Trade flourished due to the use of the sea as a natural waterway. The cedars that grew to incredible heights in the damp coastal climate provided material for shelter, tools and transportation. For example, giant cedars were used to build large ocean going vessels. As Diammond Jennes explains, the Indians of the Pacific coast were the most prolific traders on the continent: "They developed commerce into a high art."[66] Trade was further enhanced by the cultural similarities of the various west coast Indian peoples. Despite the considerable differences of language, a common "trade language" of about 200-300 words evolved. The abundant natural resources of coastal British Columbia coupled with vigorous trading activity allowed the Nootka to develop a prosperous society.

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[65] See Diamond Jenness, Indians of Canada (Ottawa:Queen's Printer, 1932), Chapter XXI.
[66] Ibid, 114.

Wood, in and of itself, was never considered a trading commodity by the Nootka. Trees were important as building materials and forests were places of spiritual practice. The commodification of wood began with the arrival of European settlers. The abundant forests of the west coast became lucrative once technology allowed for the harvest and transportation of lumber to regions where wood was needed. The ability to harvest and transport lumber over long distances gave settlers good reason to engage in commercial forestry. There is nothing to indicate that lumber would have been excluded from the Nootka export economy if the they had possessed the technology to transport and market their wood supplies to other regions of North America. Indeed, the forests of Vancouver Island are seen today as being the key to aboriginal economic development.

With the settlement and colonization of Vancouver Island, industrial resource extraction became an ever increasing economic activity. Although extensive mining and fishing activity took place, it has always been the rich forests of the Island that has attracted the most economic interest. It was not long before Clayoquot Sound and the rest of the Island's plentiful forests were incorporated into the province's forestry management regime. As was explained in chapter one, that regime was solely concerned with economic development and rapid industrial expansion.

Once British Columbia joined Confederation, the province's aboriginal people came under the legislative jurisdiction of the federal government. As stipulated by the Indian Act, the Nootka people were organized into various bands whose membership

loosely followed traditional tribal affiliations. In 1958, the various bands on the west

coast of the Island decided to organize a governing body inspired by the successful

Nisga'a Tribal Council that united the various Nisga'a bands located along the Nass River

in Northern B.C. This new organization, originally called the *Allied Tribes of the West*

Coast, subsequently changed its name to the *Nuu-chah-nulth Tribal Council*, governed 15

bands with a population today of approximately 4200 people.[67] The Nuu-chah-nulth

Tribal Council soon emerged as one of the most powerful political voices in the province.

Paul Tennant, a leading authority on the political history of B.C.'s aboriginal people,

writes:

> The Nisga'a Tribal Council and the Allied Tribes of the West
> Coast ...both proved to be stable and permanent organizations;
> both had important effects on Indian outlook and political
> activities throughout the province; and both produced leaders of
> province-wide and nation-wide reputation and influence.[68]

It is important to understand that the formation of the Councils was purely an aboriginal

initiative. The Council is an attempt to re-unite the various bands into historical tribal

affiliations, and in so doing attempt to return to some semblance of their historical

political organizations.

Aboriginal people have been intimately involved in British Columbia's forestry

industry since its beginnings. Native people initially participated in the forest economy

both as laborers and as owner/operators of small mill operations. During the 1930's and

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[67]Nuu-chah-nulth, meaning "all along the mountains", was devised in 1978 to name all the tribes that had
been formally known as the Nootka people. Nootka was a European misnomer and there existed no
traditional collective or national name for the Nootka people.
[68]Paul Tennant, Aboriginal Peoples and Politics, 124.

40's, as the industry consolidated and became more mechanized, small aboriginal firms were squeezed out.[69] The demands of an ever increasing global market, the depression, and the increasing substitution of capital for labour in forestry operations, left aboriginal people on the margins of the industry.

In British Columbia there are 198 Indian Bands with more than 1,600 reserves that encompass an area of 338,000 hectares. Within this area Forestry Canada has classified 156,000 hectors (46%) as forest land. All forestry activity that takes place on reserves is administered by the federal government under the "Indian Forest Lands Program". To date, most of all the economically viable stands that are on reserve land have been heavily exploited.[70] In 1985, the federal government launched the *Forest Resources Development Agreement* (FRDA). Under this agreement the government initiated the *First Nations' Woodlands Program* in the hope of reestablishing a viable reserve forestry industry through the establishment of reserve woodland inventories and the creation of new management plans. Subsequent to FRDA I, the government launched FRDA II in 1990 that focused on the rehabilitation of reserve woodlands. Approximately 80 Bands are active under FRDA II. Actual harvesting plans are conducted by individual bands or by DIAND.

The Nuu-chah-nulth have rich forestry lands within their reserves and throughout their traditional territory. Recognizing the wealth that is represented by their forestry

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[69]Cassidy & Dale, p.88

[70] "A Proposed Aboriginal Forestry Strategy For the BC Forestry Industry", Interim Discussion Report for the Council of Forest Industries. March 1994, p.29

resources, the Nuu-chah-nulth Tribal Council launched a comprehensive forestry program in 1978. The Nuu-chah-nulth have 168 reserves covering approximately 4900 hectors. The forestry program set out to reorganize forestry activity within Nuu-chah-nulth territory. The most pressing task was the rehabilitation of land that had been intensively harvested during the 1960's. The Council also recognized the need to embark on a more comprehensive management strategy and subsequently hired a full time forestry manager in 1980. The NTC forestry program has been primarily concerned with rehabilitation of its forestry holdings, and in this regard it has embarked on extensive silviculture activity.

Training in forestry operations has also been a priority for the Council. In order to ensure efficient management of its forestry holdings, the NTC has organized a variety of projects designed to teach proper forestry practices and management techniques. Many small business ventures have been launched to generate revenue for various bands and to provide "hands-on" experience for band members. These businesses include portable sawmill operations, Christmas tree farms, and a very successful tree nursery which sells its products to MacMillan Bloedel and Canadian International Paper among others. NTC forestry operations have contributed significantly to economic activity in the Port Alberni region.[71]

Despite the considerable success of the NTC forestry program, it has not been able to expand beyond its reserve lands because the rich forestry resources surrounding the various Nuu-chah-nulth reserves are tied up in Tree Farm Licenses. For years the NTC

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[71]Cassidy & Dale, 112.

has been unable to affect policy decisions that have been made concerning crown land. The fact that the NTC considers much of this land to be part of their territorial claim intensifies their frustration. Frustration turned to action in late 1984 when MacMillan Bloedel initiated logging operations on Meares Island in the heart of Clayoquot Sound -a perfectly legal operation as stipulated in their TFL 44 agreement. The ensuing conflict would have repercussions far beyond the confines of Nuu-chah-nulth territory, and would signal a dramatic shift in the political aspirations of aboriginal people in British Columbia. The battle for Meares Island, more than any other single event, reshaped the political landscape surrounding First Nations, land claims, and forestry in B.C.

Meares Island

Meares Island covers an area of 8,500 hectares and is dominated by two mountains, Colnett and Lone Cone. 95% of the Island is still covered by its prehistoric rainforest. The only settlement on the Island is the native village of Opitsaht (pop. 200) which has been inhabited continuously for over 5000 years.[72] The natural beauty of Meares Island is astounding. Some of the largest Red Cedar, Hemlock and Douglas Fir trees in the world can be found on the island; it is not unusual to find trees 200 feet high and 15 feet in diameter. These trees provide ideal habitat for a wide range of birds and plant species. The pristine condition of the Island ensures a healthy and vibrant aquatic life including salmon, seal, otter, and whale. Among the animal species that inhabit Meares, one finds black bears, cougar, eagles, and a distinctive Vancouver Island subspecies of wolf that

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[72]Meares Island, Protecting a Natural Paradise. Friends of Clayoquot Sound & Western Canada Wilderness Committee1985.

has spent some time on the endangered species list. The ecological health of the Island is directly related to its old-growth forests. Unfortunately, it is these same old-growth forests that represent significant wealth to forestry companies.

There are two small reserves on the Island and the rest, about 95%, is Crown land. Meares Island is divided into two Tree Forest Licenses: TFL 44 held by MacMillan Bloedel (MB) and TFL 46 held by British Columbia Forest Products (BCFP). Under normal procedures MB was legally entitled to log its portion of Meares Island and was restricted only by its annual allowable cut quota. Consistent with the established forestry regime, The Nuu-chah-nulth had no say in the land use decisions governing the area. In 1980, MB announced that it had begun plans to liquidate the old-growth forests found within its TFL on Meares Island. Local residents and the Nuu-chah-nulth immediately objected to any logging activity in the area. A group of citizens from Tofino and the surrounding area formed *The Friends of Clayoquot Sound*, a registered B.C. society, to "save" the Island. Here was the germination of the uneasy alliance between environmentalists and aboriginal people that has been so successful at challenging the industry/government monopoly over Crown Land use decisions in B.C.

Meares Island was not the first instance in which aboriginal people in British Columbia had asserted their claims to traditional territories. As explained in chapter one, land claims have been at the centre of B.C.'s aboriginal community struggle since colonization. However, Meares Island represented a case in which the grievances of

aboriginal people were given sustained national publicity. Environmentalists realized that

through an alliance with the Nuu-chah-nulth, they would strengthen their position against

the government/industry nexus dominating land-use decisions. On their own,

environmentalists could only appeal to public opinion for support. In contrast, First

Nations had a credible legal case supporting their claim to aboriginal title. One possible

outcome of litigation was a court injunction -a powerful weapon in the fight for forest

preservation. It was through the courts that the "Save Meares Island" campaign found its

only viable chance for success. Yet, no court in B.C. had ever before recognized

aboriginal title. Under these circumstances, a litigation strategy by no means assured

success.

In order to fully appreciate the significance of the activity that took place in the

courts, we must briefly return to 1980. As was already mentioned, there was considerable

public outcry when MB announced its intention to commence logging on Meares Island.

In response to the public's concern, the Forests Minister Tom Waterland announced the

formation of a government-sponsored public involvement process centering upon the

Meares Island Integrated Planning Team (MIIPT). The idea behind the planning team

was to open up the land-use planning process to interests outside of the government and

industry. It was the first attempt at a multi-stakeholder bargaining regime designed to

accommodate a wide range of views -a process the government would attempt to continue

in the Clayoquot region and eventually use Province wide (see CORE in chapter 1). It

was also an early indication of the evolution taking place in the traditional forestry

regime. As will be made clear below, the closed network still remained relatively intact. However, the network was beginning to show signs of weakening in the face of pressures put forth by environmentalists and First Nations. At the very least, the formation of the MIIPT was a remarkably prophetic indication of the transition that was to occur in the forestry regime in B.C.

The MIIPT had ten members: three from the logging industry, one from Macmillan Bloedel, one from British Columbia Forest Products, and one from the International Woodworkers of America (IWA); four members were from government agencies, Fisheries and Oceans, Marine Resources Branch, Ministry of Forests and Parks Canada. The remaining three members were the Nuu-chah-nulth Tribal Council, the Village of Tofino, and the Alberni/Clayoquot Regional district. Only after an appeal to the B.C. Ombudsman were the Friends of Clayoquot Sound added to the planning team. Evidently, by having 7 of 11 seats on the planning team, the industry/government members maintained their dominant position in the planning process. After three years of tumultuous bargaining (MB, for instance, unceremoniously walked out after 2 years), the committee presented three options, each advocating at least 50% preservation, to the provincial Cabinet Environmental Land-Use Committee (ELUC) -the final government decision making body. MB submitted its own proposal that, in effect, called for logging the whole Island. In November of 1983, the ELUC released its decision. In retrospect, given the tenacious and uncompromising nature of the traditional regime, it is not surprising that the ELUC developed their own plan in which they completely rejected the

planning commission's recommendations and allowed logging to take place on 90% of the Island. The industry/government nexus was maintained, and all political avenues of appeal were closed. The only possible path left was litigation.

In conjunction with the NTC, the Friends of Clayoquot Sound began campaigns to finance their legal strategy. As the fall of 1984 approached and the logging was set to begin, environmentalists and aboriginals set up a protest camp at C'is-a-qis Bay. Direct confrontation was now inevitable.[73] MB sent a boat full of loggers to the Island who asked the protesters not to interfere with their activities. The protestors refused, the situation came to a standstill, and attention shifted to the courts.

The Nuu-chah-nulth launched a two pronged legal attack. To begin with, the larger question of title had to be addressed:

> The Plaintiffs' claim is for a declaration that their aboriginal title
> (also known as original or Indian Title) to that portion of their
> respective ancient tribal territories known as Meares Island has
> never been lawfully extinguished; and the plaintiffs further claim
> a declaration that no law of British Columbia has any force or
> effect in contravention of the said aboriginal title with respect to
> Meares Island, and that to the extent that such a law may purport
> to infringe upon the said aboriginal title to Mearse Island, it is of
> no force or effect.[74]

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[73]At this time, it should also be noted, MB and the RCMP had detected tree spiking -the practice of driving metal spikes into the trunk of selected trees. The spikes, although harmless to the trees themselves, are extremely dangerous to fallers and mill operators. The removal of spikes is a tedious and costly process, often raising the cost of logging to unprofitable levels.

[74]*MacMillan Bloedel Limited v. Mullin et al.; Martin et al. v. R. in Right of British Columbia et al.*, (1985) Western Weekly Reports [1985] 3 W.W.R. p.580-581 [B.C. Court of Appeal]

Simply put, the Nuu-chah-nulth claimed that the Province did not have the authority to make land-use decisions on land that came under aboriginal title. The implication was that the authority of the province in making land-use decisions was invalid until the question of title had been settled. Simultaneously, the chiefs applied to the Supreme Court of B.C. for an injunction halting logging until the question of title had been resolved by the court. The court denied the injunction claiming that aboriginal title was not recognized in B.C. The judge also concluded that "the Indians had slept on their rights" by not acting when they had first heard of logging plans, and that "the interference with the conduct of the logging operations would have potentially disastrous consequences" on the general economy and well-being of the province.[75]

The Chiefs immediately appealed. The B.C. court of Appeal took up the case, and a five member panel made its ruling. The decision was nothing less than astounding. The court ruled three to two to grant the injunction. Furthermore, the two justices who were opposed to the injunction still gave support to the aboriginals. For instance, Justice Craig believed that "the Indians had raised a fair question as to the existence of the right which they allege", however, he felt the injunction unnecessary.[76] The court decided that the Nuu-chah-nulth claim to aboriginal title was legitimate and, moreover, the court explicitly suggested that the province had an obligation to resolve the aboriginal land title issue:

> I think it is fair to say that, in the end, the public anticipates that the claims will be resolved by negotiation and by settlement. This judicial proceeding is but a small part of the whole of a process

[75]Ibid,p.582-583
[76]Tennant, Aboriginal Peoples and Politics, 224.

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which will ultimately find its solution in a reasonable exchange between governments and the Indian nations.[77]

It was the first time that a British Columbia court had recognized the possible existence of aboriginal title. After the decision was announced, George Watts, leader of the Nuu-chah-nulth Tribal Council, left the court room and wept.

The Province sought leave to appeal to the Supreme Court of Canada, but was denied. Soon after, courts throughout B.C., following the precedent set by the Court of Appeal, halted development of crown land wherever aboriginal title was in dispute. Tennant explains:

> Logging was halted on Deere Island in Kwagiulth territory. Railway expansion was prevented along the Thompson River. Logging preparation was halted in the Gitksan-Wet'suwet'en claim area. Resource development was stopped in the whole area that the Mcleod Lake band was seeking to have recognized as its reserve should its efforts to adhere to Treaty No.8 be successful.[78]

The court had given aboriginal people the ability to usurp the province's authority in land-use decisions which translated into a tremendous shift in power and a substantial weakening of the traditional forestry regime. The government/industry monopoly on land-use decisions was now subject to aboriginal claims. The situation was particularly intolerable to industry. Decisions requiring enormous amounts of capital were put in jeopardy by the uncertainty regarding land title. Any forestry company or mining company thinking of investing in B.C. had to consider the possibility of its investment being paralyzed by court injunction. Suddenly, British Columbia had become a very risky

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[77]*MacMillan Bloedel Limited v. Mullin et al.; Martin et al. v. R. in Right of British Columbia et al.*, 607.
[78]Tennant, <u>Aboriginal Peoples and Politics</u>, 225.

place to do business -a situation the province could not allow to continue. In any event, on Meares Island all logging activity stopped, pending the resolution of the Nuu-chah-nulth land claim.

Clayoquot Sound

After the confrontation over Meares Island had been temporarily settled, environmentalists focused their attention on MB's rapidly increasing logging activity in the general Clayoquot area. MB used the wood harvested in the Clayoquot area to supply its production center at Port Alberni.[79] MB had exhausted much of its TFL 44, and needed to log Clayoquot in order to maintain its annual allowable cut of 900,000 cubic meters which it was obliged to do under the its TFL agreement. MB claims that forestry activities in the Sound contribute $162 million to the regional economy, and employs some 1,400 people at an average wage of about $45,000.[80]

The politics surrounding the land-use issue of Clayoquot Sound differed considerably from those surrounding the Meares Island case because of one very important event: the initiation of the treaty process in B.C. As was explained in chapter one, the Provincial government recognized the legitimacy of aboriginal title and embarked upon a comprehensive treaty negotiation process beginning in 1993. For aboriginal people, this signaled an immense step forward in their historical political struggle. The Nuu-chah-nulth were instrumental in getting the treaty process "off the

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[79]Private interview with MacMillan Bloedel official.
[80]Macmillan Bloedel, *Clayoquot Sound Backgrounder.* June 1993

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ground", and they were among the first to enter the six stage process towards a treaty settlement. Consequently, the Nuu-chah-nulth are now well on the way to achieving one of their major political goals. Although, the alliance with the environmental community that had been so successful on Meares Island became less essential, the alliance was not diminished altogether. The Nuu-chah-nulth still had a major problem, and environmentalists were seen to be a significant part of the solution -at least in the short run.

Despite the fact that the provincial government had committed itself to Treaty negotiations, everyone realized that it would be no speedy process. The Nisga'a, for example, have been in Treaty negotiations with the federal government for over twenty years and have yet to reach a settlement. At the heart of the Nuu-chah-nulth treaty settlement will be the control of natural resources within their traditional territory, including Clayoquot Sound. Naturally it is in the best interest of the Nuu-chah-nulth, once they gain control of these areas, that their aquiered resource base is both ecologically healthy and potentially profitable. It was therefore important, for the Nuu-chah-nulth, and aboriginal communities throughout the province, that areas of disputed title were not subject to industrial development whilst treaty negotiations are taking place. Clayoquot Sound was in the process of being increasingly harvested by MB, a situation of grave concern to the Nuu-chah-nulth. If environmentalists were able to slow down or even halt industrial development in Clayoquot, then a continued alliance was seen as beneficial. The Nuu-chah-nulth were playing a delicate political game; on the one hand, they wanted

the preservation of their possible future lands, but on the other hand, they also wanted to ensure their complete independence once they gained control of those lands.

The land-use decision concerning Clayoquot Sound was the result of a long, and often acrimonious, experiment in public policy making. In effect, the government continued the experiment with multi-stakeholder negotiations it had first attempted with the Meares Island Integrated Planning Team. However, the dominance of industry and government representatives was further weakened. The provincial government established the Clayoquot Sound Sustainable Task Force in 1989 comprising environmental, aboriginal, industry, and community interests. After meeting for eighteen months, the Task Force decided to establish the Clayoquot Sound Sustainable Development Steering Committee, whose goal it would be to develop a land-use plan and strategies for the sustainable development of the area over the long term. The committee brought together representatives from various groups that had a direct interest in the outcome of any land-use decisions in the Clayoquot area. Specifically these interests were Aquaculture, Fishing, Small Business, Labour, Timber-Small Business, City of Port Alberni, District of Tofino, Regional District of Alberni-Clayoquot, Village of Ucluelet, Interfor, MacMillan Bloedel, Environmentalists, Mining, and Tourism. The composition of the committee represented a remarkable new phase in the evolution of the B.C. forestry regime. The traditional closed network was replaced with a multi-bargaining process that included various participants of the policy community in decision making. As Hoberg

explains, "Clayoquot Sound was one of the first and highest profile attempts to use this new form of decision making."[81]

The Committee began meeting in January 1991, and it decided that a moratorium had to be placed on logging activity in the Sound while its deliberations took place. In this regard, the committee's Interim Conservation and Development Panel recommended that a logging moratorium be placed on 12 of the 14 wilderness areas that environmentalists had identified as requiring protection. The government followed the Panel's recommendation and all logging was stopped in the 12 areas; Bulson Creek and Hesquiat were excluded from the moratorium. To environmentalists, this was an unacceptable situation. Environmentalists and the Nuu-chah-nulth faced the same dilemma with regard to the negotiation process. Both groups, in the short run anyway, wanted the Sound to remain as naturally intact as possible. Yet, logging was taking place while the committee's deliberations continued, a situation environmentalists call "the talk and log trap". Because certain areas were exempt from the moratorium, the environmentalists' worst fears were realized. Consequently, in an attempt to discredit the whole process, environmentalists walked out. Conversely, the Nuu-chah-nulth did not. To aboriginal people, whose Treaty negotiations were being initiated and IMA negotiations were on-going, a boycott was perceived to be too reactionary, and one that would disrupt Nuu-chah-nulth relations with government and industry in the area.[82] The

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[81]George Hoberg, *Clayoquot Sound and The Crises of Public Authority*. unpublished. Presentation to UBC Law School Forum "Conflict in the Clayoquot: The Decision and Response". October 1993 p.3
[82]Personal interview with Nuu-chah-nulth leadership

Nuu-chah-nulth, therefore, remained at the Steering Committee's table throughout the process.

The Committee was never able to reach a consensus on land allocation. It produced 10 substantial studies on the environment and resources of the area and agreed on many general principles, but when it came time to draw lines on a map to designate areas for preservation and others for development, the process collapsed. Finally, the Committee released what it called the "majority option proposal", with which 10 of the 13 groups agreed. Environmentalists had walked out and were no longer part of the Committee; tourism and the municipality of Tofino rejected the majority option as being too environmentally damaging; mining interests believed the proposal to be too preservationist.

The Nuu-chah-nulth took a position that was rather ambiguous: "First Nations interests neither rejected nor accepted the proposal, but took a minority position which rejected any land use allocation, including parks, which might prejudice their land claim in the area. They also favored reduced logging and modified practices, and opposed a land use allocation which would exclude logging,"[83] In other words, aboriginal people would not adopt a specific allocation position, except to reassert their claim to Clayoquot Sound as their traditional territory. This position is understandable considering the circumstances; had the Nuu-chah-nulth supported one proposal over another, they would have been acknowledging provincial authority over land-use decisions in Clayoquot.

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[83]Macmillan Bloedel, *Clayoquot Sound Backgrounder.* June 1993

This, of course, ran counter to aboriginal claims that challenged provincial authority on traditional territory. Consequently, in the context of the greater Treaty process in B.C., the Nuu-chah-nulth had no choice but to take a position of neutrality.

Despite the committee's work and the turmoil that ensued, the final decision remained with the government. Because Clayoquot Sound was a high profile and important case, the final decision was made by Cabinet. After all, the various interests do not own the land of Clayoquot Sound, the citizens of British Columbia do. The final decision, therefore, was made by the elected representatives of British Columbians.

The "Decision"

On April 13, 1993 the government made its land-use decision for Clayoquot Sound public. The final plan resembled the majority option position, although some have interpreted it as being somewhat more preservationist.[84] The fall out from the decision is well documented. Environmentalists were outraged and immediately launched an immensely successful media and civil disobedience campaign aimed at discrediting the government and the decision process. The Nuu-chah-nulth, on the other hand, were fairly silent. There was no high-profile alliance between aboriginals and environmentalists as there had been in the case of Meares Island. The political dynamics of First Nations policy had changed considerably from those of ten years earlier. The political strategies and aspirations of aboriginal people were being recognized by society and the government in a serious and comprehensive manner.

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[84]for example, see Hoberg, "Clayoquot Sound And The Crisis of Public Authority".

The Clayoquot decision, and subsequent policy initiatives, clearly illustrate the new political power of First Nations, and the potential impact of this power on forestry policy. To repeat, the Clayoquot Sound decision came after the initiation of Treaty discussions. In recognition of this on-going process, the government specifically stated that in no way would the plan prejudice Treaty and land claim negotiations.[85] Furthermore, the plan excluded Meares Island, which is still subject to litigation and therefore exempt from land-use decisions affecting the area.[86] Apart from acknowledging the on-going Treaty deliberations, the Clayoquot land-use decisions had, in and of itself, little impact on aboriginal people. However, the government made two subsequent announcements which dramatically affected the Nuu-chah-nulth and the forestry policy regime governing Clayoquot Sound.

Scientific Panel Report

First, in an attempt to diffuse the severe criticism it received from environmentalists for its decision to allow clearcutting in Clayoquot, the Harcourt government appointed a Scientific Panel that was given the task of "reviewing current forest management standards in Clayoquot Sound and make recommendations for changes and improvements. The goal of the Scientific Panel is to develop world-class standards for sustainable forest management by combining traditional and scientific

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[85] Province of British Columbia, "Clayoquot Sound Land Use Decision, Background Report". April 1993, p.4
[86] Ibid, 4.

knowledge."[87] Included amongst the guiding principles of the Panel was the specific statement that "the cultural, spiritual, social, and economic well-being of indigenous people [was essential to the]...long-term ecological and economic sustainability" of the area.[88] To this end, the government appointed 4 Nuu-chah-nulth representatives to the Panel: Dr. Richard Alteo, Ernest Lawrence Paul, Roy Haiyupis, and Stanley Sam. In the words of Premier Harcourt, the four Nuu-chah-nulth representatives "will serve on the Panel to provide First Nations' perspectives on the value of forests to their way of life."[89] To the Nuu-chah-nulth, the inclusion of its indigenous perspective on the Panel signaled a step forward for aboriginal people. With the release of the final report, it was evident that the inclusion of aboriginal people on the panel and their subsequent contribution to the report's recommendations was more than symbolic. The panel's final report introduced unprecedented priorities to forest practices based on ecosystem management, and promoted aboriginal people and aboriginal practice to the forefront of forestry management in Clayoquot Sound.

The report makes more than 120 recommendations, of which 27 deal specifically with aboriginal people. These 27 recommendations are an explicit attempt at conforming forestry procedures with traditional aboriginal practice. To begin with, the report considers the recognition and incorporation of "traditional ecological knowledge" (TEK) in forestry practices as being vital to the management of the area. TEK is a term used to

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[87]Clayoquot Sound Scientific Panel, *Report of the Scientific Panel for Sustainable Forest Practices in Clayoquot Sound.* January 1994
[88]Ibid, 6.
[89]The Scientific Panel for Sustainable Forest Practices in Clayoquot Sound, *Report 3 First Nations' Perspectives -relating to forest practices standards in Clayoquot Sound.* March 1995. p.1

describe the traditional and historical knowledge of specific ecosystems and the general environment by aboriginal people. Furthermore, the report confirms the scientific validity of TEK and believes it to be an "important source of information about species and ecosystems that parallels and complements scientific knowledge."[90] To this end, recommendation #6 of the report states, "standards for forest practices must incorporate traditional ecological knowledge...Inventory, monitoring, and research must also recognize and include TEK (emphasis my own)."[91] In order to ensure the continued use and relevance of TEK, recommendation #26 states, "research and inventory must be undertaken to complement Nuu-chah-nulth traditional ecological knowledge and experience."[92] Apart from its general emphasis on TEK, and TEK's significance to overall forestry management in the Sound, the report also makes specific and tangible recommendations for the inclusion and authority of aboriginal people in forestry management and forestry practices.

The breadth of the 27 recommendations that deal specifically with aboriginal people is illustrated by the several headings under which these recommendations are organized. These headings include, Co-management, Consultation and Planning, Inventory and Mapping, Operations, Monitoring, and Evaluation. The individual recommendations that come under these headings are not generalities or platitudes that could be diluted through liberal interpretation; they are specific and decisive in their

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[90]Ibid, 11.
[91]Ibid, 51.
[92]Ibid, 54.

language. For instance, recommendation #17, which is found under the heading of

Operations, states:

> R17 All operations in Clayoquot Sound relating to ecosystem
> management, such as environmental impact assessment, selection
> of silvicultural systems and harvesting methods, proposed use of
> hebicides and pesticides, and road location, construction, and
> deactivation, must be carried out in full consultation with the
> Nuu-chah-nulth of Clayoquot Sound.[93]

Another example of the rigorous and unambiguous language used in the

recommendations, and which also highlights the aboriginal and forestry sector synthesis

occurring in this area, can be found in recommendation #5. It states:

> R5 All planning processes for forest and ecosystem use in
> Clayoquot Sound Decision Area must be undertaken with full
> consultation and shared decision-making with the Nuu-chah-nulth
> of Clayoquot Sound.[94]

Recommendation #7 goes even further in ensuring aboriginal participation in

management and aboriginal authority on the forest practices that are to be employed in

the area:

> R7 In consultation with the co-chairs of the Nuu-chah-nulth
> Tribal Council, _hahuulhi_, the traditional system for ecosystem
> management, must be recognized in ecosystem co-management
> processes of Clayoquot Sound. _Hahuulhi_ will be used in
> determining ecosystem management within traditional boundary
> lines.(emphasis my own)[95]

The language and tone of these and most of the other 25 recommendations is clear as to

the central role the scientific panel believes aboriginal people should have in the

stewardship and development of the forests in Clayoquot Sound.

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[93]Ibid, 53.
[94]Ibid, 51.
[95]Ibid, 51.

On July 6, 1995, Forests Minister Andrew Petter announced the government's acceptance of all the panel's recommendations and announced its intention of "working with companies, workers, and First Nations to put them in effect."[96] In accepting the panel's report, the government alluded to the possible impact of the report on forestry practices and aboriginal people throughout the rest of the province. In reference to its recommendations for aboriginal participation in forestry management the report states:

> It is hoped that these activities, and the other collaborative work by First Nations in British Columbia, will help to establish a new relationship among provincial and federal governments, First Nations peoples, industry, and society in general, in the management and stewardship of ecosystems...The Panel believes that Clayoquot Sound can become a model for including traditional ecological knowledge and interests of indigenous peoples in sustainable ecosystem management.[97]

As indicated in the quote above the report has become a "model" for the inclusion of aboriginal people into forestry management. The report gives no reason why its recommendations cannot be adopted for other areas of the province apart from Clayoquot Sound. Quite the reverse; the report explicitly states its hope of fostering "a new relationship among provincial and federal governments, First Nations peoples, industry, and society in general, in the management and stewardship of ecosystems." Aboriginal people have directly influenced the recommendations; no longer are First Nations excluded, or on the periphery, of the policy process. Indigenous knowledge, perspective, and values will be part of forestry practice standards. Admittedly, it is still too early to

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[96] Province of British Columbia, News Release: "Government Adopts Clayoquot Scientific Report, Moves To Implementation". July 6, 1995 p.1
[97] Clayoquot Sound Scientific Panel, *Report of the Scientific Panel for Sustainable Forest Practices in Clayoquot Sound.* January 1994, p.viii-ix

analyze how the panel's recommendations will be translated into specific policy

proposals. However, the government's recognition of indigenous priorities signifies an

evolution from the days when aboriginal voices could only be heard on the blockade or in

court. Similarly, it provides an excellent example of how the aboriginal policy sector has

penetrated the forestry sector.

The second significant development that occurred as a result of the 1993

Clayoquot decision was the government's announcement on March 19, 1994 that it had

signed an Interim Measures Agreement with the Nuu-chah-nulth. The announcement of

the agreement generated as much excitement as it did confusion. Nevertheless, The IMA

has set a precedent for the co-management of the province's natural resources and may

provide the formula for future "government-to-government" agreements over the

stewardship of British Columbia's forest, aquatic and mineral resources. Because of the

importance of this agreement to forestry policy and subsequent land-use decisions, it will

be examined in more detail.

Interim Measures Agreement

The IMA outlines the framework for establishing a "joint management process

dealing with resource management and land use planning ...[which] shall apply to the

whole of Clayoquot Sound."[98] The "joint management process" is based on a

government and First Nations co-operative, consensus based, partnership. It must be

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[98] *Interim Measures Agreement between Her Majesty The Queen and The Hawiih of the Tla-o-qui-aht First Nations, the Ahousaht First Nation, the Hesquiaht First Nation, the Toquaht First Nation and the Ucluelet First Nation (The First Nations)*, 19 March, 1994, p.4.

understood that, ultimately, Cabinet has maintained its authority over all crown land-use decisions. Both the government and the First Nations, however, seem to be fairly confident that any problems can be solved within the framework of the agreement, and that the awkward situation of a Cabinet veto will not arise. The success of IMA will be determined by averting this situation. It is crucial that the management framework set up in the IMA is able to produce an amicable decision making process between the government and the First Nations.

The management process is governed by an administrative body entitled the Central Region Board (CRB). The CRB is made up of two co-chairs, Nelson Keitlah of the Nuu-chah-nulth and Ross McMillan of the provincial government, five aboriginal representatives and five representatives from the province. Mark Krasnick, the former chief government negotiator, believed that the Board would be able to operate in a co-operative fashion without the interference of Cabinet.[99] These sentiments were echoed by Nuu-chah-nulth Chief Francis Frank who said "We want to achieve consensus... we intend to work cooperatively."[100] Decision making within the CRB is accomplished by a double majority vote. The agreement goes on to state that:

> For greater certainty, there must be a majority vote of the First Nations representatives for any decision to pass the Board. It is intended that the Board will shift to decision-making by consensus upon further agreement between the parties.[101]

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[99] Keith Baldrey, "Chief satisfied with Clayoquot explanation". <u>Vancouver Sun</u> p.A3
[100] Ibid
[101] IMA, 10.

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The CRB's primary purpose is to oversee the implementation of the agreement. Apart

from its various "objectives", the Board has the responsibility of "reviewing ... plans and

policy decisions relating to Clayoquot Sound". The "plans and policy decisions" named

in the agreement include: Land Use Plans, Local Resource Use plans, Total Resource

Plans, and Land and Resource Management Plans and "other similar planning processes

for resource extraction." Specifically:

> [the Board] must accept, propose modifications to, or recommend
> rejection of any plan, application, permit, decision, report, or
> recommendation within 30 days of receiving it. The originating
> Ministry, agency, or panel then has another 30 days to implement
> the wishes of the Board.[102]

It is important to remember that the agreement specifically states that the Board has the

responsibility of "review" and not authorization -that is still up to the government. In

fact, the word "review" appears throughout the agreement. For instance, the agreement

states that the Board "may review any application, permit, decision, report, or

recommendations" relating to a variety of activities.[103] The Board may also "review"

decisions of any "ministry or agency empowered or authorized to undertake resource

management and land use planning activities in the [sound]."[104] At no point in the

agreement is the Board given ultimate authority. Indeed, the agreement specifically states

that in the event of a dispute between the Board and a particular plan or permit, the matter

"may be referred to Cabinet", thereby implying Cabinet's supremacy.

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[102]Ministry of Aboriginal Affairs "News Release", *British Columbia and First Nations Announce Membership of Clayoquot Board.* June 27, 1994
[103]IMA, p.8
[104]Ibid

As discussed earlier, the Board's activities are primarily to review resource management plans for Clayoquot Sound. Yet, within the Sound there are two designated sites in which the Board has direct management responsibility. The agreement calls for the establishment of the "Ahousaht, Tla-o-qui-aht, Province of British Columbia Cooperative Forest Management Area". The Clayoquot River Valley and Flores Island will make up this cooperative forest. The agreement states that the cooperative forest "shall be jointly managed through the cooperative mechanisms established within this agreement by the First Nations and the Province."[105] The agreement sets specific harvest rates for both areas to be considered by the Board. For instance, in the Clayoquot River Valley, the harvest rate shall not exceed 60,000 cubic meters per year for 1994 and 1995.

Finally the IMA establishes a working group assigned with the task of "promoting economic development opportunities for the First Nations."[106] This working group will consider various forms of economic development possibilities and try to arrive at strategies designed to enhance the economic opportunities of aboriginal peoples. Presently, aboriginals in the Clayoquot Sound area suffer from an unemployment rate close to 70%.[107] The agreement targets specific geographic areas as "economic development bases". The three areas mentioned in the agreement are, Hesquiaht Lake, Satchee Creek, and Hesquiaht Peninsula.

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[105]Ibid, 11.
[106]Ibid, 13.
[107]See CORE recommendations and preliminary drafts of the Interim Measures Agreement.

Conclusion

The regime governing resources and specifically forestry in Clayoquot Sound has undergone dramatic change over the past 10 years. We have witnessed a significant new development in policy studies as two policy sectors, aboriginal and forestry, have come together. What the consequences of this merger will be is yet to be seen. However, we are able to conclude that new institutions will be created and new interests will begin to organize themselves. The following chapter will look at the consequences to the forestry regime of the phenomena described above.

Chapter 3

<u>Consequences and Conclusions</u>

British Columbia's resource economy is undergoing a transformation. What was once a relatively simple extractive and marketing industry, must now expand its priorities and values to include sustainability and environmental sensitivity. As this process takes place, a titanic political struggle emerges whereby various interests try to shape new policies and regimes. What makes B.C. particularly interesting is the simultaneous transformation taking place in the provincial regime governing aboriginal people. Because land claims, claims that often have considerable resources on or under them, are the focus of the political changes occurring with First Nations, a curious synthesis is taking place between these two formerly separate policy areas. So far, this thesis has explained this phenomena and described how it has taken place. This chapter will explain what this phenomena means to the two policy areas, and what its general implications for the study of public policy are.

There is no question that the British Columbia forestry sector is in the process of dramatic change. One can confidently state that the traditional forestry regime governed by industry and a highly discretionary ministry is finished. The institutions, interests, and ideas that will replace the old regime are in the early stages of development. The provincial government has launched numerous new initiatives, such as C.O.R.E., Forest Renewal B.C., and the Forest Practices Code, with the hope for establishing a progressive and comprehensive regime that will lead the forestry sector into the next century. In

addition to transforming the forestry regime, the provincial government has also embarked on a treaty settlement process with the province's First Nations. The impact of this process and its eventual settlement on the provincial forestry regime cannot be underestimated. Natural resources, such as forests, fish, or wildlife, have always been a prominent issue throughout the historical struggle of B.C.'s aboriginal people. The traditional territories of many First Nations encompass vast tracts of forests. For aboriginal people, these forests are a resource that should provide future economic development and cultural stability as successfully as they did prior to the arrival of Europeans and colonization. With the initiation of the treaty process by the governments of B.C. and Canada, First Nations have gained considerable new powers; their traditional territories are now recognized by the governments; Interim Measures Agreements have been signed; and land claim negotiations have begun. Because forestry resources are so important to the settlement of land claims, aboriginal people now occupy a prominent position within the forestry policy community in those areas affected by the treaty process. Consequently, the regime governing First Nations has, in many cases, converged with the forestry sector. Indeed, in several cases, one regime has become almost indistinguishable from another. Furthermore, the convergence of these two regimes has changed the nature of the individual regimes themselves.

The impact of recent developments in B.C.'s aboriginal regime on the forestry sector can be measured at two different levels. The first level measures the impact of First Nations being given direct and discretionary powers over land management. The

most obvious manifestation of this can be found in the Interim Measures Agreements

which give substantial powers to First Nations over land-use and forest development

plans. The Nuu-chah-nulth and their participation on the Central Region Board, as

discussed in chapter two, is perhaps the most prominent example of this occurrence in the

province to date. There is nothing to suggest that a model similar to that adopted in

Clayoquot Sound cannot be implemented in other parts of the province where similar

conditions exist. In fact, the Ministry of Forests is presently in the process of negotiating

agreements with 14 different First Nation organizations, including the Gitxsan, Okanagan

Indian Band, the Wet'suwet'en Tribal Council, Sechelt Indian Band, and the Ts'ilhqot'in

Tribal Council, around the province.[108] Many of these agreements will reflect the

conditions and particulars of the individual First Nations' groups in question.

Nevertheless, they will all have a profound impact on the forestry regime governing these

areas.

On a second level, the convergence of the aboriginal regime and the forestry

sector may have an impact on the way forestry practices are conducted in claimed areas

and possibly throughout the province. One of the government's initiatives in its

restructuring of the provincial forestry regime is a new set of regulations governing the

way forests are harvested. Accordingly, the government developed and passed into law

the *Forest Practices Code* (hereafter the Code). In the words of forest minister Andrew

Petter, "the code is designed to sustain all the values in British Columbia's forests and

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[108]Ministry of Aboriginal Affairs, "Agreements Under Negotiation Between the Province of British Columbia and First nations". Updated July 1995

their diverse ecosystems."[109] The Code was developed to ensure that B.C. forest practices are among the most progressive and environmentally responsible in the world. As was discussed in chapter II, the government also adopted all the recommendations from the *Scientific Panel for Sustainable Forest Practices in Clayoquot Sound.* The panel's recommendations are considerably more radical than those found in the Code. As one ministry official explained, the Code strengthens those rules governing conventional forest practices, and creates greater accountability for forest managers, whereas the Scientific Panel's recommendations represent an entirely new forestry philosophy and completely new harvesting principles which are unprecedented in the industry.[110] While the panel's recommendations apply only to Clayoquot Sound, the establishment of the Code and the adoption of the panel's recommendation signal a new era in the way the province regulates forestry practices. The panel's recommendations set new ecological standards and articulates an entirely new philosophy for environmentally sensitive forestry practices. If the province is serious about transforming the forestry regime so that it "sustains all the values in British Columbia's forests", it may have a hard time resisting the adoption of the panel's recommendations elsewhere. The influence of First Nations on the Panel's report is quite clear, as explained in chapter II.

The changing nature of the forestry sector, by virtue of the convergence occurring between aboriginal and forestry policy, will also have an impact on the configuration of interests in the policy community. As the old regimes governing the previously separate

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[109]Province of British Columbia News Release, "Proclamation of Forest Code Means Good Forest Practices Now the Law". April 12, 1995
[110]Personal interview with *Forest Renewal British Columbia* official. Aug. 31, 1995

sectors of aboriginal and forestry policy dissolve and are replaced by new institutions and ideas, the various interests participating in these policy areas must reorganize themselves and adjust to the new political environment. Traditional alliances and rivalries that have shaped policy in the past have disintegrated and are being replaced by new and often surprising coalitions. Nowhere is this more evident than in the changing circumstances of the environmental community.

Environmental groups, driven by the renewed concerns of sustainability and ecological responsibility, have been the most voracious critics of the old regime. More than any other interest in the policy community, it was the relentless pressure of the environmental movement that broke the traditional industry/government nexus over forestry policy. In this endeavor, environmentalists were helped in no small measure by First Nations. Environmentalists have always been perceived to be allied with First Nations in their respective political battles. It was common to hear organizations like Greenpeace and the Western Canada Wilderness Committee claim that aboriginal self-determination and the just settlement of land claims were as important objectives as, say, forest preservation. The power and success of this partnership between environmental groups and First Nations was clearly evident, for example, in the battle to save Meares Island (See chapter II).[111] Yet, less than a decade later during the battle to "Save Clayoquot", aboriginal people were noticeably absent from the conflict. Groups like the WCWC explicitly stated that they "support the First Nations' right of ownership in

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[111]Another example of First Nations and environmentalists alliance occurred during the eighties in the fight to save the Stein Valley.

Clayoquot Sound," and that they "would like to work together with First Nations peoples towards a means of protecting Clayoquot Sound."[112] Yet, during the summer of 1993, when a massive media and civil disobedience campaign protesting the government's Clayoquot decision was underway, First Nations were silent. Indeed, not one member of the Nuu-chah-nulth was amongst the over 800 people that were arrested in Clayoquot that summer. There are several reasons why a tenuous alliance exists between the aboriginal community and environmentalists.

Environmentalists often assume that aboriginal people are authentic environmentalists -one often hears aboriginal people referred to as the "first ecologists".[113] Naturally, some members of the aboriginal community resent such a characterization as it more often reflects twentieth century utopian notions of community and environment than authentic aboriginal practice. Secondly, environmental preservation is a single part of a much larger struggle between aboriginals and the dominant community. Aboriginal people are striving for self determination and cultural revitalization, and a way to assert and live an identity separate from that of the dominant community. In the context of the larger struggle, environmentalists are often members of the dominant community and thus represent the very forces that aboriginal people are trying to resist.

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[112] "Save Clayoquot Valley", Western Canada Wilderness Committee Educational Report. Vol.12, #5. Summer/Fall 1993

[113] For an excellent treatment of imposed identities on aboriginal people, see Daniel Francis, The Imaginary Indian, The Image of the Indian in Canadian Culture (Vancouver, B.C. Arsenal Pulp Press, 1992). See also James Clifton, ed., The Invented Indian (New Brunswick USA; Transaction Publishers 1990).

Finally, there is a fundamental difference in the overall objective of the two groups. Environmentalists are interested in ecological preservation and in a readjustment of society's values towards nature. At its core, environmentalism is a philosophical movement attempting to redefine the relationship between humans and nature. Aboriginal people have no such goal in mind. The underlying objective of the aboriginal community is the re-establishment of aboriginal ethnicity and of a culture unencumbered by colonial administration or interference, in short self-determination. In order to reach this objective, according to many aboriginal leaders, two things must take place: the resolution of land claims and the establishment of self-government. Environmental priorities are of secondary importance.[114]

What is becoming evident, now that aboriginal land claims are recognized and settlements are being negotiated, is the fact that First Nations view natural resources as a key component of the economic and cultural revitalization of their communities. Aboriginal people also realize that access to expertise and capital is crucial to the long term economic success of their resource development plans.[115] In Clayoquot Sound, for instance, Nuu-chah-nulth leadership talks openly about forming "partnerships with MacMillan Bloedel", and becoming involved in the "development" of their forestry

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[114]These priorities are confirmed throughout the *Assembly of First Nations/National Indian Brotherhood* report of the First Nations Circle on the Constitution entitled "To The Source". For instance, in the executive summary it states, "The people have said that two fundamental changes are required. First, AFN must take the position that the Canadian constitution should be rewritten to reflect First Nation principles and values of respect, caring, sharing, and strength. Second, we need structural changes to First Nations communities to ensure that the rebuilding happens at the grassroots level, and we need reimplementation of self-government for our people."
[115]Personal Interview with Central Region Board official.

resources.[116] In addition, First Nations in Clayoquot describe their relationship with the

forestry industry as being "positive", and hope that they are entering a new era of

cooperation. The reality of this new spirit of cooperation between First Nations and

industry was driven home when George Watts accompanied Premier Harcourt to Europe,

to the visible consternation of environmentalists, on a publicity tour selling the virtues of

B.C. forestry practices.[117] Furthermore, it was recently announced that MacMillan

Bloedel and the Ahousaht Band are in the process of negotiating a joint venture to log a

part of Flores Island -one of the most environmentally controversial Islands in Clayoquot

Sound.[118] This spirit of cooperation is not one-sided. MacMillan Bloedel has publicly

stated that it supports the "expeditious and just" settlement of all aboriginal land claims

and that it looks forward to working with aboriginal people in the development of their

resources.[119] MacMillan Bloedel has also accepted the Scientific Panel's report on

Clayoquot Sound and has established an internal committee charged with studying ways

to implement the report's recommendations.[120] All in all, it would seem that the alliance

between environmentalists and aboriginal people that had been so effective during the

Meares Island campaign may come to an end as land claims are settled.

The changing configuration of the policy community that results from converging

policy sectors is evidence of change with one component of the regime. Sector

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[116]Ibid
[117]Brian Kenedy, "Harcourt conquered Greenpeace with help from aboriginal leader", Globe & Mail, 7 Feb. 1994.
[118]Gordon Hamilton, "MB looking for joint logging venture with Clayoquot natives", Vancouver Sun , 10 June 1995.
[119]Personal Interview with MacMillan Bloedel official, 29 Aug 1995.
[120]Ibid

convergence also results in significant institutional change as well. As one sector overlaps another sector, the institutions governing the individual sectors will have to change in order to accommodate the new governing environment. Thus, in our case, we see the creation of new institutions like the Central Region Board, the Commission On Resources and the Environment, and the Scientific Panel, that attempt to accommodate the new political reality. It would have been very difficult to absorb First Nations within the established forestry regime considering the privileged position held by industry and the critical discretionary powers of government that had existed under the established framework. There was simply no way to accommodate First Nations in a satisfactory manner under the old forestry regime. New institutions had to be created so that First Nations would become significant participants in forest management. The fact that in some areas aboriginal people have moved from the margin of the policy community to become partners with the government in the management of a resource is an extraordinary policy development. Of course, how significant and how much power will actually be held by the First Nations, once the treaty process is complete, remains to be seen. Nevertheless, it has become quite evident that new institutions will have to be created so that future arrangements will be governed in a responsible and satisfying manner for all participants.

The Future of Policy Studies

As was explained in chapter 1, the study of public policy is struggling with the phenomena of policy change. Through this study of forestry policy and aboriginal policy

in British Columbia, we discover a different phenomenon producing dramatic change: inter-sector penetration. This phenomenon has illustrated a new development in policy studies and has highlighted a critical weakness in contemporary public policy literature.

Policy scholars must become more attuned to the impacts of changes in sectors beyond the core sector which is being studied. In so doing, scholars will have to loosen the intellectual constraints that are imposed by a strict structuralist approach. The study of the forestry sector, for example, must also account for developments in the aboriginal, environment, labour, community development, and international trade sectors. Any study of forestry that ignores these other factors will provide an incomplete picture. The degree to which other sectors influence, penetrate, or affect the sector in question is of increasing importance. In the words of fashionable jargon, a more "holistic" approach may be in order.

Policy studies are only as relevant as the degree to which they reflect the reality of governance. If the act of governing is becoming more bifurcated and dispersed, as many commentators claim, then the study of policy must reflect these contemporary developments. If, for example, health policy must now consider many factors outside of the health sector, then so too should policy theory account for exogenous factors and peripheral sectors that affect policy development. Inter-sector penetration, as this thesis shows, is a phenomena of increasing importance in policy development and one that policy theory must accommodate.

Conclusion

Environmentalists have long bemoaned the modern tendency of concentrating on specifics while ignoring the bigger picture. The first step to achieving a solution to the ecological crises, it is argued, must stem from a more holistic vision that recognizes the interdependent relationships that exist in nature. At its extreme, this view is exemplified in the GAIA hypothesis that views the world as a single integrated biological organism. Essentially, this thesis has argued that the study of public policy is also burdened by its emphasis on the specific. The sector specific tendency of policy analysis is no longer adequate to understanding the evolution of governing, just like concentrating on the study of water is inadequate when trying to understand a whole watershed. In both these cases there are a host of factors that come into play. These factors must be accounted for and explained in order to achieve a comprehensive understanding of a process or of particular phenomena. As the science of ecology is evolving in its study of nature, so too do political scientists have to rethink the sectoral approach to policy studies so that they are better able to account for sector synthesis and inter-sector penetration.

BIBLIOGRAPHY

Micheal Atkinson, <u>Governing Canada: Institutions and Government Policy</u>. Toronto: HBJ Holt, 1993.

Frank Baumgartner & Bryan D. Jones. <u>Agendas and Instability in American Politics</u>. Chicago: University of Chicago Press, 1993.

Frank Cassidy & Norman Dale. <u>After Native Claims? The Implications of Comprehensive Claims Settlements for Natural Resources in British Columbia</u>. Lantzville: Oolichan Books, 1988.

James Clifton, ed. <u>The Invented Indian</u>. New Brunswick: Transaction Publishers, 1990.

William D. Coleman & Grace Skogstad. <u>Policy Communities & Public Policy in Canada: A Structural Approach</u>. Toronto: Coopp Clark Pitman, 1990.

Council of Forest Industries. "A Proposed Aboriginal Forestry Strategy For the BC Forestry Industry." Interim Discussion Report for the Council of Forest Industries. March, 1994.

Commission on Resources and the Environment. "Vancouver Island Land-Use Plan." February, 1994.

Marc Allen Eisner. <u>Regulatory Politics in Transition</u>. Baltimore: John Hopkins University Press, 1993.

P.B. Evans, D. Rueschemeyer, & T. Skocpol, eds. <u>Bringing The State Back In</u>. Cambridge: Cambridge University Press, 1985.

Daniel Francis. <u>The Imaginary Indian, The Image of the Indian in Canadian Culture</u>. Vancouver: Arsenal Pulp Press, 1992.

Friends of Clayoquot Sound & Western Canada Wilderness Committee. <u>Meares Island, Protecting a Natural Paradise</u>. 1985

Richard Harris & Sidney M. Milkis. <u>The Politics of Regulatory Change, A tale of Two Agencies</u>. New York: Oxford University Press, 1989.

Gordon Hamilton. "MB looking for joint logging venture with Clayoquot natives." <u>Vancouver Sun</u>. 10 June, 1995.

George Hoberg. "Environmental Policy: Alternative Styles." In Micheal Atkinson, <u>Governing Canada: Institutions and Government Policy</u>. Toronto: HBJ Holt, 1993.

George Hoberg. "Clayquot Sound And The Crisis of Public Authority." Unpublished presentation to the UBC Law School Forum: Conflict in the Clayquot: The Decision and Response. Fall, 1993.

George Hoberg. Regulating Forestry: A Comparison of British Columbia and the U.S. Pacific Northwest. Discussion Paper Series, Government and Competitiveness. School of Policy Studies, Queen's University, 1993.

R.C. Hosie. Native Trees of Canada 8ed. Markham: Fitzhenry & Whiteside, 1990.

Micheal Howlett. "The Round Table Experience: Representation and Legitimacy in Canadian Environmental Policy-Making." Queen's Quarterly #97, 1990.

Interim Measures Agreement between Her Majesty The Queen and The Hawiih of the Tla-o-qui-aht First Nations, the Ahousaht First Nation, the Hesquiaht First Nation, the Toquaht First Nation and the Ucluelet First Nation (The First Nations). 19 March, 1994.

Judith Goldstein & Robert Keohane. "Ideas and Foreign Policy: An Analytical Framework." In Goldstein & Keohane, eds. Ideas & Foreign Policy: Beliefs, Institutions, And Political Change. Ithaca: Cornell University Press, 1993.

Diamond Jenness, Indians of Canada. Ottawa:Queen's Printer, 1932.

Brian Kenedy. "Harcourt conquered Greenpeace with help from aboriginal leader." Globe & Mail. 7 Feb., 1994.

John Kingdon. Agendas, Alternatives, and Public Policies. Boston: Little Brown & Company, 1984.

Earl Latham. "The Group Basis of Politics." In American Political Science Review, #65 1952.

Macmillan Bloedel, Clayoquot Sound Backgrounder. June, 1993.

Darcy A. Mitchell and Paul Tennant. "Government To Government: Aboriginal Peoples and British Columbia." A report prepared for the Royal Commission on Aboriginal Peoples. 1994 -Forthcoming publication-

Ministry of Aboriginal Affairs "News Release", British Columbia and First Nations Announce Membership of Clayoquot Board. June 27, 1994

Ministry of Aboriginal Affairs, "Agreements Under Negotiation Between the Province of British Columbia and First nations -Updated July, 1995."

Ministry of Aboriginal Affairs. "Signed Agreements Between the Province of British Columbia and First Nations -Updated July, 1995."

Province of British Columbia, News Release: "Government Adopts Clayoquot Scientific Report, Moves To Implementation". July 6, 1995.

Province of British Columbia, News Release: "Proclamation of Forest Code Means Good Forest Practices Now the Law". April 12, 1995.

Province of British Columbia. "Clayoquot Sound Land Use Decision, Background Report". April, 1993.

Paul Pross. Group Politics and Public Policy. Toronto:Oxford University Press, 1986.

E.E. Schattschneider. The Semisovereign People, A Realist's View of Democracy in America. Hinsdale: The Dryden Press, 1960.

Paul Sabatier & Hank C. Jenkins-Smith, Policy Learning: An Advocacy Coalition Approach. Boulder: Westview Press, 1993.

Dan Smith. The Seventh Fire, The Struggle For Aboriginal Government. Toronto: Key Porter Books, 1993.

The Report of The British Columbia Claims Task Force. June 1991

The Scientific Panel for Sustainable Forest Practices in Clayoquot Sound, *A Vision and its Context: Global Context for Forest Practices in Clayquot Sound -Report 4*. March, 1995.

The Scientific Panel for Sustainable Forest Practices in Clayoquot Sound. *Report of the Scientific Panel for Sustainable Forest Practices in Clayoquot Sound*. January, 1994.

The Scientific Panel for Sustainable Forest Practices in Clayoquot Sound. *Report 3 First Nations' Perspectives -relating to forest practices standards in Clayoquot Sound*. March, 1995.

Paul Tennant. Aboriginal Peoples and Politics. Vancouver:UBC Press, 1990.

Paul Tennant. "Aboriginal Peoples and Aboriginal Title in British Columbia Politics." In Ken Carty ed. British Columbia Government and Politics. Vancouver:UBC Press, 1995. Forthcoming

Price Waterhouse. "The Forest Industry in British Columbia 1994."

Jeremy Wilson, "Wilderness Politics in B.C." in William D. Coleman & Grace Skogstad. <u>Policy Communities & Public Policy in Canada: A Structural Approach</u>. Toronto: Coopp Clark Pitman, 1990.

Western Canada Wilderness Committee Educational Report. "Save Clayoquot Valley." Vol.12, #5. Summer/Fall, 1993.