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**UNDERSTANDING THE ROLE OF ENVIRONMENTAL DISPUTE RESOLUTION
IN THE PLANNING OF NATIONAL PARKS IN CANADA:**

**A CASE STUDY IN THE FORMATION OF
SOUTH MORZESBY NATIONAL PARK RESERVE**

BY

BRIAN L. MILLER, B.A.

**A thesis submitted to the
Faculty of Graduate Studies and Research
in partial fulfilment of the requirements for the degree of**

MASTER OF ARTS

**Department of Geography
Carleton University
Ottawa, Ontario**

September 23, 1992.

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Understanding The Role Of Environmental Dispute Resolution
In The Planning Of National Parks In Canada:

A Case Study In The Formation Of
South Moresby National Park Reserve

Submitted by Brian Miller, B.A.

in partial fulfilment of the requirements for the
degree of Master of Arts

Chair, Department of

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ABSTRACT

Environmental Dispute Resolution (EDR) as an alternative form of conflict settlement, has received very little attention in Canada as a technique for resolving land use disputes. Although its appeal has grown considerably over the last five years, no progress has been made in the one area in which most user groups find themselves drawn into land use disputes: when economic development is pitted against wilderness preservation as a competing land use. Protecting the environment under legislated designations such as national parks is one of the more contentious land use debates facing natural resource managers today. This problem is heightened when the state is the only institution capable of allocating land for protection purposes, while concomitantly having to pursue its own economic interests which often conflict with those of wilderness preservation. The results of such institutional arrangements, when examined from a conflict resolution perspective, is a hybrid form of dispute settlement which contradicts traditional theories of environmental mediation. The establishment of South Moresby National Park Reserve is one case in point which illustrates the difficulties in institutionalizing EDR techniques in Canada when the state maintains such a large role in the administration of natural resource use.

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ACRONYMS USED IN THIS STUDY

BC	British Columbia
CLIP	Canada Land Inventory Program
CCELC	Canadian Committee On Ecological Land Classification
CNR	Canadian National Railway
CPS	Canadian Parks Service
CWS	Canadian Wildlife Service
DFRPA	Dominion Forest Reserves And Parks Act
DIAND	Federal Department Of Indian Affairs And Northern Development
DMR	Federal Department Of Mines And Resources
DNANR	Federal Department Of Northern Affairs And National Resources
DOE	Federal Department Of The Environment
DOI	Federal Department Of The Interior
EDR	Environmental Dispute Resolution
ELUC	British Columbia Environmental Land Use Committee
IPS	Islands Protection Society
IUCN	International Union For The Conservation Of Nature And Natural Resources
MEMPR	B.C. Ministry Of Energy, Mines And Petroleum Resources
MLPH	B.C. Ministry Of Lands, Parks and Housing
MOA	Memorandum Of Agreement
MOE	B.C. Ministry Of Environment
MOF	B.C. Ministry Of Forests
MOU	Memorandum Of Understanding
NCFL	National Committee On Forest Lands
NEPA	National Environmental Policy Act

NPA	National Parks Act
NPB	National Parks Branch
NPS	U.S.A. National Park Service
NRTA	Natural Resources Transfer Agreement
SMLUAC	South Moresby Land Use Alternatives Committee
SMNPR	South Moresby National Park Reserve
TFL	Tree Farm License
TSA	Timber Supply Area
UNESCO	United Nations Educational, Scientific and Cultural Organization

CHAPTER 1 - THESIS INTRODUCTION

1.1 BACKGROUND

Environmental dispute resolution (EDR) is a branch of conflict resolution which has made a valuable contribution to settling natural resource disputes in North America over the last two decades (Lake, 1980a). EDR employs a number of alternative conflict resolution techniques to settle land use disputes. Through third parties and mediators, stakeholders come to the bargaining table in an effort to resolve land use controversies (Bingham, 1986). The use of third parties and mediators has been a bid by stakeholders, with a vested interest in a disputed area, to find alternative solutions to traditional forms of land use decision-making which often brings industrial development in well-endowed natural resource areas to a point of impasse.

EDR and its parent, alternative dispute resolution (ADR), have had widespread appeal as a conflict resolution tool in the U.S.A. due to the failure of other forms of conflict settlement. Various approaches such as negotiation, mediation, arbitration, conciliation and adjudication have been successfully used since the early 1970's (Clark-McGlennon Associates et al, 1982). The utility of EDR techniques such

as negotiation, mediation and arbitration has become particularly salient, given the increasing influence of the environmental movement and the impact these organizations are having on the industrial land use planning process.¹

In Canada, EDR's impact has been negligible, surfacing only in the mid to late 1980's (Shrybman, 1984). The few bodies that exist act as regulatory boards or panels. They are under strict provincial government control and have limited decision-making capacity (Canadian Bar Association, 1989). Even with their existence, provincial governments maintain considerable discretion over the process chosen to resolve land use disputes, and the pace and type of technique selected.²

With private sector companies in Canada increasingly facing tougher liability laws over the use of public natural resources, and environmental groups holding the private sector

¹ A number of environmental organizations such as Greenpeace and the Sierra Club have emerged to pressure the status quo into gaining access into the North American political process. For a contemporary analysis of the impact of the international environmental movement on political institutions and society at large, see Lester, James P. Environmental Politics And Policy - Theories And Evidence (ed.) 1989. Duke University Press, Durham, North Carolina.

² For a review of federal/provincial environmental legislation and regulatory bodies in charge of enforcing and monitoring protection standards, see Castrilli, J.F. and C. Clifford Lax. Environmental Regulation-Making In Canada - Towards A More Open Process, in Swaigen, John (ed.) 1981. Environmental Rights In Canada, Butterworth Press, Toronto, Ont., p. 334-405.

more accountable through closer monitoring and scrutiny of their operations, EDR is having a significant impact on parties wanting to avoid litigation over various forms of land use. By getting parties to agree on a more participatory form of decision-making, stakeholders can be brought together to address each other's concerns, before one of the parties decides to disrupt a project's livelihood through litigation or some other form of protest.³ While labour, family and commercial law cases have traditionally received considerable attention regarding alternative forms of conflict settlement (Canadian Bar Association, 1989), land use planning and wilderness preservation have also become an area where alternative forms of dispute resolution are sought to address controversial land use projects (Carlucci, 1981). One form of wilderness preservation in particular, the national park movement, has become quite vocal in attempting to access land use disputes where unique wilderness values compete with other forms of land use (Gardner, 1990).

Sinclair (1986) states that the national park movement has become a barometer for determining how conscientious Canadians are over preserving unique wilderness values from

³ This scenario is becoming increasingly common in Canada where provincial governments are now using some form of EDR body to address land use disputes. For example, see British Columbia Round Table On The Economy And The Environment. 1991. Reaching Agreement - Implementing Consensus Processes In British Columbia, Volumes 1, 2 and 3, Report Of The Dispute Resolution Core Group, Queens Printers, Victoria, B.C.

industrial and urban development, and how the state responds to issues such as environmental management and protection. Although, historically, national parks were viewed as economic vehicles for tourism and recreation, today national park formation has become much more political. Political questions salient to land use planning debates cover a wide range of issues: how environmentally conscientious are political parties to wilderness preservation; what might a political party's environmental agenda be if it is elected; and, what kind of treatment will special interest groups or other elected political parties espousing a similar philosophy receive if their political party of choice gets elected (Nelson, 1989). Considering the philosophical implications such thinking can have on land use planning, establishing national parks in today's political climate suggests that the nation state either accepts there is intrinsic value in preserving wilderness in national parks, promotes recreation in national parks as a form of economic development, or forms national parks as a strategy to gain support for the governing political party from the electorate (Nikiforuk, 1990).

User groups who participate in the land use planning process also increase the complexity that already makes this decision-making process difficult, as these organizations position themselves to influence public policy. Four user groups participate in land use planning debates which create conflict over national park formation. Environmental groups

use natural resource disputes as an instrument to pressure governments into setting aside land for preservation purposes. The private sector, which uses natural resources as an economic lever to generate wealth, views the removal of land for preservation purposes as a threat to its economic livelihood. The aboriginal community, with its historical ties to the land, view natural resource use as a way of life, while recreationalists use natural resources as an outlet to experience outdoor environments.

A fifth group of decision makers which sometimes influence natural resource use during environmental disputes, can also be considered a form of user group -- the "public interest". The public interest is defined as decision-making by elected officials who consider their stance on a particular policy to accrue the most benefits possible on that issue to society at large. The public interest becomes influential when an issue being debated attracts considerable controversy from within the public domain, and the controversy is then resolved by politicians deciding what is in the best interest of the public. Natural resource use and environmental issues have become one such area of public policy where public participation and the public interest has a large role. Political officials can therefore not ignore the impact of the public interest, even though it is an extremely subjective form of decision-making granted to the state and performed at the discretion of elected officials. Considering the impact

the public interest can have on user groups and political parties involved in natural resource disputes, the public interest can be considered a user group which influences land use planning. What emerges during wilderness preservation debates then is a variety of competing natural resource uses, values and user groups who voice their concerns and force these issues into larger scale environmental debates.

As a forum for discussing the implications of national park establishment and using outside facilitators as a vehicle to resolve competing land use claims, EDR has been successful in the U.S.A. where various parties, in addition to the federal government, influence the park planning process (Bacow et al, 1985). However, in Canada, such an arrangement has yet to evolve since the federal government has acted largely independent of other interests when national parks are being considered.

In Canada, the federal government has typically followed two philosophies when attempting to establish national parks: by targeting areas not represented under the Canadian Parks Service (CPS) national park natural region planning system, and when national parks represent a last vestige for environmental protection from industrial development in provincial land use disputes (Canada, 1990b). Both approaches can and have created controversy within the provincial domain, but the latter has had a greater impact on public debate given

the perceived intervention of the federal government into provincial jurisdiction.

When the federal government participates in land use disputes where an area has considerable wilderness values, it has used its environmental protection agency, the Canadian Parks Service (CPS), to act as a bridge between online federal departments which may have jurisdiction, the provincial government as land owner, and other user groups who perceive the federal government to have influence in resolving provincial land use disputes. There are few defined roles or mandates for federal agency involvement in provincial land use disputes unless the Government of Canada is asked to participate by a provincial government, or an online department has a direct jurisdictional role in a dispute which has a financial implication. However, in rare cases the federal government has entered provincial land use disputes to pressure a provincial government to preserve the area in question. This has been done by using other federal departments as a buffer between the federal agency claiming jurisdiction, and the Department of Environment (DOE) which is concomitantly trying to promote a national park. The result of these rare and mostly unsuccessful forays into provincial land use politics has been a new role for the CPS when attempting to expand the national park system.

With the mandate of CPS being the expansion of the national parks system, DOE has encouraged other federal

agencies to influence the provincial decision-making process where it cannot accomplish its own objectives (Carruthers, 1981). But in the process of attempting to influence provincial land use disputes for wilderness preservation purposes, the federal government has taken on a dual role, acting as both a mediator (at the request of non-stakeholder user groups) and a negotiator (on behalf of the Government of Canada) to resolve the land use conflict and establish a national park. By taking this approach to national park planning, the federal government is breaking all traditional methods of dispute resolution and creating a conflict-based approach to promoting the establishment of new national parks in Canada. Intervening in provincial land use disputes on behalf of other federal departments, or through various user groups, makes the federal government a stakeholder in the negotiations, a role it tries to downplay since it attempts to enter these debates as a mediator and not a stakeholder.

Considering this role is contradictory to the qualifications a mediator is required to adopt when facilitating a dispute, the question bears asking, what is the role adopted by the Canadian Parks Service in resolving provincial land use disputes where significant wilderness values are at stake, if it is not that of a mediator? It is the goal of this thesis to attempt to answer this question using the formation of South Moresby National Park Reserve (SMNPR) as a case example.

1.2 STATEMENT OF PROBLEM

In July of 1987, the Governments of Canada and British Columbia signed a Memorandum of Understanding (MOU) to establish the South Moresby National Park Reserve (SMNPR) located off the west coast of British Columbia (Canada, 1987). A provincial park had first been promoted for the area in 1974 by a small group of local residents called the Islands Protections Society (British Columbia, 1979). However, the B.C. government was not willing to establish a provincial or national park, compensate all stakeholders in the area, or isolate extractive industries and face numerous lawsuits to satisfy a small group of vocal citizens.

Environmentalists, the private sector, aboriginal communities, recreationists and the Government of British Columbia could not find an acceptable compromise on the future use of this area, thereby creating a land use dispute which brought national and international attention to the Queen Charlotte Islands region of B.C. The level of divisiveness which emerged over this issue necessitated the assistance of a third party to facilitate the conflict's settlement. In 1981, the Government of Canada began making gestures to assist in the dispute's resolution by establishing a national park at the south end of Moresby Island. Once the dispute matured to a point of open, continual discourse between the various participants in 1984, the CPS entered the debate on behalf of

the Department of Indian Affairs and Northern Development (DIAND) to encourage mediation to establish a national park.

By the time the MOU was signed in 1987 to establish a national park reserve, the Government of Canada had played four separate roles throughout the life of this dispute:

1. As a land owner in the Queen Charlotte Islands, and as a negotiator for the Department of Indian Affairs and Northern Development (DIAND) with the Haida Aboriginal community to settle a comprehensive land claim initiated in 1971, but not legally recognized until 1983;
2. Between 1980 and 1983 as a low-key national park proponent.
3. Between 1984 and 1986 as an observer and self-appointed mediator for DOE between the provincial government, the Haida and the IPS; and,
4. Between 1986 and 1988 as a negotiator on behalf of the Government of Canada in an effort to establish a national park at South Moresby.

The federal government was a stakeholder in this dispute through DIAND and DFO before DOE entered the debate as a observer/mediator and national park proponent. Being a stakeholder in a dispute, while attempting to remain at arms length in the event of having to act as a mediator if a

solution cannot be found, becomes problematic for the dispute resolution process and the participants wanting to see the conflict resolved. As a result of this condition, numerous issues require investigation to answer the question:

Can the Canadian Parks Service be considered a mediator in resolving provincial land use disputes such as the case establishing South Moresby National Park Reserve, where national parks are promoted as a form of compromise to resource development?

1.3 OBJECTIVES OF THESIS

The objectives of this thesis are to:

1. Review various conflict resolution models used to settle land use planning disputes.
2. Examine the historical and present planning processes used to establish national parks in Canada from a dispute resolution perspective.
3. Analyze the events surrounding the establishment of South Moresby National Park Reserve.
4. Evaluate the role of the federal government as a proponent of national parks on provincially disputed lands.
5. Discuss EDR as an alternative approach to traditional natural resource dispute resolution.

1.4 RESEARCH DESIGN

Two overriding factors have contributed to making this project a difficult task to complete: the lack of information concerning conflict resolution and national park formation as a form of land use planning in Canada; and, the discretionary and subjective nature of the material from a political perspective. As a result of these shortcomings, much of the analysis conducted has been an amalgamation of ideas, bringing together small bites of information from a variety of sources to form the thesis' basic tenet.

Alternative dispute resolution is a relatively recent field (post-1982) of study in Canada. Many people do not even recognize it as a field of study or discipline; however, its contribution to areas such as labour and commercial law have enhanced its credibility as a process which can bring innovative solutions to a complex area of problem-solving and crisis anticipation. Subsequently, it has been difficult to find information on wilderness preservation disputes which have used various EDR techniques to resolve competing land use problems.

As a result of this situation, many American sources were used to provide an historical perspective on the field in an attempt to illustrate why it has been successful. The U.S.A. experience brings to light a less bureaucratic, more open and accountable process where private organizations and citizens are in charge of administering these proceedings, not public

agencies, tribunals or government officials. Albeit the nature of property ownership in the U.S.A. has had a significant impact on the alternative dispute resolution process, Americans have also nurtured the development of new, innovative ideas to resolve contentious land use disputes, something the Canadian political process seems unwilling to accommodate.

In Canada, the breadth of public land ownership and administration has created complex land use relationships between the public and private sectors. These institutional arrangements have slowed down the adoption of conflict resolution techniques to assist in resolving contentious land use disputes, while maintaining an inert system for policy-making and regulatory reform. Useful Canadian sources for this study were those produced by organizations and academics who deal with the ramifications of environmental law and decision-making on a daily basis such as the Canadian Bar Association (1989), the Canadian Environmental Assessment Research Council (1987), the Canadian Institute Of Resources Law (1985, 1983), and authors like Dorcey (1985), Edmond (1980), Sadler (1987), Sewell (1989) and Shrybman (1984). These materials proved insightful from a theoretical perspective, particularly as they applied to understanding institutional arrangements in the administration of natural resources. However, the case studies identified were not related to competing land use theory, or the on-going debate

between extractive industries and environmentalists. As a result, there is still considerable room for analysis in this area of natural resource management by geographers and other academics.

Similar information limitations existed for understanding the role of national park formation as a type of land use planning, and the success or failure of this process within a Canadian setting. While articles in favour of creating national parks and how to plan activities within them were abundant (eg. Kluane and Forillon Master Park Planning Proposals), few examined how preserving unique ecosystems was simply good natural resource management, or why the national park planning process has caused such controversy in the past. Considering Canada's economy relies heavily on exporting natural resource products, one would expect to find literature on the importance or insignificance of national parks as a competing land use, and the contribution they have or have not made to the broader land use planning process. Yet there remain a number of information gaps on how economic development versus wilderness preservation disputes have been resolved in the past at the national level, and why they are important from a public policy perspective in the first place.

The question of the inherently political nature of this subject matter is also a theme that has been difficult to delineate. National parks often take a minimum of ten to fifteen years to establish in Canada. They are part of a

long, tedious, consensus-building process which can be influenced by how a senior public official feels on any given day. Since the basis for providing land for national parks remains so subjective, one would think information on how to reform this process and the hardships encountered by park proponents would be available; but the process has received little criticism from its detractors or those working in the area.

National parks, and the environment in general, has been one of those issues which has been used as a pawn in the political process for appealing to certain segments of the voting public. Throughout the 1980's, the environment received considerable attention as an election issue. It peaked during the 1987-88 period, coincidentally before the 1988 federal election and just after South Moresby National Park Reserve was established. The impact of this issue was evident as politicians, at both the provincial and federal levels, attempted to use the environment to secure votes. Both the Social Credit Party of B.C. and the federal Progressive Conservative Party, used wilderness preservation as an election issue in the 1986 provincial and 1988 federal elections. The fact that the environment became such a politically-driven component of the 1986 and 1988 elections suggests that since their inception, wilderness preservation issues have been politically charged. The question emerges, then, why were these issues not addressed previously, since

their impact would have been more significant when the federal government was preparing a new national park planning system in the late 1970's, or when national parks were being established for economic development reasons? Subsequently, a shortage of literary criticism has made these questions difficult to answer.

As a result of these information limitations, more effort was put to pulling together a diverse set of issues which addressed the broader questions of accountability in national park planning, and how the federal government participated in influencing provincial land use disputes where significant wilderness values were at stake. The conflicts identified in this thesis represent issues that continue to cause controversy today within all major extractive industries and industrial sectors which require large land areas for their development. Therefore, to address all of these issues independently first required analyzing each issue separately, then developing a sequential order to link them together with the themes of wilderness preservation in the national park planning process and dispute resolution. By analyzing the historical conditions which facilitated the establishment of national parks in Canada, and South Moresby in particular, one can evaluate how successful the federal government has been in establishing national parks and what their role should be in the wilderness preservation process at the national level.

A note should also be mentioned concerning the status of the marine national park at South Moresby. While marine national parks are a rather new addition to the Canadian national park planning process, the subject matter was excluded from this analysis because it is peripheral to the basic research focus and could not be given the attention it deserved.

1.6 ORGANIZATION OF THESIS

Six chapters are used to analyze the issues associated with environmental dispute resolution, national park planning and the South Moresby National Park Reserve case study. The first chapter has introduced the thesis topic and methodology employed. Chapter two explores the field of environmental dispute resolution and the types of techniques used in conflict resolution. Chapter three examines the evolution of national park planning in Canada since the late 1880's, the conflictual nature of the park establishment process, and the type of changes that have occurred with this evolution. Chapter four is a profile of the South Moresby controversy entailing a review of the area's geography, a description of the user groups, the issues of concern to them, their bargaining positions, and the obstacles and encumbrances facing ratification of the park agreement. Chapter five is an examination of the federal government's role throughout the dispute leading up to the park's ratification in 1987. The

sixth and final chapter draws conclusions on the value of national park planning in resolving land use allocation conflicts and the future role of environmental dispute resolution in national park planning in Canada.

CHAPTER 2 - WHAT IS ENVIRONMENTAL DISPUTE RESOLUTION?

This chapter reviews the characteristics of environmental dispute resolution (EDR) and discusses how mediation, as a conflict settlement method, is best suited to resolve environmental disputes. This task will be accomplished by reviewing various dispute resolution models available to disputees and by analyzing how the mediation process meets the concerns of stakeholders once consultation begins.

2.1 DEFINING THE ROLE OF EDR IN NATURAL RESOURCE MANAGEMENT

The settling of environmental disputes is an area of natural resource management which has grown considerably in North America since the mid-1970's. Most experts in the field of environmental dispute resolution such as Cormick (1980), Lake (1980), Patton (1984) and Susskind (1980) agree that the American judicial system was the first to experience problems associated with overcrowded courtrooms, and thus the adoption of alternative forms of conflict resolution for environmental issues. Land use and private property disputes were one such stream of cases which constituted a large percentage of time before the courts. As a result of the administrative problems that emerged from excessive litigation, the term alternative dispute resolution (ADR) surfaced as a separate field of

conflict resolution. ADR assisted the legal system resolve cases outside the traditional arena of adversarial-based disputes, encompassing all branches of the conflict resolution discipline including issues such as land use disputes.

With the changing nature of environmental liabilities in the early 1970's, environmental groups forced governments and various natural resource users (industrial, recreational and aesthetic) to re-evaluate their existing land use practices as environmental accountability was beginning to play a much larger role in the public policy-making process. Haphazard mitigation planning by natural resource agencies, procedural delays encountered within the judicial system and the eagerness of aggrieved stakeholders to prosecute competing land users all contributed to more parties seeking alternative forms of dispute settlement (Canadian Bar Association, 1989). As a result of these problems, resolving land use controversies took on a new meaning for private companies, interest groups and government agencies confronted by environmental conflict.

New EDR techniques in the United States incorporated a number of judicial characteristics which addressed the different types of natural resource conflicts facing government agencies who regulate land issues (Lake, 1980a). From the adopting of impact assessment procedures to the reform of adjudicative bodies responsible for reviewing environmental regulations, EDR evolved and responded to the

changing views of an increasingly environmentally conscientious society. By attempting to accommodate the concerns of all user groups, EDR provided stakeholders with an alternative to litigation, while promoting environmental accountability.

In Canada, conflict resolution has evolved under disparate circumstances, mostly due to differing political cultures and institutions. Environmental dispute resolution has been shaped by the executive powers of government at the federal and provincial levels. Regulatory bodies also exist within both levels of government to administer natural resource use; albeit, the bulk of all decision-making occurs by elected politicians and the people they appoint to regulatory agencies. These administrative structures provide user groups access to natural resources under a system of public ownership where the government leases the land, and the private sector is the developer. However, what has evolved in Canada is a complex web of legislation, regulations and institutional arrangements where ministerial discretion is pervasive, the bureaucracy is unable to effectively monitor and enforce its mandate, and stakeholders are always involved in disputes over future land usage.

Land use planning laws have been enacted to legitimize the use of natural resources within defined jurisdictions in which land use occurs. The objective behind these laws is to establish how a parcel of land can be used and for what

purposes. Financial compensation arrangements are made to those stakeholders who possess usufructory rights, but cannot exercise that right because a dispute arises. Such arrangements are rarely arrived at amicably since most parties see land as possessing a distinct value for that particular user group. Subsequently, due to the controversial nature of competing land uses, new dispute resolution methods have been experimented with to replace litigation as a form of dispute settlement, in an attempt to mitigate environmental conflict rather than proceed with it in the courtroom (MacDonnell, 1989).

2.2 TYPES OF METHODS USED TO RESOLVE ENVIRONMENTAL DISPUTES

A number of dispute resolution approaches have been experimented with in the U.S.A. since the early 1970's that have improved the benefits and atmosphere for all participants involved in contentious land use debates. Three dispute resolution models permeate EDR literature, and as such receive considerable attention from Bacow et al (1985), Bingham (1986), Mernitz (1980), Painter (1989) and Patton (1984) as successful methods for settling environmental conflicts: negotiation, mediation and arbitration.

Negotiation has been employed more than any other form of dispute resolution and, as Lake (1980c) suggests, is commonly referred to as the superior model of the three. Typically, the process involves two or more parties who attempt to reach

consensus on the issues causing them concern and arrive at a settlement which accommodates each other's interests.⁴ The objective of negotiation is for each party, who has willingly come to resolve the disputed issue, to search for consensus in the hope that mutual agreement will bring beneficial results for all parties, rather than the alternative which can result in litigation. The reasons for its success are that disputants employ a more flexible, less litigious approach to resolving their problems, which allows them to determine the pace and nature of settlement (Fisher and Ury, 1982). Costs are also kept to a minimum since there is no need for third party intervention. Furthermore, since litigation is often viewed as the only alternative to negotiating, this technique instills a sense of urgency to the discussions which forces the parties to arrive at some form of resolution.

The second process, mediation, evolves in circumstances where two or more disputing parties agree to bring in a third party as an intervenor to facilitate the dispute (Mernitz, 1980). Mediation attempts to address the interests of aggrieved parties through voluntary participation or when the negotiation process has failed, and disputing parties still

⁴ Almost any type of dispute involving a natural resource use can fall into this category. For a list of environmental conflicts in Canada which have utilized this form of EDR, see Dorsey, Anthony and Christine L. Riek. Negotiation-Based Approaches To The Settlement Of Environmental Disputes In Canada, in The Place Of Negotiation In Environmental Assessment, Canadian Environmental Assessment Research Council (ed.) 1987. Ottawa, Ont., p. 26-34.

wish to proceed to the next form of dispute resolution. A non-partisan actor is used to mediate the dispute, encouraging mutual consensus on the range of issues being debated, assisting parties develop solutions, and ratifying these conditions in the form of an agreement (Cormick and Patton, 1984).

Similar to the rationale employed for the successful ratification of any negotiated settlement, mediation is viewed as a stable resolution process since for each party to ultimately benefit from a settlement, the process requires complete compliance with the agreed upon arrangements (Cormick, 1987). Mediation also reduces any one party's perception that benefits accrue more to one than any other party. However, as Sadler and Armour (1987) state, resolution can be difficult if an uneven distribution of costs and benefits overwhelm the participants' ability to compromise, or if consensus cannot be reached between internal party opinions. The outcome of this process either facilitates settlement or forces the dispute to be addressed by arbitration or adjudication.

Mediation and negotiation illustrate two forms of voluntary dispute resolution which aggrieved parties may choose to pursue rather than meet in a courtroom. Since both are approached at the request of parties who want to resolve the dispute they are involved in, the potential for success is heightened. Arbitration, on the other hand, does not provide

the same degree of security as do negotiation and mediation. Although viewed as an alternative to litigation, arbitration is more winning orientated than the other two methods of dispute resolution since in arbitration, one party leaves the discussions with a decision rendered in their favour, while the other party leaves without the result they were seeking.

Arbitration, also a voluntary medium for participating in dispute resolution, involves a more conflict-driven process where a third party intervenor is used to rule on the issues binding the participating parties to a rendered decision (Bacow and Wheeler, 1985). Only one party is rewarded since a binding decision selects one use over another, leaving one party without an opportunity to implement it's land use plan. The benefits provide a last attempt to avoid the problems associated with litigation since neither party is seeking consensus or agreement over the issue, just a final decision. Subsequently, while not a desired form of resolving land use disputes, the medium of arbitration becomes a third approach in which resolution may be achieved.

These conflict resolution techniques attempt to assist parties reach consensus over various land uses. The influence conflict resolution procedures have on existing institutional arrangements becomes more evident upon closer scrutiny of the governing agencies which implement changes to public policy, and how they purport to equally address all stakeholders' concerns. Bringing all stakeholders together allows each

party to participate and contribute to the outcome of the decision, while making the government's accountability process more open to criticism and more flexible for public input. It is not the role of government to appoint intervenors or third parties which do not meet the approval of the disputing parties, or in any way contribute to the perception of bi-partisanship in the negotiation process. Such actions can disrupt the bargaining process and heighten the tension between user groups and the government. However, this is the situation in Canada as all EDR bodies are government appointed or regulated by public policy (Edmond, 1987).

Natural resource disputes are not uncommon when competing users perceive significant losses or gains from potential development opportunities. Depending on the type of natural resource in question, both in economic (location and value) and social (displacement) terms, choices will be made by the affected parties on the type of model pursued and the potential opportunity costs associated with utilizing projects for either single or multiple use purposes. The decision to proceed with or refrain from development will reflect the feasibility of bringing this benefit to the public either in the form of consumer or aesthetically valued goods. Based on these considerations, decision-makers and natural resource users can then decide on the best use for an area in dispute.

Once the decision has been reached to proceed with a dispute resolution technique, value judgements are adopted by

competing actors over the end use being sought, as different parties posture to maximize the resource benefits as they define them. Although these discussions will invariably evolve around the impact of each use, in the end, it is the governing political party who will make the final decision as to how a natural resource or land area will be utilized. Where this end use is debated between competing land users is when disputes arise between parties who feel aggrieved over the loss of the natural resource in question. Environmental dispute resolution can therefore be defined as a process which attempts to bring together natural resource users and facilitate discussions between them in the hope of obtaining mutual agreement on the future use of a particular natural resource or parcel of land.⁵

2.3 TYPES OF ENVIRONMENTAL DISPUTES

Environmental disputes vary in scope, significance and type depending on the nature of the conflict and its implications for a region. The type of environmental dispute will determine what form of dispute resolution to use when attempting to resolve a land use conflict. Dorcey and Riek (1987) suggest two types of issues differentiate environmental disputes: substantive and procedural issues. Substantive

⁵ Most authors of EDR provide wide-ranging statements as to what is its actual definition; subsequently, while each revolves around the same premise, few are worded similarly.

issues address institutional and structural arrangements between natural resource users and how they are perceived and addressed by the affected actors. This includes projecting the effects of development from a systems planning perspective, determining the multiple use opportunities in a particular area, defining the nature of legislative instruments necessary to implement the desired changes and the qualification of legal uncertainties over natural resource ownership and jurisdiction. Isolated disputes can also emerge as a result of discordance between those users whose interest it is to influence the decision-making process outside of the direct circle of actors involved in the conflict.

Procedural issues encompass all the technical concerns associated with substantive issues, in addition to identifying the various administrative processes and procedures experimented with when different user groups are forced into an environmental debate. Procedural issues are also surrounded by an atmosphere of increased bargaining uncertainty between the parties who perceive themselves to be aggrieved. Common grievances include determining who should accept and pay the environmental costs of industrial development, who should be eligible to sit on assessment committees, the location of where to hold public hearings and methods used to mitigate degradation of a natural resource (Dorcey and Riek, 1987).

The implications which these issues and dispute resolution processes have for natural resource agencies responsible for administering regional land use planning becomes evident when the economic and social policy impacts are measured within communities dependent on resource exploitation.⁶ Establishing a national park in the South Moresby area, where forestry and mining have dominated economic development for the last seventy years, invariably attracts discourse over various forms of land use, from the user groups who claim an interest in these uses, and over how best to resolve discordances when and if they emerge. Identifying the appropriate methods to rectify land use problems can only succeed when realistic goals are met by all parties involved in a dispute, and there is a willingness on behalf of those users to reach some form of compromise. Of the three methods mentioned above, all have had various degrees of success, but the one which has the best "track

⁶ For a good analysis on the social implications of downsizing forest operations from communities dependent upon resource exploitation, see Marchak, Patricia. 1983. Green Gold: The Forest Industry In British Columbia. University Of British Columbia Press, Vancouver, B.C.

record" and is most favourably received according to Cormick⁷ is mediation (Cormick and Patton, 1984).

2.4 UNDERSTANDING ENVIRONMENTAL MEDIATION

Environmental mediation in Canada has evolved under completely different political and legal conditions compared to what has emerged in other countries around the world. In the U.S.A., where the field first surfaced in the early 1970's, environmental mediation followed a similar framework to disputes found in labour, regional planning, and family and commercial law (Liepmann, 1986). With an overcrowded judicial system delaying litigation, the formation of dispute resolution bodies with the capacity to settle litigious activities through mediation was viewed as a viable alternative to continued litigation and time delays within the courts (Susskind and Weinstein, 1980).

While the U.S.A. federal and state governments began to use these methods to resolve land use disputes, it was the private sector and special interest groups who seized the opportunity which mediation provided as a vehicle to reduce

⁷ Gerald W. Cormick is considered the father of environmental mediation in the U.S.A. In the mid-1970's, he and Jane E. McCarthy established the Office Of Environmental Mediation at the University Of Washington in Seattle. Being the first team to mediate natural resource conflicts in the U.S.A., Cormick and McCarthy participated in a number of land use debates throughout the country. Cormick has written extensively in this area, and most recently in the Canadian Environmental Mediation Newsletter (1988) out of York University in Toronto.

the amount of time and energy spent over litigation. By reducing the amount of time and money a party would have to spend on preparing a case to test in court, additional emphasis could be placed on resolving the dispute at hand and coming to a settlement within a more amicable forum and timeframe. Over a twenty year period from 1970 to 1990, mediation went from a sparsely used problem-solving technique in the U.S.A., to a vital decision-making instrument used to settle a variety of natural resource disputes. The end result of these efforts was the birth of environmental mediation (Canadian Bar Association, 1989).

Canada on the other hand, seldom addressed mediation as a form for resolving environmental conflict, and as such, it remained an untested model for consensus decision-making over the environment until the late 1980's.⁸ Much of this condition can be attributed to the nature of property ownership in the U.S.A. and the federal and state governments' minority role as a land holder compared to that of provincial governments in Canada. Whereas in the U.S.A., where the 1969

⁸ While Haussman's study for the Department of Environment (DOE) was the first study to examine possible avenues of dispute resolution in Canada, it was not until the Canadian Environmental Mediation Newsletter and the Conflict Resolution Institute at York University was established that the field of environmental mediation began to gain some credibility in Canada; see Haussman, F. Christoff. 1982. Environmental Mediation - A Canadian Perspective, Department Of Environment, Ottawa, Ont.

National Environmental Policy Act (NEPA)⁹ gave property owners the right to use litigation to challenge existing laws when compensation over environmental damage was slow in resolution, no such right existed in Canada to force disputing parties to find some other method to resolve their problems (Edmond, 1985).

In Canada, while private citizens have increasingly challenged the limited public access to the environmental decision-making process since the mid-1970's, it has only been in the last ten to twelve years that environmental concerns have begun to receive attention under various EDR bodies such as appeal boards and administrative tribunals (Castrilli and Lax, 1981). With the federal and provincial governments controlling approximately 95% of Canada's landbase, EDR has been restricted to challenges in the courts where jurisdictions are questioned by the regulatory and legislative process, the rights of special interest groups or private citizens. This condition has left dispute participants with little opportunity to resolve environmental conflicts, since most administrative boards are political creations, leaving little access for alternative forms of dispute resolution to be created unless the entire conflict resolution process is

⁹ NEPA has been analyzed extensively in the U.S.A. due to its far reaching implications for environmental regulation. For its use as a legal instrument in the areas of wilderness preservation, see Foresta, Ronald A. 1984. America's National Parks And Their Keepers, Resources For The Future, Washington.

replaced (Jefferies, 1987). Without the state providing opportunities for EDR bodies to be created, alternative forms of dispute resolution will continue to be difficult and will force solvable conflicts into the courts while government accountability continues to wane. These obstacles to access were what contributed to the growth of environmental mediation in the U.S.A., while impeding its evolution as a dispute resolution tool in Canada until only recently.

Environmental mediation has been defined by a host of individuals to mean a number of things, all contingent upon the nature of the conflict and the type of actors participating in the dispute. Carnuff (1981) suggests that "mediation is a voluntary approach in which those involved jointly explore and reconcile their differences". Lake (1980c) states that environmental mediation is a "site specific dispute resolution process which results in a written settlement statement, best employed after a dispute has reached an impasse, but only if there is some flexibility for bargaining". Evans (1988) further defines environmental mediation as "the participation of a neutral third party whose goal is to reach an negotiated resolution to an issue that is acceptable to the negotiators". These definitions all convey one general message presented by writers on environmental mediation; however, Cormick's interpretation of the term has received more attention and acceptance than most other authors.

As one of the originating contributors to the field of environmental mediation in the early 1970's, Cormick's definition can be used as the benchmark for conveying what is involved in the dispute resolution process. Cormick (Haussman, 1986) states "environmental mediation is a voluntary process in which those involved in dispute jointly explore and reconcile their differences. The mediator has no authority to impose settlement. His or her strength lies in the ability to assist the parties in resolving their own differences. The mediated dispute is settled when the parties themselves reach what they consider to be a workable solution".

Cormick's definition stresses issues such as flexibility, bargaining strength and positioning, topics mediators must understand and equally provide each party before attempting to bring together disputing user groups to resolve their differences. The significance of these issues becomes more apparent when efforts are made to bring the disputing parties into a forum where each interest's message will be heard and respected. The mediator's task therefore becomes one of getting each party to openly discuss their concerns, while helping stakeholders acknowledge the legitimacy of other parties involved in a dispute; however, before discussions are initiated, a mediator must evaluate a number of issues which indicate the nature and scope of a dispute.

2.5 THE ROLE OF MEDIATORS IN RESOLVING ENVIRONMENTAL DISPUTES

The role of a mediator is a very structured, yet highly flexible one. A mediator is asked to participate as a facilitator in a dispute when conflict has reached a point of impasse (Susskind and Weinstein, 1980). The power of the mediation process is that the disputing parties need assistance in settling the issue at hand, and will do almost anything to rectify the problem. This condition places the mediator in a strong, almost enviable position because once the terms are set for voluntary negotiation to commence, it is mutually understood that the parties are there to seek a compromise, not looking to create further conflict (Patton, 1984). These parties would not be in a disputatious situation unless the issue had reached a point of impasse, so the decision to proceed with mediation conveys the willingness of the disputees to resolve the issue at hand and consider compromising their positions so they receive some form of benefit. It is within this setting that the mediator begins to set the ground rules for resolution.

The mediator must be cognizant of a number of factors and conditions before the parties agree to sit down and begin discussions. Identifying the actors who should be involved in negotiations is an immediate concern, as is isolating those parties who attempt to politicize or influence the hearing process (Mernitz, 1980). Often this is a response to the lack of influence a party may have in the decision-making process,

or how strong a position a private company or government may have over the other parties participating in the dispute (MacDonnell, 1989).

In Canada, environmental groups have often found themselves in such circumstances since few of them were holders of property rights.¹⁰ The same can be said where the federal government is concerned over national park establishment. Without standing in the courts, a party's ability to become involved in the mediation process is more a result of pressuring the parties with an interest to come to the negotiation table, rather than actually influencing the decision reached by the disputing parties to discuss the problem in the first place (Elgie, 1991). As a result of this influence, parties without a direct interest in a dispute are able to access the mediation process, while at the same time strengthening the role of other interest groups with similar access problems (Elgie, 1991).

The need for a mediator who can see all of these intangibles becomes imperative so negotiations are not slowed down by participants without a direct interest in the conflict's outcome. For a mediator unwilling to recognize the legitimacy of peripheral stakeholders, the negotiation and

¹⁰ The recent 1991 Supreme Court decision concerning the role of environmental organizations ability to gain standing in the courts has changed the judicial landscape for lodging challenges over excluding environmental organizations from natural resource planning. See FEARO, 1991.

bargaining process may breakdown if control is not exercised to allow certain participants into the mediation or negotiation proceedings. Without a position, a party will not find compromising an easy task and their power base will be considered unstructured and weak (Evans, 1987). A weak organization can be viewed from a variety of ways, but when that organization's views permeate into the constituency you are trying to lobby, and if you lose, it may jeopardize your party's posture throughout the course of any future negotiations.

The mediator's role in placating these concerns is one of providing a balanced framework for the parties involved in the dispute to feel they are being treated equally. An uninformed mediator can be a liability to the discussions if that individual can not provide viable options to the parties, or if a question arises that cannot be answered. Loss of faith in the mediator then becomes a hindrance to a potential agreement since it is the mediator's job to create an equal playing field for all participants; otherwise, a party may walk away from the bargaining table and alter the timeframe for resolving the dispute. An imbalance of power and the mediator's inability to resolve its distribution during negotiations can further heighten the dispute setting and diminish the prospects of reaching an agreement (Cormick and Patton, 1980). While these conditions set out the criteria for how a mediator will address disputing participants'

concerns, coming to some form of agreement in a final document is ultimately what these parties are at the bargaining table to achieve.

The development of bargaining positions is fundamental to a dispute's resolution if a participating party is to influence the settlement of a conflict. In cases utilizing mediation, bargaining is used by parties as a means of obtaining the best results that a particular party envisions to accomplish its desired objective. Making trade-offs over one particular issue versus concessions for another party's interests is what makes participants receptive to mediation. A willingness to compromise on controversial issues so a settlement can be arrived at illustrates how sincere a party is about resolving the dispute and how flexible it is in listening to the concerns of the other participants. Buckle and Thomas-Buckle (1986) identify six factors which reflect the need for unanimity when searching for consensus:

1. An agreement must be acceptable to all the parties involved;
2. The outcomes should be viewed as balanced by private citizens in the community;
3. All parties should benefit equally;
4. The final settlement must consider past precedents in other disputes;
5. The dispute should be resolved with as few expenditures and loss of time as possible; and

6. Mediation should improve the disputants new relationship.

If these qualities cannot be found in a settlement, then mediation has proven fruitless and the need for consensus will be turned over to an arbitrator or adjudication which will not produce consensus.

When a mediator is asked to participate in the resolution of a dispute, the only thing that remains constant is the uniqueness of each conflict. While similarities exist between the various parties who typically participate in environmental disputes and what it is they are seeking to accomplish, each dispute has its own set of circumstances which influence how the debate will play itself out. Therefore before mediation begins, issues requiring clarification include: is there a need for a mediator? how is a mediator selected? and is mediation the most appropriate form of dispute resolution? These are a few of the questions which require attention before parties agree on the use of a third party to assist in settling a dispute.

In the case of the South Moresby dispute, the goal of this research is to explain how the parties got to a point of impasse and then analyze how mediation became viewed as an essential ingredient to resolve the dispute. The two civil

cases that went to litigation in the 1977-81 period¹¹ illustrated how entrenched the B.C. government and forest industry's positions had become on wanting to keep the Queen Charlotte Islands a location for logging, and why an alternative strategy was needed to appease the aboriginal community and wilderness preservation movement. Additionally, the B.C. government's uneasiness over preserving any part of the Queen Charlotte Islands until the late-1980's created room for a third party to enter the discussions and assist in the conflict's resolution when it became evident that the dispute would continue indefinitely.

As will be elaborated in the fourth chapter, two distinct periods of events can be observed over this dispute's fourteen year timeframe: between 1974 and 1985, when the parties involved in the conflict positioned themselves to confront the B.C. government in an attempt to reach a negotiated settlement, and between 1985 and 1988 when the B.C. government began to entertain the federal government's offer of establishing a national park. While it is essential to

¹¹ For a review of the court cases involving South Moresby before the formation of SMNPR, see Rankin, Murray and Mark Horne. Procedural Fairness, Standing, The Statutory Power Of Decisions And The Judicial Review Procedure Act--The Islands Protection Society v. The Queen In Right Of British Columbia, in The University Of British Columbia Law Review. 1979. Vol. 14, #1, U.B.C. Press, Vancouver, B.C.; and, Pinkerton, Evelyn. Taking The Minister To Court - Changes In Public Opinion About Forest Management And Their Expression In Haida Land Claims, in B.C. Studies. 1983. U.B.C. Press, Vancouver, B.C., Spring, No. 53.

identify how the parties involved in this conflict interpreted their role within British Columbia's political landscape, it is first necessary to examine how the federal government established and administers Canada's national parks, which has been a controversial factor affecting the dispute itself.

CHAPTER 3 - NATIONAL PARK EVOLUTION AS A FORM OF LAND USE PLANNING

The purpose of this chapter is to review the evolution of national park establishment in Canada. This task will be accomplished by describing how national parks have been formed since the late 1880's when the Department of the Interior (DOI) first established Rocky Mountain (Banff) National Park,¹² and by outlining the conflictual nature of the land use planning process between various user groups involved in the national park planning process.

3.1 NATIONAL PARKS AS A COMPETING LAND USE

When tracing the history of national park establishment in Canada, it becomes apparent that competing land uses have been an inherent component of the decision-making process for as long as national parks have been in existence. Many obstacles encountered by national park proponents often reflect an unwillingness by provincial governments to set aside large tracts of land, or the Government of Canada's

¹² Being the first national park established in Canada, Banff national park has received a lot of attention from a variety of literary perspectives. For a good description of the park's early history, see Lothian, W.F. 1937. A Brief History Of Canada's National Parks, Ottawa, Ont.

reluctance to challenge provincial legislatures using their powers of expropriation to obtain land for park purposes. The difficulties faced by both federal and provincial governments becomes particularly salient when one examines the many disputes that have arisen between special interest groups who influence public policy, and property stakeholders who possess or obtain access rights to use the land sought for protection (Nation, 1979).

Of the issues which garnered attention in the 19th Century, many continue to plague park planners and create controversy today. Included in this litany of concerns are problems such as:

1. Financial compensation disputes between individuals, private companies and provincial government agencies losing access to property and commercial resources (British Columbia, 1986);
2. The province's resistance to restrict extractive industries from developing natural resources rather than using tourism as a vehicle for economic development (Rounthwaite, 1982);
3. Methods of land acquisition (Gardner, 1990);
4. The federal government's past record of expropriating land holdings (Thomas, 1981);
5. The lengthy time necessary to negotiate park agreements (Gauthier and Henry, 1986);

6. Poor federal-provincial relations (Bankes, 1986);
and,
7. The uncertainty over native land claims (Burnet, 1983).

Issues such as these confirm why national park planning remains such an acrimonious process, how inextricably linked to the past our views on land use and park creation are, and why Canadian society at large sees little value in wilderness preservation beyond that for personal benefit. The dispute resolution mechanisms used to date have not addressed how these problems can be rectified at the provincial or federal level, or if national park land shortcomings will ever be overcome by the goodwill of provincial governments. However, one point which has become evident is that the national park planning process has not evolved along lines of mutual benefit for either the federal government, as an advocate of national parks, or for provincial governments as stewards of provincial land.

The rationale contributing to this on-going debate has resulted from the federal government's past behavior as a land manager and the provinces' inability to see the Government of Canada as anything but a threat to their power base. Prior to the enactment of the Natural Resources Transfer Agreement (NRTA) in 1930 (Bankes, 1986), national park establishment, although contentious in western Canada, was rarely challenged

by other provinces, as eleven of Canada's first fourteen national parks were formed with little provincial government input, or as Bankes calls them "non-agreement parks" (Bankes, 1986). With the ratification of the NRTA, the federal government could no longer expropriate lands in Alberta, Saskatchewan or Manitoba for its own use. Since the prairie provinces did not receive title to their natural resources when they entered confederation, transferring title back to them created a wariness of the Department of the Interior when future park planning discussions arose.

As a result of these events, most national park proposals abandoned after 1930 were done so as a result of political posturing between federal and provincial governments. Proposed parks such as Ship Harbour in Nova Scotia,¹³ the Mealy and Torngat Mountain region of Labrador,¹⁴ East Point in Prince Edward Island¹⁵ and Great Slave Lake in the Northwest

¹³ For a review of the failed Ship Harbour proposal, see Reilly, Robin. Planning For National Parks In Atlantic Canada - The Experience With Ship Harbour, Nova Scotia 1965-1973, in Park News. 1981. Vol. 17, #1, Spring, Canadian Parks And Wilderness Society Press, Toronto, Ont., p. 5-10.

¹⁴ Bill, Richard E. 1982. Attempts To Establish National Parks In Canada--A Case History In Labrador From 1969-1979, M.A. Thesis, Department of Geography, Carleton University, Ottawa, Ont.

¹⁵ Overton, James. A Critical Examination Of The Establishment Of National Parks And Tourism In Underdeveloped Areas--Gros Morne National Park In Newfoundland, in Antipode. 1979. Vol. II, p. 42.

Territories¹⁶ reflect this controversial debate surrounding jurisdictional influence over land usage and wilderness preservation.

Since all of the above initiatives failed to receive national park status, it becomes apparent that trade-offs must be acknowledged and assessed to anticipate the broader social and economic impacts on the area in question, the costs and benefits that accrue to participating parties, and the long-term effects the choice of industrial development over wilderness preservation has on local and regional economies. Consequently, there remains an on-going debate within Canada over what is the most appropriate form of land use for regions with well-endowed natural resources, and whether national parks fit into the status quo model of multiple land use planning.

3.2 HOW NATIONAL PARKS HAVE BEEN PLANNED IN THE PAST

The process for determining national park planning criteria in Canada has changed substantially over the last one hundred years as the federal government has been forced to re-evaluate its authority and philosophy in establishing national

¹⁶ Many articles exist concerning attempts to establish a national park at Great Slave Lake in the N.W.T. Two such articles are Fee-Yee Consulting. 1986. Proposed National Park For The East Arm Of Great Slave Lake, Yellowknife, N.W.T.; and, McComb, Murray and Bob Gamble. A National Park Proposal For The East Arm Of Great Slave Lake, in Park News, 1979. Vol. 23, #1, Spring, Canadian Parks And Wilderness Society Press, Toronto, Ont.

parks. Four distinct transition periods can be identified which evolved to influence the current system that houses these monuments of Canadian geography:

1. From 1887 and the formation of Banff National Park to 1930 and the enactment of the National Parks Act;
2. From the ratification of the National Parks Act in 1930 to the fall of the Progressive Conservative government of John Diefenbaker in 1963;
3. From 1964 and the first policy position taken on future national park planning by the Liberal government of Lester Pearson, to the holding of the second conference on Parks Canada policy in 1978; and,
4. From 1979 and the establishing of major national park amendments to the present role of planning future national parks into the 21st Century.

3.3 NATIONAL PARK PLANNING BEFORE THE NATIONAL PARKS ACT:

1887-1929

The initial efforts of the federal government to establish national parks prior to the enactment of the NPA in 1930, can be viewed as aggressive and dispute driven, considering the state of federal-provincial relations at the time and the nature of property rights under the Constitution

Act of 1867.¹⁷ Prairie province Members Of Parliament (MP's), particularly Albertans and British Columbians, were quite vocal in opposing the incorporation of provincial lands into national parks (Canada, 1930). Lively debates over the merits of the federal government's ability to control the provinces' access over natural resource use were expressed by a number of MP's, particularly during the period 1905-1913 and leading up to the Natural Resources Transfer Agreement (NRTA). The events that precipitated this backlash were the establishment of Elk Island National Park,¹⁸ and in the early 1920's, Wood Buffalo¹⁹ and Nemiskam National Park.²⁰

Except for two national parks established in Alberta prior to that province joining confederation in 1905, and the two national parks formed in British Columbia prior to 1895 (see Table 1), the western provinces of Manitoba,

¹⁷ For a more thorough analysis of this period, see Nation, Rosemary. 1979. Canadian National Parks--A Critical Analysis Of Their Acquisition And Management., L.L.M. Thesis, Dalhousie University, Halifax, N.S., p. 12-15.

¹⁸ supra note 11. Lothian. 1987. p.. 47-51.

¹⁹ ibid, p. 63-68.

²⁰ Nemiskam National Park is a special case as it lost its national park status in a land transfer; see Nikiforuk 1990.

Saskatchewan, Alberta and British Columbia were all recognized as legitimate governments within confederation.²¹

Table 1: NATIONAL PARKS CREATED BEFORE NPA IN 1930

NATIONAL PARKS	PROV.	YEAR FORMED	SIZE OF (km²) NATIONAL PARK
Banff	ALTA	1885	6,640.8
Yoho	B.C.	1886	1,313.1
Glacier	B.C.	1886	1,349.4
Jasper	ALTA	1907	10,878.0
Waterton	ALTA	1910	525.8
Elk Island	ALTA	1913	194.3
Mt. Revelstoke	B.C.	1914	262.6
St. Lawrence	ONT.	1914	5.2
Point Pelee	ONT.	1918	15.5
Kootenay	B.C.	1920	1,406.4
Wood Buffalo	ALTA	1922	44,807.0
Prince Albert	SASK	1927	3,874.6
Riding Mt.	MAN.	1929	2,975.9
Georgian Bay	ONT.	1929	25.3

Source: Adapted from Nikiforuk (1990) and Lothian (1987).

Although these provinces did not possess legal title to their natural resources as did the other provinces when they entered confederation (except for B.C.), the provinces' interpretation of who controlled and administered land management functions

²¹ Although Manitoba was given provincial status in 1870, British Columbia in 1871, and Alberta and Saskatchewan in 1905, national parks were still established in these provinces after confederation by government fiat until the enactment of the NRTA. Often they were done so without the consent of the governing party of the province; see Bankes, Nigel D. Constitutional Problems Related To The Creation And Administration Of Canada's National Parks, in Saunders, Owen (ed.) 1986. Managing Natural Resources in a Federal State: Essays From The Second Banff Conference On Natural Resources Law. Canadian Institute of Resources Law, University of Calgary Press, Calgary, Alta., p. 212-234.

became a contentious issue as the federal government unilaterally established national parks for forty-five years. In this situation, the federal government possessed enormous flexibility in exercising rights of power over land usage in western Canada, irrespective of the wishes of provincial legislatures.

These powers were used extensively for the development of tourism, heavy industry and wilderness preservation for recreation purposes prior to the transfer of title over property rights under the NRTA (Bankes, 1986). With tourism acting as a catalyst for national park formation, its impact became quite evident during the late 1880's and into the 1900's. Both the tourism and resource extraction sectors were historically significant to the federal government as a source of taxation and revenue, while additionally influencing settlement patterns, the expansion of the trans-continental railroad, and a variety of resource industries catering to the demands of the federal government's national policy.²² Tourism, however, became the catalyst for economic development into national parks as it acted as a buffer between the extractive industries which were operating in the region and another form of revenue generation which was less intense on

²² For a review of the socio-economic conditions before the ratification of the National Parks Act in 1930 and the impact of MacDonald's national policy on Canada's political landscape, see Granatstein, Jack L., Abella, Irving M., Bercuson, David J., Brown, R. Craig and H. Blair Neatby. 1983. Twentieth Century Canada, McGraw-Hill Ryerson Press, Toronto, Ont.

the land. Tourism in national parks allowed the federal government to retain ownership over some land before title was transferred back to the provinces through the NRTA. Tourism also allowed the federal government to procure revenues from various licensing arrangements and types of resource use which were allowed in most national parks until after the World War II (Brooks, 1970).

As a result of this constitutional setting, conflict between all western provinces and the federal government over national park formation was a common occurrence. Since most parks established in western Canada prior to 1930 were done through this federal designation power, the provinces remained unable to do anything but debate the issue through their M.P.'s in the House Of Commons. Lands designated for national park functions were often haphazardly identified by the Department Of The Interior (DOI), the agency responsible for administering national parks.

No set criteria were initially used by DOI to select areas for designation, as park boundaries were redefined at will by district managers. Even with the signing of the Migratory Birds Act between the governments of Canada and the U.S.A. in 1916,²³ few standards were developed until the

²³ The Migratory Bird Convention Treaty is one of the oldest pieces of environmental protection legislation in the world. Initially viewed as having a significant impact on the establishment of Wood Buffalo National Park in 1922, it is also viewed as one of the first international conventions dealing with endangered species (whooping crane). For a more recent

1960's to categorize potential areas for inclusion in national parks. DOI had a long history of economic development and expansion functions as it was the lead department for the federal government in settling western Canada. However, with the formation of the Canadian Wildlife Service in 1916, and the emergence of the National Parks Branch in 1930, DOI's role changed from one of administrator to that of national park caretaker.

Bella (1987) states monetary opportunism and economic development, rather than ecological principles or concern for the environment, determined what areas would receive national park status when the pre-1930 parks were being established. An concerted effort was made by the federal government and the Canadian National Railroad (CNR) to acquire land and delineate boundaries around a potential park location in question if an area seemed attractive to the public. Many resorts were built to accommodate wealthy tourists who could only get there by train, thus substantiating the federal government's claim as an agency to protect economic interests while giving people a place to enjoy leisure pursuits in an aesthetically pleasing environment (Bella, 1987). These very principles, adopted by

interpretation of its application to natural resource management north of 60°, see Hunt, Constance. Legal Aspects Of Implementing Sustainable Development In Canada's Northern Territories, in Saunders, Owen (ed.) 1989. The Legal Challenge Of Sustainable Development: Essays From The Fourth Institute Conference On Natural Resources Law; Canadian Institute Of Resources Law, University of Calgary Press, Calgary, Alta., p. 281.

the MacDonald government after close scrutiny of the U.S.A. situation, were in fact not much different from what the government was suggesting they opposed, the commercialization of unique wilderness areas (Rounthwaite, 1980).

Within the first forty-five years of national park formation, fourteen parks were established in Canada with most of them located in the west: four in British Columbia, five in Alberta, one each in Saskatchewan and Manitoba and three in Ontario, ranging in size from 30 km² (Point Pelee) in Ontario to over 63,000 km² (Wood Buffalo) in Alberta (Lothian, 1987). The planning system employed to classify these parks was very ad hoc, reflecting the CNR's demand to access more land and the federal government's ability to acquire natural resources not constitutionally recognized under provincial jurisdiction, than the ambitions of provincial legislatures to preserve wilderness areas. By excluding these lands from provincial control and placing them under a hastily designed unstructured federal land management regime, the federal government was viewed by the provinces as creating a national park planning process which was aggressive and self-serving. This autonomous approach to establishing national parks lacked provincial consultation and the recognition of these governments as legitimate representatives of the Dominion. The process, however, began to change in the mid-1920's, as provincial governments started rejecting overtures to form national parks from the federal government and DOI.

With the western provinces awaiting title to their natural resource base under the NRTA, and the National Parks Act (NPA) being drafted in 1928, the federal government lost its preferential access to western lands in 1930 and was forced to develop a new approach to national park land acquisition. As a result of previous unilateral measures to address national park formation procedures, ample controversy had evolved between the federal and provincial governments to set the stage for a difficult park planning future. Viewed by the provinces as being incapable of planning national parks, the process became conflict-laden and dispute-based over constitutional rights and jurisdictional posturing.

3.4 A PERIOD OF UNCERTAINTY: 1930 TO 1963

The period 1930 to 1963 can be viewed as a time of uncertainty and unaccountability for the federal government as an administrator and advocate of national parks in Canada. Environmental pressures had not yet become the mounting issue that they would in the 1960's, and the economy, although hurt by the depression in the early to mid 1930's, would turn around before World War Two. These factors influenced how people would spend their disposable income and accept the concept of national parks for tourism and recreation purposes over the next twenty years. National parks became a recreational outlet for the public and a vehicle for tourism and economic development to be marketed by the federal

government. With the NPA enacted, a number of new agencies emerged to administer national parks and environmental issues; however, a process for resolving site identification and selection criteria procedures remained an elusive goal as one did not appear with credibility and set objectives until the late 1960's, after the first official national park policy statement was issued in 1964 (Brooks, 1970).

Within this period, three departmental and three internal re-organizations occurred whereby DOI was dissolved and the Department Of Northern Affairs And National Resources (DNANR) became the lead agency responsible for national parks (Taylor, 1990). The first shuffle, occurring in 1936, created the Department Of Mines And Resources (DMR). Twenty-eight divisions of the Department Of Immigration And Colonization, the Department Of Indian Affairs, the Department Of Mines and the Department Of The Interior were consolidated into one. National parks were administered under the Lands, Parks And Forests Branch. The second re-organization occurred in 1950, whereby DMR was overhauled creating three new departments; the Department Of Resources And Development (DRD) emerged with national parks. The third shuffle occurred three years later in 1953 with DRD being replaced by the Department Of Northern Affairs And National Resources (DNANR). This department also experienced a re-organization in 1955, but its name did not change; rather, a National Parks Branch (NPB) was established and given the mandate to administer five agencies who

conducted natural resource inventories. The final re-organization in this period occurred in 1963, again with DNANR's name remaining the same and the NPB now divided into six separate divisions.

The Parks Branch attempted to define its role and limits of jurisdictional influence within this new legislative arrangement, but unstated policy objectives and the unwillingness of provincial governments to co-operate and set land aside made its task arduous and politically risky. The difficulties of acquiring title to private property in western Canada and the reaction of other provincial governments to the federal government's method of land acquisition complicated the negotiating environment in which national parks were being considered for creation east of Manitoba (Brooks, 1970). The political dynamics that emerged after the NRTA completely changed the national park planning process for other provinces, as park formation became regionalized, with different political issues and goals affecting each province's decision to set aside land for wilderness preservation purposes.

In western Canada, park establishment came to a standstill, as forty years passed between the ratification of Riding Mountain National Park in 1929 and Pacific Rim National Park in 1970. Many of the problems encountered by the NPB were a direct result of provincial distrust over the federal government's past planning procedures (Brooks, 1970). The

biggest obstacle for the federal government was convincing provincial administrations to make trade-offs between the procurement of provincial natural resource revenues from land taken out of industrial development (ie. forestry, mining, trapping, etc.) versus the use of the natural environment for tourism purposes.²⁴

Without a policy to justify continued expansion of national parks in western Canada, and a forum for local residents and industry to voice their concerns on land use planning, disputes continually arose in the House of Commons over why there remained a need to form national parks in western Canada, and if more were required. Subsequently, the Parks Branch's efforts shifted from the west to central and eastern Canada. However, east of Manitoba, land acquisition became as problematic as it was in the west; the overriding issue for DMR, and later DNANR officials being inaccessibility to private property holdings (Nation, 1979).

Unsuccessful, yet extensive efforts were made by the federal government to acquire land east of Manitoba. Prior to

²⁴ As with most national park debates, revenue lost through foregone resource extraction has been the main point of contention for most provincial governments. While tourism does provide alternative forms of income generation, in few instances does it match the amount of capital spent on or retrieved from industrial development. For a recent article on how financially unproductive tourism has been for the South Moresby region, see Gallagher, Tim. South Moresby Mistakes - B.C. Pays For Miscalculations In The Charlottes, in British Columbia Report. 1991. November 4, Volume 3, #10, p. 18-19.

the ratification of the NPA in 1930, only three national parks existed outside of western Canada, each located in Ontario (Lothian, 1987): St. Lawrence Islands National Park (1914), Point Pelee National Park (1918) and Georgian Bay Island National Park (1929). All were owned by either the Department Of The Interior (former Indian lands), or the Department Of National Defense, and they only constitute 1/5 the size of the smallest park in western Canada. Efforts prior to 1930 should have suggested a difficult task for the federal government. As a result, in 85 years of park planning, no national parks were created in eastern Canada except for the maritime provinces, with only one, Cape Breton Highlands National Park, exceeding 400 km.²

Bill (1982) further identifies a number of similar problems previously identified by western provincial governments that were not addressed in this period by the Parks Branch. These issues would later force the federal government during the 1964-1968 period, when it began drafting a selection criteria strategy, to examine alternative dispute resolution techniques when negotiating new park agreements:

1. Restrictions over land use activities within national park boundaries and the paradox in Section 4 of the NPA encouraging both resource use and conservation;

2. The unwillingness of provincial and territorial governments to transfer natural resource title to the federal government; and,
3. Poor financial compensation packages for property holders who lost title to expropriated lands used in national park development (Bill, 1982).

The issue of planning national park activities around the premise of conservation²⁵ became a very contentious issue

²⁵ A note should be made here on the difference between conservation and preservation. Conservation has its roots in the United States during the progressive era (early 1900's) when the Department of Interior, under the direction of the U.S. Army Corp of Engineers, began expanding economic development projects such as hydro-electric dams, mining and forestry. Conservation was defined as a scientific movement arising from the implications of science and technology. In this movement, one would find leading engineers, foresters, geologists and hydrologists contributing to natural resource use on a massive scale. Conservation inferred multiple use planning, but with greater emphasis towards development. Preservation, on the other hand, was wilderness protection in national parks or areas considered as "pleasure grounds". Initially advocated by President Theodore Roosevelt, preservation confronted the conservation movement by demanding greater protection for natural resources rather than their use. Both words are often used interchangeably which is not accurate nor gives credit to the important contribution of either movement. In Canada, the same terminology applied to natural resource use; however, it became particularly confusing when opposing parties attempted to misrepresent the conservation-preservation distinction, even into the 1960's, to obtain public support for one land use rather than another. For the definitive analysis of the conservation-preservation debate in the U.S.A., see Hays, Samuel P. 1969. Conservation And The Gospel Of Efficiency - The Progressive Conservation Movement From 1890-1920, Harvard University Press, Cambridge, Mass.

after the enactment of the NPA, particularly in eastern Canada where few national parks existed and land had to be obtained from either private property holders or the provincial government. Concern over the types of activities condoned within national park boundaries (resort and industrial development) conflicted with the principles of conservation espoused within section 4 of the NPA. Section 4 of the NPA has always created controversy since its inception in 1911 as section 18 of the Dominion Forest Reserves And Park Act (Rounthwaite, 1982). However, without allowing these kinds of activities to be performed within park boundaries, the opportunity to procure desired land holdings became remote.

Section 4 of the National Parks Act (1930) states:

"The Parks are hereby dedicated to the people of Canada for their benefit, education and enjoyment, subject to the provisions of this Act and the Regulations, and such parks shall be maintained and made use of so as to leave them unimpaired for the enjoyment of future generations" (Rounthwaite, 1982).

The Parks Branch deemed it necessary to restrict all aspects of resource extraction within national parks; however, guidelines did exist for cottage and resort development on lands acquired before the designated region was given park status, as did the right to extract timber and minerals within park boundaries where permits had been issued earlier. Yet industrial and recreational development has always come under heavy scrutiny within national park boundaries for as long as

the notion of preservation has existed within Canada (Bella, 1987).

Encouraging recreational activities in areas where visitors could experience unique outdoor natural environments, but where people were restricted from owning private property, became extremely contentious and disputatious since existing national parks east of Manitoba were few and created on small parcels of federal lands.²⁶ Many property owners found it difficult to understand what intrinsic values existed within land desired for park purposes; thus, there was a reluctance to refrain from current land use practices that produced substantial returns. Subsequently, property owners often successfully swayed provincial governments from trading provincial Crown land for national park purposes where individual rights would be restricted, except when economic development incentives were needed to boost regional economies.

The issue of transferring title over all natural resources within a national park's boundaries to the federal government also became an area of contention for provincial governments. With many provincial governments relying on the extraction of natural resources for revenues, and the

²⁶ The experience of many Banff residents over the issue of leasing lands set the precedent concerning how the Parks Branch would deal with the issue of previous and future user rights within national parks. See McKim, W. Townsite Administration And Management In Canadian National Parks, in Canadian Parks In Perspective, J.G. Nelson (ed.) 1969. Harvest House Press, Montreal, Que.

reluctance of the Parks Branch to condone any form of land use other than limited recreational pursuits within proposed park boundaries, the resistance of provinces to set aside Crown properties for a new unproven form of revenue generation such as tourism became a difficult obstacle for the federal government and the National Parks Branch to overcome (Wall, 1989).

Tourism has been the one constant factor in the growth of national parks providing early promoters with a product for both economic and social purposes as stated in section 4 of the NPA. Tourism is beneficial for generating employment, wilderness education and bringing the importance of environmental issues to society at large by allowing people to view unique locations in a natural state. Tourism development, however, also has a down side. Tourism in some national parks became detrimental for the very reasons it was successfully initiated: to provide people the opportunity to enjoy leisure activities in unique geographic regions of the country, and learn why unique ecosystems required some form of protection. Unknown to many visitors were the developmental impacts national park expansion and demand for greater wilderness areas were having on the areas people came to view.

Although provincial governments made land available for national park development, they also lost a guaranteed source of income from extraction revenues while creating potential lawsuits by revoking previously issued permits to developers.

To re-acquire these interests while concomitantly compensating them was a task most provincial governments were reluctant to entertain, except where few holders exercised this right, the land mass was small, or the compensation required minimal (Thomas, 1981). In most national park proposals, the area in question sought by the NPB was large and required substantial finances to purchase existing user rights and property. Subsequently, this scared off most provincial governments who thought they could trade Crown land and private property for the right to buy into a national park (Nation, 1979). The Kouchibouguac National Park incident illustrated how controversial this process became (Thomas, 1981).

The impact these factors had on the national park planning process in central and eastern Canada were troublesome for the Parks Branch for another fifty years as it was unable under it's mandate to adapt to the financial and jurisdictional needs of provincial governments and private land owners. The inability of the federal government to recognize the need for a selection criteria strategy which addressed these concerns and incorporated some form of dispute settlement mechanism into the negotiation process was a major reason why the federal government was confronted with considerable resistance when entertaining the idea of establishing national parks. These events reflected how difficult it became to establish national parks after the NRTA was ratified, as only four areas received park status between

1930 and 1964 (see Table 2). More salient to the future, however, was the need for a new strategy to plan national parks as the Parks Branch moved into a new era of increasing land use conflicts and greater demand on all levels of government to provide more recreational opportunities for a growing leisure class.

TABLE 2: NATIONAL PARKS CREATED BETWEEN 1930 AND 1964

<u>NATIONAL PARKS</u>	<u>PROV.</u>	<u>YEAR FORMED</u>	<u>SIZE OF (km²) NATIONAL PARK</u>
Cape Breton	N.S.	1936	950.5
Prince Edward	P.E.I.	1937	18.1
Fundy	N.B.	1948	205.9
Terra Nova	NFLD.	1957	396.5

Source: Adapted from Nikiforuk (1990) and Lothian (1987).

3.5 THE GROWTH OF NATIONAL PARKS: 1964-1978

The third phase of national park planning development became the first real period in Canadian history where substantive changes to a selection and classification criterion were sought and largely implemented by consecutive federal governments. By the early 1960's, demand for increased outdoor recreational space was beginning to influence land use planning in Canada. The public wanted more national parks which they perceived as the only outlet for recreational space, but also easier access, more amenities and stricter standards for environmental protection within

national parks. Section 4 of the NPA continued to be the focal point of much debate as it became the federal government's rationale for expanding the national park system in Canada. It also became a strong point of contention, however, between provincial and federal legislatures as basic planning issues plagued policy makers and some environmental organizations who opposed development within park boundaries.

The ability of the Parks Branch to synthesize and collectively address some of the administrative concerns during the 1964-1978 period became the impetus for the planning system that would eventually be proposed in the early 1970's. Two distinct themes evolved within this fourteen year period which had a lasting impact on how future national parks were to be established:

1. the development and entrenchment of new selection criteria for classifying natural regions and natural resources within Canadian national parks; and,
2. integrating the views of native land use planning and co-management into national park policy development.

In 1964, the Liberal government of Lester Pearson outlined a broad policy statement which delineated the federal government's position and future vision for national park

development - the establishment of forty to sixty new national parks by the year 2000 under the auspices of a five zone national park classification system (Brooks, 1970). Each zone or class possessed certain carrying capacities which would be determined by completing a master park plan, later to be used as a means of defining the types of activities condoned within that particular national park.²⁷ By attempting to create sixty national parks in thirty-six years, the NPB anticipated it could have a park system planning regime operational in 1985 to coincide with the 100th anniversary of Banff National Park.²⁸ This initiative would then become the basis for future national park planning in Canada.

The 1964 policy statement required twenty-six new areas receive national park status in twenty-one years, an ambitious proposition given the previous thirty-four years of discord between the federal and provincial governments, the creation of only four parks between 1931 and 1964, and little public

²⁷ For a more complete review of national park zoning procedures, see Canada. Department Of Environment. 1979. Zoning In National Parks, Canadian Parks Service, Ottawa, Ont.

²⁸ The 100th anniversary of Banff National Park and the Canadian national park system was marked by the federal government sponsoring a conference examining the past and future goals of heritage conservation in Canada. This event was a turning point for the SMNPR proposal as the federal government committed itself to pursuing its protection after this conference. For a review of the conference proceedings, see Scace, R.C. and J.G. Nelson. 1987. Heritage For Tomorrow - Proceedings Of The Canadian Assembly On National Parks And Protected Areas Volumes 1-5, Department Of Supply And Service, Ottawa, Ont.

funding. While the strategy was a worthy goal for the Parks Branch and the federal government, the goals were unrealistic and served more to appease political opposition parties and obtain votes than to preserve the environment. The target of forty to sixty national parks by the year 2000 was not realized; however, there were nonetheless eighteen park proposals tabled by the Parks Branch prior to 1970, six of which became national parks before 1978 (Brooks, 1970).

The major obstacle facing the Parks Branch as a result of this policy initiative was that few precedents existed to model the successful transition of an ad hoc land acquisition and classification system, to one which created a systematic process for evaluating and categorizing natural resources within national parks. Prior to the 1960's, natural resources were rarely categorized by the Parks Branch for their physiographical or biological values. The federal government previously only considered preserving areas where physiographic features would be instrumental in attracting tourism revenues (Bella, 1987). Little attention was given to examining the scientific or aesthetic value of these features. It took the completion of three separate task forces, two initiated in the early 1960's and the other in 1976, before DIAND and later DOE, began to examine the significance of natural resource classification methods, selection criteria and system planning in national parks.

The first initiative tabled in 1963 (Canada, 1980) by the federal government was the establishment of a National Committee On Forests Lands (NCFL). The NCFL was a joint federal-provincial taskforce which sought to understand how forest lands were classified for their land use capabilities (Canada, 1980). The NCFL's task became the development of a natural resource classification system unique to Canada. To assist the NCFL in this undertaking, a committee called the Sub-Committee On Bio-Physical Land Classification (Canada, 1980) was established by the NCFL chairman in 1967 to prepare recommendations to the NCFL for the system which would be adopted. The sub-committee also broadened the identification of additional natural resource classification systems during the NCFL's mandate to include climatology, geology, hydrology, biology, geomorphology and agrology.²⁹ A final biophysical classification criterion was presented to the federal government for use across Canada in 1969 (Day, 1979).

The second initiative established in 1963 (Canada, 1979a), the Canada Land Inventory Program (CLIP), was initially set-up to evaluate the soil capability of agricultural land. CLIP was used as a tool for inventory data collection and land use planning. As it gained exposure and

²⁹ For an article on this classification system's relevance to natural resource inventories in national parks, see Day, David. *Resource Inventories In National Parks - An Introduction To The Methodology Of Applications, in Park News*. 1980. National And Provincial Parks Association of Canada, p. 4.

usage, information demands increased and the program was expanded into a national natural resource inventory administered by DOE (Canada, 1979a). Information on wildlife, forestry, recreation, urban and energy development rounded out this planning tool as CLIP's capabilities were broadened to encompass a larger spectrum of land use activities in Canada (Canada, 1979a). The accumulation and analysis of data from these other inventories was standardized by the NPB for determining the types of natural resources which required measurement within national parks (Cattell, 1977).

The third undertaking, the 1976 formation of the Canadian Committee On Ecological Land Classification (CCELC), was also a joint federal-provincial initiative set up to advance scientific issues in the areas of ecological classification methodology and inventory data collection (Canada, 1990b). The CCELC's main objective was to improve data collection methodologies used by all natural resources agencies in Canada to determine if an area possessed the qualities necessary to be considered for wilderness preservation (Day, 1979). This initiative, with ties to the United Nation's International Biological Programme (Taschereau, 1985), committed the federal government to adopt inventory classification standards based upon broader ecological principles which other countries were using to categorize natural resources in their own national parks.

The recognition by other national governments of Canada's inadequate method for land use classification became another starting point for the Parks Branch to determine a new approach was needed to establish a national park planning process for the future; however, omitting such a process for as long as the federal government did perpetuated the numerous problems still plaguing park planners. In the past, when national parks were being proposed, little value was placed on how a particular area fitted into a coherent park system. National parks were being established, but from an opportunistic perspective and in areas where conflict over property rights and compensation were extremely low. The Park Branch's inability to develop a planning system which encouraged the measurement and rating of exemplary natural resources forced the Parks Branch to look south to the U.S.A. and the planning system incorporated by the U.S.A National Park Service (NPS) in 1962 (Nelson, 1989).

The model adopted by the NPB replicated what U.S.A. park administrators had envisioned earlier national parks to look like when the American government enacted the Organic Act in 1916 (Mantell and Metzger, 1990). The Organic Act was the first American legislation which proposed protecting natural resources within national parks based on an intrinsic value in nature. However, it took the completion of the Outdoor Recreation Resources Review Commission (ORRRC) in 1962 (Foresta, 1984), ratification of the Wilderness Act in 1964

(Mantell, 1990), and international input from the International Union for the Conservation of Nature and Natural Resources (IUCN) before a structured classification system emerged in the U.S.A. to outline specific guidelines for natural resource classification in national parks.

The U.S.A. Department Of Interior had set up ORRRC in 1958 to examine the impact of recreational use in national parks. The commission concluded that a new system planning policy needed to be developed which separated intense and inert activities within all American national parks. This document became the one study which transcended both American and Canadian national park movements as it became the standard for future selection criteria planning in Canada. The Canadian government also completed a National Parks and Outdoor Recreational Resources Study of its own in 1966 (Carruthers, 1981). While the American national park planning system still had its flaws, it nonetheless recognized the necessity of having to create an inventory system which categorized all natural resources within areas proposed as national parks, as well as developing an integrated approach to identifying natural regions across the country.

The Canadian Parks Branch adopted seven ORRRC study recommendations which identified the characteristics necessary for an area to become a national park - a regionalized land classification system for categorizing different types of biomes; plus, six geographic attributes addressing issues such

as: exemplary scenery; unique geological features of national interest; unique biological species of national interest in areas adequate for their survival; an opportunity for recreation outside of the urban environment; ability to facilitate the needs of tourists; and, support for financial commitments from the public to quantify spending the funds necessary to acquire the proposed area (Bill, 1982).

The natural regions land classification system adopted from the United States National Park Service replaced the selection criteria process absent in Canada over the previous eighty years. Forty-eight areas were identified (thirty-nine terrestrial and nine marine) which reflected the biological and physiographic diversity of the Canadian environment (see Figure 1). Each area was defined by its own unique ecological limits, distinct to that particular region of Canada, thereby encouraging the Parks Branch to seek establishment of one national park in each natural region.

Figure 1: Natural Regions Classification System Map

Source: Canada, 1990.

Adopting a structured park planning formula marked a turning point in Canadian national park history as park planners now had direction to formulate a national park system. A national park planning system also allowed for the institutionalizing of the master planning process which facilitated the classification of all natural resources found in national parks (Cattell, 1977). While this new formula created greater flexibility and control for future national park proposals, it also created administrative problems not previously experienced in the Parks Branch.

The consequent increase in the number of administrative stages required before a park proposal would be considered now made the preliminary evaluation process more time consuming creating a complex approval process for DIAND and later the Department of Environment (DOE)³⁰ officials to administer. These circumstances complicated the NPB's mandate with the provinces making it harder to get proposals approved in a shorter time span, but at least provincial governments knew how the process would now be conducted. The other six criteria reinforced this park system vision by concentrating

³⁰ The Department of the Environment (DOE) was established in 1971 upon the enactment of an omnibus environmental protection bill. With its formation, many environment-related agencies had their responsibilities moved from other departments into DOE, including the National Parks Branch from DIAND in 1979. For a good review of the legislation surrounding the formation of this department, see Pearse, P.H., Bertrand, F. and J.W. Maclaren. 1985. Currents Of Change: Final Report Inquiry On Federal Water Policy In Canada. Department of Environment. Ottawa, Ontario, p. 18.

on how the NPB would select areas for future park designations and encourage the public to take a more active role in park planning discussions based on the value of classifying natural resources (see Figure 2).

Figure 2: Natural Resource Classification Matrix Used In The National Park Planning Process

Level of Information Required Sub-Activity or User Information Type of Information	Land Region and District						Land System						Land Type			
	Systems Planning	Management Planning	Resource Conservation	Interpretation	Visitor Services	Engineering	Systems Planning	Management Planning	Resource Conservation	Interpretation	Visitor Services	Engineering	Systems Planning	Management Planning	Resource Conservation	Interpretation
Economic					1			1			1			1		
Cultural-Social			2	2	2											2
Historical	2		2	2			2	2								2
Archaeological							2	2	2	2						2
Flora	2							2	2	2					2	2
Fauna	2							2	2	2					2	2
Limnology				2					2						2	2
Hydrology	2		2	2				2	2							2
Climatology	2		2	2				2							2	
Pedology				2				2	2			2			2	2
Geomorphology	2							2	2	2		2			2	2
Geology	2	2	2	2		2						2				2

Source: Day, 1979.

Natural resource classification brought stability to bio-regional zoning and national park establishment by:

1. Standardizing criteria for identifying distinct biophysical features;
2. Outlining the type of natural resources found within defined ecological units now required before a national park could be established; and,
3. Developing a new approach to focus acquisition methods only in regions without a national park.

Institutionalizing these physiographic indicators contributed to greater representation within the forty-eight natural regions, since areas not represented by a national park could now be sought with more credibility based on an officially recognized system of planning. At the same time, the national park system planning process became more accountable and less subject to regional concerns and political influence by allowing all user groups access to the decision-making process (Munson, 1987). Greater public support was now required before a proposal would be advocated, as were the areas being pursued. The inventorying and classification of a region's natural resources became a pre-requisite for candidate selection (Canada, 1982).

By the early 1970's, the natural regions selection criteria and the natural resource classification process

became the Parks Branch pre-dominant condition for determining if an area would qualify for inclusion in the national park system. However, it has only been since the late 1970's that the current system of biophysical classification has been entrenched in Parks Canada policy. As stated in Parks Canada 1979 Policy manual, prospective national parks are now selected according to two factors:

"candidate areas will only be considered where natural regions were not already sufficiently represented in the system of national parks; and areas having to conform to size and configuration so as: to include definable ecological units whose long-term protection is feasible, offer opportunities for public understanding and enjoyment, result in minimum disruption of the social and economic life in the surrounding area and exclude existing communities" (Canada, 1982).

Without the efforts to combine natural regional zoning and natural resource classification, a complete system of national parks would not be possible, and the problems experienced in the past would continue to slow down the park ratification process (Canada, 1982). Standardizing these variables and processes in a structured classification system brought continuity to national park planning procedures that were previously missing (see Figure 3). Yet the federal government was still regularly confronted by special interest groups and opposition political parties calling for the release of a policy document stating the federal government's position on how national parks were, and would be administered. Revisions to the 1979 policy statement were the

Figure 3: Stages Of The National Park Planning Process

Source: Canada, 1985.

first efforts to rectify this situation.

Much of this document dealt with issues such as historical parks, recreational opportunities, increased public participation and natural resource classification (Canada, 1982). Little attention was given to issues seriously affecting park development with the provinces such as the status of federal-provincial relations, funding for park creation and the future direction of national park establishment. As will become evident in the SMNPR case study, each of these issues - natural resource classification, federal-provincial relations and future park formation - all come to the forefront as contributing factors to the dispute at South Moresby. However, the one issue which initially received little attention, but would radically alter how national parks were to be created and administered in this period was aboriginal concerns.

While aboriginal issues have only come to light in the Canadian press over the last few years, for the last twenty-five years, many aboriginal leaders and communities have been fighting for greater autonomy and input into how land management issues are addressed in areas where land claims are part of a proposed national park. Particularly since the late 1960's, aboriginal Canadians have sought wider powers and participated more actively in traditional land use pursuits within national park boundaries in the Northwest Territories and the Yukon (Nahwegahbow and Morse, 1986).

It has not been without severely testing many constitutional precedents that issues such as self-government and land claims raise questions over what role, if any, the aboriginal community has in using natural resources within national park boundaries or participating in their establishment. If there is a role, how much autonomy and accountability should be given to local native residents, rather than to the NPB to administer these forms of land uses, is being debated and challenged constantly in the courts and the federal Parliament (Bartlett, 1991a). As a result of the concerns raised in the non-aboriginal community over the legitimacy of these issues, the ten year period between 1969-79 became the starting point for determining what role the Aboriginal community would have in the national park planning process.

One event particularly in the early 1970's permanently altered how aboriginal rights in national parks were to be redefined - the passing of an amendment to the National Parks Act in 1974 which gave aboriginals the right to hunt, trap and fish in new northern national parks (Nahwegahbow and Morse, 1986). Prior to this date, aboriginal people had few rights recognized by either the federal government or the courts to perform any of these activities on traditional lands turned

into national parks;³¹ however, with the ratification of this amendment, the role of aboriginal- Canadian participation in the national park planning process changed dramatically (Hunt, 1979). Although this right was not initially experimented within national parks south of sixty degrees latitude (Yukon and Northwest Territorial border), or those established before the NPA amendment was enacted in 1974, a proposed national park would now not receive such status until the land claim in question was resolved. Before this time and even currently, the lands in question are referred to as national park "reserves" (Hunt, 1979).

The impact this amendment had on proposed national parks throughout the north, as well as those south of sixty in this period, were now brought into question on a continual basis. Five of the ten national parks established in this period would have this reserve status since a land claim settlement could not be arrived at between the Aboriginal communities, the federal government and the Yukon and Northwest Territories (see Table 3). Since then, aboriginal communities have had a more pronounced impact on future park planning issues in areas of traditional aboriginal use. Yet their influence still

³¹ Treaty rights have also had an indelible effect on how natural resource use within national park boundaries has evolved; therefore, the subject can not be looked at in isolation. See Bartlett, Richard H. 1991b. Resource Development And Treaty Land Entitlement In Western Canada, in Bartlett, Richard (ed.) Resource Development And Aboriginal Land Rights. Canadian Institute Of Resources Law, Calgary, Alberta, PP. 39-119.

required some time to mature before these issues began to affect national parks south of sixty. Subsequently, even today, none of these parks have been given full national park status since they all still have outstanding land claim liens against them.

TABLE 3: NATIONAL PARKS ESTABLISHED BETWEEN 1964 AND 1978

<u>NATIONAL PARKS</u>	<u>PROVINCE</u>	<u>YEAR OF CREATION</u>	<u>SIZE OF NATIONAL PARK (km².)</u>
Kejimikujik	N.S.	1968	381.5
Kouchibouguac	N.B.	1969	238.8
Pacific Rim*	B.C.	1970	388.5
Forillon	QUEBEC	1970	240.4
La Mauricie	QUEBEC	1970	543.9
Gros Morne	NFLD.	1970	1,942.5
Kluane*	YUKON	1972	22,015.0
Nahanni*	N.W.T.	1972	4,765.6
Auyuittuq*	N.W.T.	1972	21,471.1
Pukaskwa	ONTARIO	1978	1,877.8

Source: Adapted from Nikiforuk (1990) and Lothian (1987).
Asterisk (*) denotes national park reserves under land claim.

The added attention given to the national park planning process as a result of recognizing aboriginal rights, and the proposition for a total of twenty to forty national parks,³² has become a controversial issue for the federal government and the Parks Branch. Both came under criticism from current land holders for isolating more land for national park

³² The NPB and later the CPS regularly revised the number of national parks which would be established after 1968 when it became evident that forty to sixty could not be formed by the year 2000. The most recent statement found in the 1990 Green Plan suggests the federal government is attempting to complete the national park system by establishing parks in the remaining seventeen natural regions by the year 2000.

purposes, as well as for allowing another party to participate in regional planning decisions which could affect industrial development. The controversy over these issues forced the federal government to re-evaluate how it would approach future park system planning proposals, given that a new national park policy was becoming the main topic of discussion, and how the NPB would resolve such disputes in light of these new demands.

3.6 INSTITUTIONALIZING NATIONAL PARK SYSTEM PLANNING: **1979-1992**

The last stage in the evolution of Canadian national park formation has been a period where the Canadian Parks Service has adjusted its policies and mandate to reflect the broader environmental goals of Canadian society, encouraging more public participation on how and where to form new national parks, facilitating the integration of aboriginal rights over land use, and attempting to be viewed as a friend of the preservation movement, the business community and aboriginals. To a large degree this initiative has been successful as a new national park policy was instituted in 1979 which clarified and entrenched the system planning process of the previous fifteen years. At the same time, this policy opened up the public participation process to encourage other special interest groups to voice their opinions on future national park development and uses (Canada, 1982).

Although these changes did little to alter the underlying principles of what national parks stood for, they nonetheless closed information gaps which existed in understanding selection criteria, conveyed to the private sector the need to play a more constructive role when their rights were being challenged over national park formation, and re-emphasized the principles that were previously underqualified within the National Parks Act. Amendments to the NPA in 1988 also tightened regulations monitoring such things as poaching, fire arms possession and environmental liability (Nikiforuk, 1990). This new direction became the federal government's clearest mandate as to its functions and philosophy for national park establishment since the inception of the NPB back in the early 1930's.

Aboriginal issues have also received greater attention since the courts began redefining what activities should be allowed within park boundaries, if aboriginal communities had standing in parks created before the NPA, and how these issues were to be tested as they influence future park uses. Of the seven national parks formed since 1979, every one has experienced rigorous debate and contention over aboriginal land use rights. Only Bruce Peninsula, Pukaskwa and Northern Yukon National Parks have been given full national park status since the 1974 proclamation (Table 4). However, little progress has been made settling disputes between federal and provincial governments, or other park users.

2

PM-1 3½"x4" PHOTOGRAPHIC MICROCOPY TARGET
NBS 1010a ANSI/ISO #2 EQUIVALENT

TABLE 4: NATIONAL PARKS CREATED AFTER 1978

<u>NATIONAL PARKS</u>	<u>PROVINCE</u>	<u>YEAR OF CREATION</u>	<u>SIZE OF NATIONAL PARK (km².)</u>
Grasslands	SASK.	1981	905.0
Mingan Archipelago*	QUEBEC	1984	93.6
Northern Yukon	YUKON	1984	10,170.0
Ellsmere Island*	N.W.T.	1985	37,775.0
Bruce Peninsula	ONTARIO	1987	266.3
South Moresby*	B.C.	1987	1,470.4
Saguenay	QUEBEC	1990	

Source: Adapted from Nikiforuk (1990) and Lothian (1987).
 Asterisk (*) denotes national park reserves under
 land claim.

Aboriginal issues have dominated discussions surrounding the national park planning process since the late 1970's. They also added another layer of uncertainty to land use planning at both the federal and provincial levels. Yet without this type of attention, identifying those user groups who influence land use debates would not be possible. The same can be said about understanding environmental dispute resolution and the impact user groups have on influencing certain types of land use. The positioning of user groups in such debates can be crucial to the success of that particular organization, as is the image they project to provincial governments, who determine if they are contributing legitimately to the land use planning process. As both federal and provincial governments have experienced in the past with different user groups, the potential for conflict increases significantly if the appropriate user groups are not

involved in the consultation and negotiation process. Therefore, to understand how different user groups participate in or become stakeholders, it is important to examine who these user groups are and how they fit into the national park planning process.

3.7 USER GROUPS WHO INFLUENCE THE LAND USE PLANNING PROCESS

There are five groups who use natural resources for which economic development is pitted against wilderness preservation today in Canada:³³ the private sector for primary industrial development purposes (mining, forestry, petroleum, etc); environmental groups for the preservation of intrinsic wilderness values; aboriginal groups for self-government and the protection of traditional sustenance lifestyles; recreational users for leisure demands; and, the general public which can encompass bodies such as public interest groups (rate payers and local support groups) to the broader spectrum of public opinion.

User groups have changed significantly over the last twenty years, demanding greater access to the decision-making

³³ An analysis of various user groups who collectively attempt to influence the decision-making process during land use debates is difficult to come by since most are site specific studies examining only one or two interest groups. For a more general understanding of how the public participation process includes various interests in debating wilderness preservation issues, see Henning, Daniel H. Wilderness Politics - Public Participation And Values, in Environmental Management. 1987. Vol. 11, #3, July, Springer-Verlag Press, New York, N.Y., PP. 283-293.

process, becoming more single issue-based, gaining wider access to the political process, and generally succeeding in playing a larger role in influencing land use planning debates. Their impact is increasingly being experienced in all aspects of the policy-making process, but until recently they had little success in contributing to the shaping of national park policy. Much of this resulted from a lack of co-ordination and co-operation between different users who generally had the same goal in mind for an area in question, but had never previously pooled their resources to gain access to the land use planning process. It has been these conflicting user demands that have created party alliances between special interest groups (eg. environmental-aboriginal-public interest coalition) when industrial development and wilderness preservation issues clash.

3.7.1. THE PRIVATE SECTOR

The private sector's needs are ultimately dictated by access to a substantial natural resource, but numerous requirements must be met before these opportunities can be maximized. Accessibility to existing or potential processing facilities, a commodity's price, quality, quantity and proximity to population and transportation corridors all must be considered before financial commitments will be made to develop a natural resource. Canada's existence as an industrial society is the result of decades of growth and

extraction of its forests, minerals, wildlife, hydrocarbon and water resources. Little forethought was initially given to addressing how national parks, as wilderness preserves within a broader land management system, would be conserved for future use. These questions carried little political significance one hundred years ago when Canada was an emerging country and natural resources were required to facilitate the needs of a growing population and demanding consumer society.³⁴

Primary industry, due to its large demand for raw materials and visible effects on the earth's surface, has been labelled the culprit creating much of the stress on wilderness preservation, while Canadian society looks elsewhere for someone to blame for the increased consumption of natural resource by-products. Much of the private sector's contention over removing public land from use for development purposes arises from the loss of potential revenues and an accessible landbase (Gunton and Thomas, 1987). Developing a national parks system and establishing parks in locations close to or bordering traditional areas of extraction operations has heightened this debate as disputes between special interest groups, private companies, consumers and government are

³⁴ Many historians have examined how Canada's natural resource dependency has built the society and economy that exists today. For an introduction to the concepts of staples theory and its application to Canada's economic order, see Clement, Wallace. 1975. The Canadian Corporate Elite - An Analysis Of Economic Power, McClelland And Stewart Press, Toronto, Ont.

perpetuated over land use (Henning, 1987). The result of this situation has been the need for the private sector to legitimize its role to the public, while continually being scrutinized by special interest groups who attempt to politicize wilderness preservation issues and put the blame for natural resource over consumption on the private sector.

3.7.2. THE ENVIRONMENTAL MOVEMENT

The environmental movement, although a rather new participant in natural resource debates, has developed its own form of influence in the area of land use planning over the last twenty-five years. Known for their ability to sensationalize land use issues in order to influence public opinion, environmental groups advocate wilderness preservation and national parks as an alternative to industrial development and environmental mismanagement. Environmental groups have used wilderness preservation as a political instrument to gain themselves access to the decision-making process, while concomitantly bringing environmental concerns to the attention of the media and general public (Henning, 1987).

Since the early 1970's, environmental groups have lobbied politicians and policy makers to bring these issues into the public domain. Collectively, their efforts have been aimed at preserving all natural resources, and although somewhat altruistic, they have been moderately successful in influencing decision-makers and defining a role for themselves

within the land use planning process. While environmental groups have gained attention for their causes by sometimes using unorthodox methods to obtain media exposure, they more importantly have created awareness within the general public over how existing user groups participate in land use planning, and the types of natural resource issues which receive publicity.

3.7.3. ABORIGINAL INTERESTS

The aboriginal community has also become an important player in disputes over establishing national parks and the effects of natural resource development as a competing form of land use (Nahwegahbow and Morse, 1986). Historically, Aboriginal communities were excluded from any land use planning or management process where a national park was being discussed. Aboriginal land use was never seriously considered before the early 1970's (Cassidy, 1989) when conflict became a mechanism for the aboriginal community to gain attention over issues such as natural resource ownership, land claims and self-government. Only then did the federal and provincial governments begin to take aboriginal issues seriously enough to consider them in future national park planning procedures.

Today, most proposed national parks cannot receive official national park status until issues such as land use rights, hunting, fishing and broader socio-economic needs have been addressed to the satisfaction of the local aboriginal

community. The last twenty years have given rise to a number of precedent setting legal cases in which aboriginal natural resource access rights have received significant attention by Canada's judiciary (Bartlett, 1991a). Much of this success can be attributed to the coalition formed between environmental and aboriginal organizations over land use planning. Without this support, aboriginal groups would be lacking a valuable ally, as has become clearly evident in national parks formed in the Yukon and Northwest Territories since 1974 (Munson, 1987), and as will be discussed later, at South Moresby National Park Reserve (SMNPR). Yet it should not be understated that the aboriginal community does have its own political agenda which ultimately does not involve environmental groups, or anyone else unless it will benefit aboriginal communities.

3.7.4. RECREATIONAL INTERESTS

Recreational users have also become significant participants in discussions over wilderness preservation and national park formation. With increasing amounts of leisure time and disposable income in Canada, the impact recreationalists as a user group are having on determining land usage significantly influences how land use planning occurs within the provincial government, how tourism is addressed and what types of facilities are needed to accommodate these demands (Wall, 1989a). Large recreational

areas which receive high visitation rates and provide numerous activities can be just as intensive a form of land use as any other (Wall, 1989b). Subsequently, specific conditions must apply for economic development to co-exist within given park areas to determine how much influence recreational users will exert in disputes over land use. These positions have traditionally led to conflict between all four user groups and made potential park creation nearly impossible when many interests are involved.

3.7.5. THE PUBLIC INTEREST

The public interest is somewhat of a nebulous concept which cannot be measured by traditional means of assessing who is or who is not involved in a natural resource dispute. Touted as a fixed participant in most environmental debates, the public interest is a user group which is best determined by the level of public anxiety or opinion articulated over a contentious environmental issue. The inability of an inanimate organization to conduct communication campaigns over a particular wilderness preservation issue requires the support of local community, private or publically funded organizations to become the critics who either oppose or advocate a particular opinion during a land use debate. Public interest is one of those factors which can either significantly help or hinder a issue by attracting public support and overwhelming the opposing party. It is viewed as

a low key or last resort user group which is usually most influential around election the time of an election.

In most instances, the public interest is determined by quasi-judicial bodies or administrative tribunals who are appointed by the state. These views are supposed to represent those of society at large, but often reflect the persuasion of the political party in office. The impact that the public interest can have on a land use issue will therefore depend on how the issue is received within the public domain, and how intuitively the regulatory bodies which are monitoring the issue will respond to public sentiment over the issues seeking attention (Jefferies, 1987).

The crucial factor affecting all five user groups is that land use conflicts will emerge when national parks are being discussed. Each group will play a role in influencing the negotiation process either by pressuring government as a coalition to respond to their interests or through the pursuit of individual concerns. Often these parties will become confrontational as an interest group will have its own agenda and not want to compromise for another party's interest. All of these groups, in some form or another (other than the private sector, and pro-industry public and special interest groups), will require the support of their opponents to further their own political objectives and obtain the media attention necessary to acquire public sympathy for their

cause.³⁵ It is not uncommon to see the environmental, aboriginal and recreational groups pressure the private sector so a compromise can be achieved. But such actions usually only occur after lengthy lawsuits and unavoidable compromises over the issues at hand. Over the last twenty years, these five groups have become influential in the environmental decision-making process, particularly with the aid of public relation campaigns and communication media.

While the system planning process and selection criteria have been favourably received by most user groups, the methods used to select future national park areas have been controversial and difficult to access for user groups who participate in the land use planning process. The negotiation process remains too lengthy; facilitation is often abrupt and confrontational due to poor federal-provincial relations; provincial governments control the pace and intent of wilderness discussions; they are also unreceptive to turning

³⁵ This should not be construed to suggest that the private sector is victimized by the other three parties; on the contrary. Albeit from a legal perspective, such events can set precedents which affect private property rights debates as has occurred in the U.S.A.; however, in many instances, the company with access rights to the disputed natural resources in question often receives significant financial compensation in excess of what the company would have received on the open market for the commodity. As will be discussed later, the issue of financial compensation has been one of the more contentious factors which has not received much attention from the academic community, given that environmental and recreational groups perceive it to be a vehicle by which a government can easily settle land use disputes.

land over to the federal government due to the numerous obstacles in arranging compensation and new employment opportunities for regions affected by the removal of extractive industries.

The history of land use planning for national park purposes can therefore be narrowed down to opportunistic politics, an ad hoc system of land use planning and conflicting land use demands between various user groups. The on-going debate surrounding the establishment of national parks has illustrated the inability of the federal and provincial governments to create a system whereby controversies are remedied quickly before disputes arise between various users or between themselves. Many of the problems facing past and present national park objectives are the result of an inadequate system planning process which did not evolve until the late 1960's, well after the ratification of the National Parks Act in 1930. The existence of areas for which national park status has been sought but not yet received for whatever reasons, can be attributed to Parks Canada's inability to resolve land use disputes between various user groups and the absence of a dispute settlement mechanism to address the concerns espoused by provincial governments.

The above discussion has illustrated how the national park planning process has evolved since its infancy in the late 1800's. This brief history has drawn attention to the

many continuing issues causing controversy and conflict over national park establishment, while isolating and defining factors which continue to slow down the national park ratification process. What can be observed from this survey is that the federal government, while developing a vastly improved approach to both park system and individual park planning, has not yet shown the creativity or ability to plan a objective dispute resolution process which settles conflict or accomplishes what it set out to do, which is establish more national parks. Further analysis of the institutional process will occur in chapter four where the case study of South Moresby National Park Reserve (SMNPR) is put forth.

CHAPTER 4 - SOUTH MORESBY: THE AREA -- THE CONTROVERSY

This chapter describes the geography of the Queen Charlotte Islands and the South Moresby region, and provides an historical account of the events leading up to the establishment of South Moresby National Park Reserve (SMNPR). This is accomplished by examining the various physiographic and ecological characteristics of the South Moresby area, identifying the disputees' role and influence within the conflict's setting, and outlining the bargaining positions adopted by these parties prior to the federal government entering the conflict.

4.1 NATURAL RESOURCES OF THE SMNPR AREA

The Queen Charlotte Islands, a 138 island archipelago in which the SMNPR is located, has been called one of the most spectacular areas on the west coast of North America for its outstanding scenery and diverse endemic plant and animal populations. Also called the Misty Isles, Haida Gwaii or Gwaii Haanas by the Haida First Nation, South Moresby is situated in the Pacific Coast Mountains of natural region #1 of Canadian Parks Service (CPS) natural regions classification system (Canada, 1990b). Natural region 1 is characterized by

heavy rainfall, moderate temperatures, dense vegetation, and a diverse terrestrial and marine environment.

The 145,000 hectare area within which the SMNPR is located encompasses the southern portion of Moresby Island, plus five other large islands to the east: Lyell, Tanu, Kunga, Burnaby and Kunghit (British Columbia, 1986). Although not recognized as part of the national park reserve, Anthony Island, which is south of Moresby Island, was recognized as a World Heritage Site by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1981 (see Figure 4).

Situated 120 kilometres off the west coast of B.C., SMNPR encompass 3,394 km², 1,470 km² of land and 1,924 km² of water (Canada, 1990). Measuring 90 kilometres in length, SMNPR has elevations ranging from sea-level to over 1,200 metres (British Columbia, 1983), with the San Cristoval Mountains dominating the region's geography (Canada, 1990a). Adding to the area's unusual physical characteristics are distinct surficial geological features resulting from the Queen Charlotte Islands being isolated during the last ice-age; subsequently, the SMNPR area was one of few regions in North America scarcely impacted by the Pleistocene glaciation (British Columbia, 1986).

The Pacific Ocean marine environment surrounding the SMNPR also has many unique characteristics which contribute to its status as the "Canadian Galapagos" (Keller, 1990). Of the

Figure 4: Queen Charlotte Islands And Boundaries For South Moresby National Park Reserve

Source: British Columbia, 1983.

nine marine zones identified in the national parks natural region classification system, the South Moresby area contains three, which is more than any other natural region in Canada: the West Queen Charlotte Island, the Hecate Strait and the Queen Charlotte Sound Marine Regions (Canada, 1990a).

The area's hydrological cycle is significantly influenced by the marine environment which surrounds it, as annual rainfall exceeds 400 centimetres, the highest level in Canada and more than most temperate areas in the northern hemisphere (Canada, 1990a). As a result of these weather patterns, the region possesses climatic conditions only experienced in a small part of B.C. and in less than one per cent of Canada (British Columbia, 1986). The impact these weather conditions have on contributing to South Moresby's ruggedness make it one of the main reasons why strident efforts have been made to preserve the region; however, it is not the only one. Another reason why the South Moresby area has received considerable attention is for the area's diverse vegetation and wildlife.

The Queen Charlotte Islands were one of a few North American locations only marginally affected by the last glaciation. Isolated by the 200 km. distance from the B.C. mainland, the absence of massive ice fields allowed various plant and animal species, found nowhere else in the world, to remain in a primeval state, as it would have been viewed thousands of years ago before the Pleistocene ice-age. The influence these events had on the archipelago's biogeography

can be seen in the endemic plant and animal species found throughout Moresby Island.

Possessing some of the world's largest softwood species such as western hemlock, sitka spruce, douglas fir, red cedar, cypress and pine, the area boasts 611 plant species, thirty-nine of which are found nowhere else in the world (British Columbia, 1986). While heavy annual rainfall has supported this diversity of plant life, South Moresby's wildlife characteristics have also differentiated this region from other national park locations identified in natural region #1.

The South Moresby area has been a biological haven for a large number of marine and terrestrial species. From a taxonomic perspective, terrestrial species are substantially outnumbered by the diversity and the complexity of species in the marine environment which surrounds this island. Numerous marine invertebrates (Canada, 1990a) provide a stable food supply for South Moresby's enormous seabird and marine mammal populations, while over 150 different fish species, both fresh and saltwater, have been identified (British Columbia, 1983). A number of whale species, dolphins, seals, porpoises and the largest sea lion rookery in Canada further contribute to the diverse marine life within the SMNPR (British Columbia, 1983).

Of the terrestrial species present, birds dominate the area with approximately 100 different species identified, including 25% of the province's total nesting seabird population (British Columbia, 1983). Although few species

other than Peale's peregrine falcon and the bald eagle are considered threatened (British Columbia, 1983), isolation from the last glaciation allowed numerous other land animals to develop unique subspecies found only in the Queen Charlotte Islands. Species endemic to the alpine and sub-alpine zones are the largest black bear in the world and the endangered golden-pine marten and river otter. Other more common species such as the blacktail deer, cougar, fisher, mountain goat, sheep, weasels and wolverines can be found elsewhere throughout the region (British Columbia, 1983). While diverse plant species, abundant wildlife and unusual physiographic characteristics have all helped shape the unique ecosystem which exists within the SMNPR, the same can also be said about the aboriginal communities contribution to the Queen Charlotte Islands from a cultural perspective.

The Haida First Nations, the only known inhabitants to reside in the area prior to the arrival of colonial explorers in the 18th Century, have shaped and built their culture around the environmental limits of this unique archipelago (Shapcott, 1979). Archaeological sites and artifacts have been dated as far back as 7,400 years, and since approximately 1,500 B.C., solid evidence has linked Indian artifacts to the Haida First Nation (Canada, 1990a).

As a community, the Haida flourished for centuries before interacting with foreign cultures. After initial contact with European society, the Haida began to experience problems

previously unrecorded in their community. During the late 1800's, the entire Haida population was nearly wiped out by smallpox, yet they remained united through their strong cultural identity (Keller, 1990). Cultural artifacts from Canada's aboriginal communities have been viewed by Parks Canada as a valuable contribution to natural region selection criteria only since the early 1970's (Ross, 1990). The recognition of Ninstints Village on Anthony Island as a World Heritage Site (May, 1990) by UNESCO and the IUCN was another event which reinforced the trend for national park planners to view aboriginal culture as a component of the national park planning process.

Only a small number of World Heritage Sites exist internationally. Recognized sites represent the most significant scientific and cultural contributions identified by human society anywhere in the world. A value can not be placed on such historical artifacts. Canada, and particularly British Columbia, is fortunate to possess such a site. Aboriginal culture has had an indelible effect on how natural resources are now evaluated and used within national park boundaries (Rueggberg, 1988). With the issue of aboriginal culture and natural resource use in national parks continuing to be re-defined by court rulings on aboriginal rights, the role of aboriginal communities in influencing land use planning criteria will undoubtedly heighten as land claims are brought into the public domain for resolution (Shapcott,

1990). Therefore, the acknowledgement of Anthony Island by the world community as a cultural treasure only reinforces the value attached by the CPS to understanding the contribution aboriginal cultural has in the national park planning process.

The above discussion has identified many unique and peculiar characteristics found within the physical surroundings of the Moresby Island. When selecting areas for national park representation, the qualities of a region's physiography, biogeography and ecology ultimately determine if that particular area is worthy of consideration or not. For The Queen Charlotte Islands and the southern portion of Moresby Island, the qualities identified do indeed suggest the area is a unique zone of natural region #1. However, placing a value on these natural resources and determining what to do with them are two separate issues.

The inability of participating parties to place a true value on the area's natural resources, based on a formula everyone can agree to, is what caused this region to come under dispute. The difficulty faced by the federal government in choosing to pursue a national park for the area becomes even more marked when one looks at the history and subjective nature of national park planning in Canada over the last century, and the limited influence the federal government has in provincial land use disputes. With Pacific Rim National Park in the same natural region and still awaiting the settlement of a land claim twenty years after its designation,

the question bears asking: is it prudent for the federal government to get involved in provincial land use disputes where no policy exists for settling aboriginal land claims, and the biggest employer in the province has joined forces with the provincial government to fight the setting aside of any land in the area? The last two sections of this chapter will outline how the South Moresby issue became a contentious land use debate and how the federal government influenced the settlement of this dispute.

4.2 A PROPOSAL TO ESTABLISH SOUTH MORESBY NATIONAL PARK RESERVE

In September of 1974, the Island Protection Society (IPS), a small environmental group from the Prince Rupert region on the north central coast of B.C., formed in an effort to draw attention to the detrimental impact large scale forestry operations were having on the coastal rainforests of the Queen Charlotte Islands (May, 1990). The IPS started out as three concerned citizens who believed that if logging continued at current rates in the Queen Charlotte Islands, the forest industry would be shut down within twenty years because the area would be logged out. Within a few years, however, the organization grew to be a coalition of environmentalists, aboriginal communities, and public interest groups (Sewell, 1989).

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4.2 A PROPOSAL TO ESTABLISH SOUTH MORESBY NATIONAL PARK RESERVE

In September of 1974, the Island Protection Society (IPS), a small environmental group from the Prince Rupert region on the north central coast of B.C., formed in an effort to draw attention to the detrimental impact large scale forestry operations were having on the coastal rainforests of the Queen Charlotte Islands (May, 1990). The IPS started out as three concerned citizens who believed that if logging continued at current rates in the Queen Charlotte Islands, the forest industry would be shut down within twenty years because the area would be logged out. Within a few years, however, the organization grew to be a coalition of environmentalists, aboriginal communities, and public interest groups (Sewell, 1989).

No monitoring body or organization existed in the area to provide information to the public on how the regions's natural resources were being administered, other than the B.C. forest service and the dominant forest companies, Rayonier Forest Products and MacMillan Blodel. With the rise of environmental activism in the early 1970's and public demand for greater participation in the land use planning process, the IPS emerged as a voice attempting to preserve part of the Queen Charlotte Islands by challenging the provincial government and the forest industry in the courts. From September 1974, proposals were developed to encourage the B.C. government to preserve part of Windy Craggy on Lyle Island as a provincial park.

The B.C. government had no interest in seeing Tree Farm License (TFL) 24 or any of the timber supply area's (TSA) set aside for any type of wilderness preservation (see Figure 5). The forest industry provided a solid source of revenue to the provincial government, employed approximately 200 people year round, and was viewed by the provincial government as essential for the area's future economic development. There were few complaints over the area's land use in the past, and with the provincial government perceiving this action as a plot by environmentalist to slow down forestry operations throughout the province, the B.C. government remained adamant over compromising on the region's future. The provincial government, as owner and administrator of the land, continued

Figure 5: Boundaries of TFL's and TSA's in the Queen Charlotte Islands

Source: Canada, 1991a

to downplay the need for preserving the area, while the IPS sought alternatives for themselves to access the land use decision-making process. Over the next seven years, the provincial government would be taken to court three times by the IPS: twice in 1979 to the provincial and B.C. Supreme Courts, and in 1980 to the Federal Court of Appeal. The IPS lost each case; however, they did make progress in getting the Federal Court to recognize the role of the public in the land use decision-making process, forced the issue of environmental impact assessment on to the provincial political agenda, and increased the exposure of the Haida aboriginal community and the concerns of aboriginal rights to the B.C and Canadian public (Rankin and Horne, 1979). The IPS also contributed to getting the provincial government to conduct two land use assessments of the South Moresby area; in 1974, when the Environmental Land Use Committee (ELUC) was tasked to examine the issue of wilderness preservation under the New Democratic Party (NDP), and in 1979, when the South Moresby Resource Planning Team was formed by the Social Credit Party to re-evaluate the findings of ELUC.

The persistence of the IPS to get some form of wilderness designation recognized for Lyle Island had broader social repercussions on the provincial government after the last court case before the Federal Court of Appeal in 1980. In that year, the Ninistints on Anthony Island were recognized as a World Heritage Site by the United Nations, which brought the

question of wilderness preservation and environmental accountability into the media, as did the first discussions to have the southern area around Moresby Island designated a national park. Two private members' bills were tabled in the House of Commons and the B.C. legislature by the NDP members for the ridings of Skeena and Prince Rupert-Bulkley Valley. While neither bill received third reading, they nonetheless continued to arouse the attention of a number of provincial and federal politicians, the scientific community and other international interests. In particular, they attracted the attention of the Liberal Minister of Environment, Charles Caccia, and a number of Liberal backbenchers and Progressive Conservative (P.C.) M.P.'s, who would become instrumental in promoting the area's preservation once the P.C.'s were elected to office in 1984.

These events marked the first ten years of the debate over forestry practices and preservation efforts in the South Moresby area. The dispute resolution strategy adopted by the provincial government to resolve this conflict was one based on litigation. By keeping the IPS (and later the Haida) in the courts, the provincial government thought it could legitimize its position to the public, while forest companies continued logging with legal authority. Although the federal government was supposed to stay out of the debate, since it had not yet accepted the Haida land claim or proclaimed the area a region it would pursue for designation as a national

park, on occasion it did enter the controversy by forcing the issue of jurisdiction over aboriginal affairs as a method to pressure the provincial government into being more flexible over various types of land use in the area. However, two issues separated this dispute from other unsuccessful park initiatives occurring elsewhere in the province at the same time: the degree of on-going legal challenges and civil disobedience, and the alliances that were formed between the environmental movement, the Aboriginal community and the federal government over preserving the area.

After ten years and several attempts to resolve the dispute in the courts, the provincial government saw itself losing the debate and opted to recoup as much financial compensation as possible, before it lost further revenues from placing a moratorium on the land indefinitely. The creation of a provincial park would have cost the B.C. government a substantial amount of money since Victoria would of had to buy out existing user rights of the various private sector companies. As a result of these circumstances, the only alternative for the provincial government, if it was to maintain any credibility with the public on environmental management issues and save the taxpayers millions of dollars, was to seek establishment of a national park with the federal government and accept their offer to buy-out existing natural resource user rights.

Three years later, in 1987, the Governments of British Columbia and Canada reached an agreement in principle to establish a national park for the southern half of Moresby Island. A Memorandum Of Understanding (MOU) was signed in July (Canada, 1987), representing the first steps in establishing the South Moresby National Park Reserve (SMNPR). Over a thirteen year period between 1974 and 1987, extensive efforts had been made by a number of environmental groups and the Haida First Nation to bring national park status to one of a few remaining temperate rainforests left in the world. Numerous studies had previously suggested preserving the area, including one by a provincially appointed taskforce called the Wilderness Advisory Committee in 1986 (British Columbia, 1986). However, it was only after many confrontations between the Haida First Nation, environmentalists, forest companies and the provincial government in court that the federal government decided to enter into the debate and financially support the SMNPR's formation. The next section of this chapter examines who the stakeholders were and what their positions were in relation to the provincial government.

4.3 USER GROUPS PARTICIPATING IN THE SMNPR CONFLICT

Controversy over the formation of a national park reserve on Moresby Island can be separated into two distinct periods: from 1974-1985, when the issue of preserving part of Moresby Island emerged as an isolated provincial debate over forestry

practices and wilderness policy; and between 1985-1988, when the national and international media attention thrust Moresby Island and economic development versus wilderness preservation issues in B.C. into the broader arena of environmental relations in Canada. Both stages of this conflict involved a distinct set of events, actors, disputes and strategies employed by each user group to obtain the results they were seeking.

Five categories of participants can be identified throughout the life of the South Moresby dispute. Each party sought to promote the issues of concern for their membership, while purporting to advocate the interests of British Columbians in general:

1. The B.C. government represented by four separate agencies: the Ministry of Environment (MOE), the Ministry of Forests (MOF), the Ministry of Energy, Mines and Petroleum Resources (MEMPR) and the Ministry of Lands, Parks and Housing (MLPR) (Canada, 1986);
2. The private sector, represented by the three forest companies, Western Forest Products, Macmillan Bloedel, Frank Beban Logging and three mining interests, Placer Development, Majorem Minerals and the B.C. and Yukon Chamber of Mines (Canada, 1986);

3. The environmental lobby, initially represented by the Islands Protection Society (IPS) and Moresby Island Concerned Citizens (MICC), but later by an environmental coalition (Sewell, et al, 1989);
4. The Haida First Nation, an aboriginal community representing the interests of the Masset and Skidegate bands of the Queen Charlotte Islands (Canada, 1991); and,
5. The public interest.

Public interest, although not legitimized under any form of incorporation or administrative fiat can also be identified as a contributor to this debate. While historically, British Columbians experienced the impact of natural resource mega-projects as a form of economic growth, it became more apparent during the late 1970's and early 1980's that ambivalence was growing over large-scale natural resource exploitation.³⁶ With the public feeling incapable of accessing the political process to influence environmental planning, supporting environmental groups became a mechanism to echo the concerns of the average citizen over the scale of development occurring

³⁶ With hydro-electric and coal development projects being skuttled on a recurring basis between 1982 and 1986, the public perceived the provincial government was not adequately managing important industrial development sectors. For a review of B.C.'s natural resource policy throughout the 1970's and 1980's, see Dorcey, Anthony H.J., *The Management Of Super, Natural British Columbia*, in B.C. Studies. 1987. No. 73, PP. 14-42.

in the forest, mining, hydro-electric, and oil and gas industries. Through increased television and print media exposure, and by conducting polls on the issues of aboriginal rights and environmental protection, public opinion fuelled an interest within the public domain to a point where the preservation of South Moresby became an essential political ingredient for the Social Credit and Progressive Conservative Party's (P.C.) political platform. For this reason, acknowledging the existence of the public interest becomes essential to understand how the provincial government was responding to the issues of wilderness protection, and how the other four parties interpreted the public impact on legitimizing their own responsibilities as natural resource users.

4.3.1. THE BRITISH COLUMBIA PROVINCIAL GOVERNMENT

The B.C. government, responsible for administering natural resource use in the province, was in the unenviable position of having to meet the concerns of a number of constituencies such as the Social Credit Party, current license holders of various natural resources, a variety of special interest groups and the general public. Frequently the provincial government found itself having to consider restricting access to forest reserves (the economic mainstay of the local economy), while attempting to convey the image of an environmentally conscientious administration.

Initially, when the issue of preserving Moresby Island first arose in 1974, the New Democratic Party (NDP) was halfway through its first political mandate in more than two decades.³⁷ The NDP had just experienced a major political setback with the introduction of a super mining royalty tax in 1973 which created considerable controversy in many industrial sectors (Gunton and Richards, 1987). The impact this tax had on the mining industry became a contentious issue within the private sector, as significant amounts of investment capital left the province. Subsequently, the NDP government was being extremely cautious not to offend any other economic interests while in political office, and particularly the province's largest employer, the forest industry.

Also in 1974, the Environmental Land Use Committee (ELUC) (Pinkerton, 1983), an environmental secretariat created under the MOF to examine the impact forestry was having on areas experiencing heavy logging, imposed a logging moratorium on tree farm license (TFL) 24 to further study the implications

³⁷ A thorough analysis of the NDP's three year term in political office and the impact they had on the B.C. forest industry can be found in Marchak, Patricia. 1983. Green Gold - The Forest Industry In British Columbia, University Of British Columbia Press, Vancouver, B.C., and Drushka, Ken. 1985. Stumped - The Forest Industry In Transition, Douglas And McIntyre Press, Vancouver, B.C.

of a wilderness designation or provincial park for the area.³⁸ With the NDP losing a provincial election ten months later, ELUC's role in influencing land use planning quickly diminished, with the MOF and Social Credit government of Bill Bennett taking a much stronger pro-industry stance (Drushka, 1985). MOF remained the lead provincial government agency responsible for developing a position on the debate until it reached the national level in 1985; however, as the dispute progressed within the province, ELUC was dismantled in 1981 after a re-organization had transferred its administration from MOF to MOE (Drushka, 1985).

When the Social Credit Party was elected to political office in 1975, it saw little value in addressing the concerns of either environmentalists or the aboriginal constituency over the issue of land use in the Queen Charlotte Islands (personal interview: see Appendix 1). The Social Credit Party was viewed by the business community as the only political party who would support the interests of the private sector. Their conviction to open up the province for investment in the

³⁸ TFL 24, licensed initially to Rayonier Forest Products who were bought out by Western Forest Products in 1982, was but one of three types of tenure under which forestry occurred in the Queen Charlotte Islands. A second form of tenure, timber supply areas (TSA), was licensed to MacMillan Blodel, as was the third form of tenure, called timber licenses. For a more detailed analysis of the timber resources of the South Moresby area, see British Columbia. Environment And Land Use Committee. 1983. South Moresby Land Use Alternatives, Island Protection Society Press, Prince Rupert, B.C., PP. 104-122.

resource sector, after the NDP had literally shut down the mining industry, gained favourable support from all resource industries (Marchak, 1983). An open door investment policy for industrial development purposes became the standard for B.C. as the provincial government began advocating greater use of the province's natural resource base to boost the economy. Interests groups who did not agree with this policy were isolated from the public policy process and forced to use other avenues of decision-making such as the courts or non-violent protest to get their message into the public domain.

4.3.2. The B.C. Government's Bargaining Position

The provincial government displayed a number of positional tactics throughout the course of the conflict, but none of them included its willingness to compromise over complete wilderness preservation for the area. The B.C. government did not view compromising the area's use to the demands of the environmental-aboriginal coalition as an alternative worth considering (personal interview: see Appendix 1). Compromise to the provincial government inferred:

1. The ability to generate revenue;
2. The opportunity to be re-elected by implementing policies which appeared non-partisan; and,

3. Minimizing the potential conflict over land use and control the political damage the B.C. government would incur as a result of supporting one group over another (Gunton and Richards, 1987).

Each issue played a significant role in influencing how the B.C. government bargained with the federal government and its ultimate decision to accept a final offer. However, in the end, the provincial government appeared more concerned over how the voting public would interpret its decision to side with the private sector, rather than to establish a wilderness reserve.

With public sympathy increasing over environmental issues and aboriginal rights, the B.C. government realized it was losing the debate and had to do something to salvage what it could from the discussions (May, 1990). The B.C. government ran the risk of opening itself up to continued public abuse if it did not come to some kind of agreement with the federal government, if not for the amount of money it would lose, then over the on-going disruption it would have caused for area residents, local employers and the general public. By allowing the dispute to continue, all economic development initiatives would have been stopped by the environmental-aboriginal coalition, and the private sector and provincial government would have both been isolated from their core

support for failing to come away with any kind of negotiated settlement (personal interview: see Appendix 1).

The provincial government also faced the problem of having to deal with an angry electorate and did not want to enter an election year carrying too many political issues on its agenda. With all three federal political parties supporting the creation of a national park at South Moresby, and the federal government offering a sizeable financial package to settle the compensation question, the public perception of turning down such a deal would have solidified the view that the provincial government was pandering to the private sector. The B.C. government's unwillingness to accept defeat on the issue suggests that the province would have destroyed any credibility it had with the public if it had rejected the federal government's offer (personal interview: see Appendix 1). It would also have complicated how the provincial government would respond to future conflicts that would arise as a result of the federal proposal being rejected.

The province attempted to optimize its bargaining position by shifting the onus onto the federal government and relying more on its expected refusal to pay a large sum for the resource rights, rather than back out of the negotiations themselves and allow the federal government to benefit from the media exposure which would result from the B.C. government not meeting it half-way on the issue (personal interview: see

Appendix 1). Subsequently, the one way the provincial government could win the issue in the public domain was to criticize the federal government for rejecting the offer put forward by itself, while projecting the image of remaining interested in resolving the area's economic future through tourism.

As a substitute for resource extraction, the tourism issue could be maximized and, in the end, it became the most contentious issue for all parties involved in the dispute's resolution since the expectation was it would replace forestry as an alternative vehicle for economic development (Gallagher, 1991). As Gallagher (1991) states, it did not accomplish this goal of economic livelihood as tourism revenues fell significantly short of the projected values hypothesized by the federal government, thereby straining tourism policy throughout the province as a form of economic planning. These maneuvers allowed the provincial government to: capitalize on the sensitivity of the environmental preservation issue; financially benefit by having the federal government pay for 80% of the project's expenditures; indirectly remove itself from the issue of aboriginal rights and be viewed in as favourable a light as possible given the province's past history in dealing with aboriginal issues; and go into an election year as a government willing to address environmental issues head-on (Canada, 1988a).

Although most of these political conditions invariably reflect public perception, the provincial government's ability to manage them with as little fall-out as possible after they unwillingly entered the discussions suggests that they were able to shift the onus on to the federal government and protect their own image with the public long enough to win the next provincial election. By removing these barriers, the federal government became the agency under criticism once the deal was signed, because national parks are a federal jurisdictional issue, as are aboriginal issues and the federal government's perceived mandate to act as a mediator for the benefit of all Canadians.

4.3.3. THE PRIVATE SECTOR

The private sector's role throughout this conflict was one of legitimizing economic development as the only alternative for the region, and acting as a proponent for the industry sectors and communities dependent on its presence. The three forest and mining interests in TFL 24 were the main actors representing the private sector, although a number of subcontractors, service businesses and minor claims holders and trappers were also participants (Canada, 1986).

Of the parties with a vested interest in the area, the forest industry emerged as the dominant player in this dispute. Their historical ties to the region providing investment and employment opportunities forced the B.C.

government to employ a number of strategies to substantiate the forest industry's claims to require a constant wood supply (personal interview: see Appendix 1). Forest companies attempted to encourage and support the provincial government to continue its traditional position of multiple use planning as a vehicle for regional development, although at the same time, positioning themselves to maximize the opportunity of a potential buy-out of their access rights, if and when a provincial or national park was established (May, 1990).

4.3.4. The Private Sector's Bargaining Position

The private sector's role in determining if the South Moresby area would be turned into a national park revolved more around the concern for lost revenues than one of social concern for wilderness preservation (Dumont, 1990). The forest and mining companies who possessed access rights to the surrounding natural resources viewed the creation of a national park as a waste of a healthy resource base and a potential threat that could spread across the province. The suggestion that either forest or mining companies were willing to have their access rights bought out ran contrary to historical industry precedence in pursuing continued access to the resource base. It also compromised their position on the broader issue of environmental protection, considering both industries wanted to do as little environmental mitigation as possible since it would jeopardize their financial position.

Thus, reaching agreement with the forest and mining industries over this issue did not enter the picture. Compromise to the private sector inferred:

1. Extraction as the only use for the natural resource in question;
2. Multiple-use planning with extraction and recreation having equal influence; and,
3. Preservation as a last resort (Dumont, 1990).

These positions remained entrenched for the private sector throughout each stage of negotiation.

With the forest industry being the dominant employer in the region and the sector financially capitalized in a number of milling sites, the industry's opinion was sought by the provincial government and weighed extensively for all types of planning initiatives. The mining industry maintained a minimal interest in performing preliminary exploration work in the area, which provided them a small voice in the decision making process, but they played a much subtler role than the forest industry. Only if the region was logged and surveyed for minerals, or the companies with access rights were bought out at above average rates, would the private sector accept giving up title to the land. This stance became the private sector's main bargaining position. Their position did not change until the two governments offered the companies \$48

million dollars in compensation; \$8 million paid by the province and \$40 million by the federal government (Dumont, 1990).

As a bargaining strategy, the private sector influenced the provincial government's position from the outset. Forest and mining companies could not lose once money became the dominant criterion in negotiations. The forest sector was the largest employer in the area for both native and non-native people, and would continue to be for another fifty years at current rates of harvest (Pinkerton, 1983). Forest and mining companies legally possessed the timber and mineral rights to the area and had been actively engaged in extraction and exploration activities for over one hundred years, so their willingness to secede from the area would only occur if they were bought out. The private sector also used the issue of multiple use planning to skew the discussions to suggest that they were acting as responsible stewards of the resource base (personal interview: see Appendix 1). However, the images of clear cut areas and under-utilized wood did not contain the public's anxiety over logging in the South Moresby area. These events suggest that forest companies were strictly interested in making money and would do so through the courts if necessary to receive what they considered to be equitable compensation for the loss of access rights (Rankin and Horne, 1979).

One other area which affected the private sector's bottom line and had an impact on their bargaining position was the rise of environmental accountability. While previous rulings by environmental commissions and the courts were beginning to force the provincial government into conducting public hearings for environmental impact assessments (Dorcey, 1987), these changes were also being financially transferred to the private sector in the form of environmental audits, reforestation programs, and wildlife management enhancement. Environmental groups had rallied around the issue of wilderness preservation and garnered enough public interest to portray the private sector as receiving favourable treatment from the provincial government. The image of clearcut areas, insufficient government revenues from the sale of forest products, and the notion of a mismanaged public renewable resource aided the environmental lobby in their attack against the private sector.

Public perceptions which emerged over the relationship between the private sector and the provincial government also came into question over the management of the resource base. Two relationships emerged; one being the private sector-provincial government coalition and the other a rigid private sector philosophy of financial sustainability. Although the provincial government was forced by the private sector to commit to continued resource extraction, in the media, both parties were portrayed as working together to slow down the

momentum of the environmental-native lobby, even though they both had separate goals. The survival of the private sector was also separate from the mandate of the provincial government in that the forest industry would take the provincial government to court if it did not respect contracts signed between both parties.

The rationale maintained by the private sector when confronted by questions of increased environmental responsibility perpetuated along the position historically adopted by the forest and mining industry: comply with existing regulations without spending too much time and money on environmental mitigation. But when asked if environmental regulations should be strengthened to reflect the concerns of the public, the private sector remained adamant over encouraging any review of B.C. environmental policy due to the costs they would incur to test and implement new harvesting methods. Subsequently, the question of environmental accountability became a persistent theme for special interest groups to pressure the forest sector, forcing them to decide if they should continue logging operations in the area, or take the financial package offered through the park proposal.

In the middle of negotiations, the forest industry's past history of lack of concern over the environment caught up with itself. The industry attempted to force the provincial government to increase its demand for monetary compensation from the federal government (through increasing its claim of

the amount of timber annually harvested), or else it would not release the timber rights to Tree Farm License 24 and the surrounding TSA's (May, 1990). This strategy was used in an attempt to obtain more money from the provincial government by over-valuing the price of the wood allocated to them on the open market. Compounded by a growing public disdain for the private sector's treatment of the environment, the forest companies began to realize they were losing public support as public opinion polls suggested concern for the environment increasing across Canada (personal interview: see Appendix 1). A financially attractive settlement had to be taken seriously as support grew for wilderness preservation on South Moresby, and recent B.C. by-elections indicated that the environment was one of the most pressing issues within the electorate (Boyle, 1986).

With various options available, and it unlikely that the environmental-native coalition would change its course of action to lose bargaining leverage, the private sector considered its alternatives and decided to accept the federal and provincial governments' offer of \$48 million (May, 1990). Title to outstanding mineral rights, as well as a few traplines were also purchased; however, the mineral industry was given an additional ten years to conduct exploratory surveys before the area would be closed to mineral exploration (Canada, 1986). This clause had to be included in the agreement so the mining companies would agree to sell their

mineral rights, just in case a significant deposit was located.

4.3.5. THE ENVIRONMENTAL LOBBY

The environmental lobby, under the initial aegis of the Islands Protection Society (IPS), independently pursued the formation of a wilderness designation area on Moresby Island from mid-1974 until the IPS joined forces with the Haida in an attempt to stop logging in 1978 (Rankin and Horne, 1979). Formed by Thom Henley, an American, Gary Edenshaw, a Haida Indian, and John Broadhead, IPS surfaced in 1974 as a single issue environmental lobby in an effort to preserve parts of the Queen Charlotte Islands (May, 1990). In 1979, litigation proceedings began against the B.C. government and Rayonier Forest Products to allow greater public participation in forest management (Rankin and Horne, 1979). At this juncture of the dispute, the stature and impact of IPS as a progressive environmental group changed dramatically as did its role until the national park was formed.

The IPS challenge to the B.C. government and Rayonier Forest Products in provincial court gained the support of a number of interest groups such as the Canadian Parks and Wilderness Society, the Sierra Club of Western Canada, the Friends of the Ecological Reserves, the Western Canada Wilderness Committee, the Valhalla Society, the Canadian Nature Federation, the World Wildlife Fund (Canada), the

Audubon Society and Earthlife (Sewell, et al, 1989). When the IPS proposed establishing a wilderness park in 1974, few envisioned such a project would come to fruition. The events of 1979 forced the provincial government to realize legal delays would only slow down the persistence and momentum being gained by the environmental lobby.

The IPS's knowledge of how to stall and create blockage within the legal system forced the B.C. government to strike a number of committees, giving credibility to the environmental lobbies' negotiating posture. It forced the provincial government to recognize the coalition as a stakeholder, while allowing the IPS time to attract a broader spectrum of interests to support and participate with it. Although it was not until the federal government entered the dispute that the IPS and its coalition began to attract the attention necessary to gain a national and international audience, the time leading up to the federal government's participation set the stage for this conflict to mature.

Over the next six years, increased public participation, petitions, national and international media coverage, numerous acts of civil disobedience, the arresting of protestors and the support of coalition interest groups forced the provincial government to seek a settlement to the dispute by requesting the intervention of the federal government to establish a national park in the disputed area (Sewell, et al, 1989).

4.3.6. The Environmental Lobby's Bargaining Position

The environmental-native coalition was ultimately what forced both the private sector and the provincial government to succumb to the pressures of creating a national park. The actions of the IPS and Haida First Nation set the tone for how the private sector and provincial government responded to the demands for national park creation, while also giving the Haida an opportunity to appeal to a wider audience to promote attention over comprehensive land claims in the Queen Charlotte Islands.

When it became evident that the environmental-native coalition was acquiring support and gaining momentum, the provincial government and private sector knew they had to promote some form of compromise if forestry operations were to continue for the area; however, the subject of compromise did not enter the discussions for the IPS or the Haida based on the demands of the forest industry. Given that the two parties worked in conjunction with each other over the life of this conflict, much of the success in the establishment of South Moresby National Park Reserve must be evaluated collectively. Yet the independent nature of both organizations mandate requires separate analysis of each position. Thus, the first part of this section will examine the environmentalist perspective, while the second part considers the role of the Haida Nation.

Compromise to the IPS inferred:

1. Preservation as the only alternative to protect Moresby Island;
2. Recreation as a form of land use if complete preservation could not be attained; and,
3. Conflict between the B.C. government and private sector if the extraction was to continue as a form of land use (Sewell, et al. 1989).

As far as the IPS was concerned, there was little room for anything but complete protection of the area. Court injunctions were the first form of protest launched against the provincial government to bring attention to the IPS's concerns (Rankin and Horne, 1979). When this failed to stop logging activities, civil disobedience became the vehicle to slow down harvesting and gain a national audience for its cause (Sewell, et al, 1989). Arrests became more common, as did attempts to politicize the issue of environmental mismanagement through the use of court injunctions and the challenging of provincial laws over the lack of public participation in the planning and decision-making process. By forcing the provincial government to discuss openly its policies for awarding contracts and the requirements imposed on the resource user, IPS capitalized on the lack of government environmental accountability and began a campaign of lawsuits, generating public sympathy, and forcing the issue into the public domain (Sewell, et al, 1989).

The confrontation strategy employed by the IPS did not become an obstacle for the provincial government until the forest industry began to exercise its standing over access to timber rights (Rankin and Horne, 1979). If the industry had not exercised this right through the use of legal retaliation, it would have been seen as losing ground on a fundamental bargaining issue, and put in the awkward position of being unable to recover any of the gains previously made in the courts. While these considerations forced the provincial government into a position of protecting the rights of tenured contract holders, it additionally placed the B.C. government in the awkward position of having to disclose its view on a number of environmental issues which would have been considered contrary to the concerns of the forest industry.³⁹

The B.C. government's unwillingness to adopt a negotiating position which would pressure the private sector

³⁹ The Social Credit Party recognized to be re-elected in 1986, it needed to adopt a more pro-environment political agenda than had been encouraged in the past. While many proposed environment-related amendments would have been favourably received by the electorate, industries which relied on using natural resources for commercial purposes new they would be forced to improve their methods of extraction to meet these new mitigation standards. The private sector did not want these changes to occur, albeit if they did, better under the Social Credit than the New Democratic Party. A number of initiatives including a new environmental protection act, a new wilderness preservation act, tougher regulations for effluent treatment and discharge, and efforts to address problems associated with soil erosion were hastily prepared for tabling in the B.C. legislature in September of 1986. See Dorcey, 1987.

to commit to preserving part of the Queen Charlotte Island archipelago was viewed by the IPS as supporting the demands of the forest industry (May, 1990). This stance provided the IPS with little maneuverability to avoid confrontation with both the provincial government and the forest industry, thereby setting out the tone for further discussions. As a negotiation stance, passive resistance became the strongest tool available for the coalition when the parties discovered they needed the help of each other to accomplish a mutual goal which they would have difficulty achieving on their own. The IPS and aboriginal coalition subsequently forced the provincial government to be more candid with the public concerning issues of environmental management, while constantly receiving criticism and challenges to its environmental record, policies, and future agenda. These actions translated into wider audiences with concerns over the issue of environmental management, in addition to creating sympathy for themselves within the public.

Much of the environment-native coalition's success was based on the various legislative committees and panels struck by the provincial government to examine the question of wilderness management, and the pervasiveness of similar environmental conflicts occurring elsewhere across the

province.⁴⁰ By not coming out with legitimate statements on the severity of the problem, the provincial government damaged it's credibility with the public on the issue of environmental mitigation since it appeared disorganized and constantly backing up the private sector. In one sense the information generated by these bodies became counterproductive for the provincial government because the reports that it was using to substantiate its current position on supporting the private sector were also being used by environmental committees to justify a new wilderness management act.

The environment-native coalition, as well as the federal government, used this double standard as a counter position to coerce the provincial government into staying at the negotiation table, while at the same time strengthening their own position over the creation of a national park through the use of national public opinion. The IPS's ability to successfully lobby various federal government officials, private organizations and individual citizens for financial assistance increased awareness of the issue within the public domain, creating sympathy for the aboriginal community and an opportunity for public opinion to coalesce around the need to protect the South Moresby area.

⁴⁰ In total, six separate provincial government bodies were struck over the dispute's thirteen year history before protection was given to the South Moresby area; albeit, it was only the last committee in 1986, the Wilderness Advisory Committee (WAC), which came away from the process with unanimous consensus over a balanced use of the natural resource base.

4.3.7. THE ABORIGINAL COMMUNITY

Aboriginal involvement, although initiated in 1971 by the pursuit of a land claim settlement by the Haida (Pinkerton, 1983), contributed significantly to the ratification of a national park reserve in 1988. The Haida viewed this dispute as one initiated by themselves, but with little headway being made with the federal government, they adopted a number of tactics, such as forming a coalition with the environmental lobby to further the preservation efforts as a vehicle for greater control over the area's land base.

The Haida objective behind promoting a national park has been the outright ownership of the area's land and natural resources, an issue which continues to supersede that of national park establishment for the Haida (Canada, DOE, 1991). Since the South Moresby area cannot receive full national park status until the Haida land claim is settled, the Haida have attempted to restrict access to the area (Canada. DOE, 1991). The formation of a national park has simply been viewed by the Haida as a vehicle to resolve their land claim and to obtain greater access to the land base of the Queen Charlotte Islands. In the interim, the band council has made significant inroads concerning the establishment of a archipelago management board, various policy development initiatives and economic planning committees for managing the area (Canada. DOE, 1991).

While the Haida First Nation and the IPS eventually became a coalition through which the dispute would be lobbied, it was the marriage of these two groups and their commitment to working together which gained widespread recognition and public support for the formation of SMNPR. Over the course of this conflict, the Haida First Nation has been a major participant arguing for the rights of native peoples to use natural resources within national park boundaries south of 60°, as well as in areas under comprehensive land claim. They have also been a crucial player in defining how environmental stewardship should proceed in environmentally sensitive areas such as national parks through the development of independent environmental guidelines (Shapcott, 1989). However, Haida control of the area will not occur until a land claim agreement is reached between themselves and the federal and provincial governments. Until that time, the area will remain a national park reserve.

4.3.8. The Aboriginal Community's Bargaining Position

Over the thirteen years the South Moresby debate received attention, it became evident how influential the Haida First Nation had become as a stakeholder in the determination of a national park reserve for the Queen Charlotte Islands. Unquestionably, without the assistance of environmental groups such as IPS and the Western Canadian Wilderness Committee, aboriginal efforts would not have been as compelling in

forming such a strong union to advocate their common interests. Yet without the Haida, the issue would not have been given the attention and legitimacy as a media event that it received in the last two years of the debate (Keller, 1990). Over the thirteen years, new policies and procedures were being developed by the federal government to deal with the issue of native land claims where park designation had been suggested. However, few were examined in light of the need to resolve comprehensive claims and the conflict which arose as a result of the B.C. government ignoring to address this issue. It is in this setting that one of the most significant issues of the debate surfaced to influence the final decision over why the provincial and federal governments had to become involved with this debate--aboriginal rights.

Compromise to the aboriginal community inferred:

1. Recognition of a aboriginal right to self-government through the use of non-violent discourse;
2. Ability to develop, implement and administer laws and polices for aboriginal natural resource management; and,
3. Ceasing of extraction activities in the Queen Charlotte Islands unless authorized by the Haida First Nation.

The aboriginal component of the environment-aboriginal coalition was a significant factor influencing how the park negotiations would shape the creation of a national park at South Moresby, and what role the issue of aboriginal rights would have in influencing the environmental concerns espoused by the Haida First Nation. The main condition for aboriginal involvement in joining forces with the IPS was the focussing of attention on the issue of environmental protection, a vehicle used by the Haida to garner interest over both their land claims and self-government aspirations (Shapcott, 1989). The method used to bring aboriginal involvement to fruition included acts of civil disobedience and legal challenges against the provincial and federal governments. Additionally, these tactics also brought into question what other First Nations had done to gain recognition over land claims through the creation of national park reserves over the last twenty years, and how this process had played itself out as a bargaining tool for aboriginal groups who have found themselves in a similar position over aboriginal rights debates.

The role of aboriginal participation in the national park planning process pre-dates the dispute at South Moresby. Since the late 1960's, areas sought for national park use, but which fell into regions considered under aboriginal land claims, have been placed under the management scheme of national park reserves. Initiated as a vehicle to assist

aboriginal people in entering the policy and decision-making process, the creation of national park reserves allowed aboriginal communities to gain the aid of other concerned interest groups to promote the issue of self-government, while additionally using environmental issues as an advocacy tool to promote greater control over local natural resource management. The accomplishments obtained under the South Moresby agreement (ie. the Archipelago Management Board) are precedent-setting institutional arrangements for aboriginal participation outside of the Yukon or Northwest Territories (Canada. DIAND, 1991). It is these types of arrangements which have fostered a closer relationship between the environmental movement and First Nation communities to their mutual benefit.

The IPS assisted the Haida in understanding what institutional arrangements had to be challenged, the legal avenues which could be taken, how natural resource management and environmental impact assessment became an essential component in challenging the provincial government and the private sector, and delay tactics which would frustrate and slow down any logging (Shapcott, 1989). In terms of the Haida contribution to the ratification of a South Moresby agreement, if the Haida had not been involved in the dispute, trying to legitimize the issue would have been a near impossible task for the IPS. The Haida brought a sense of moral

responsibility to the management of the area through the philosophy of traditional natural resource management.

With progress made on other agreements between the federal government and various First Nations over traditional land use access to national parks,⁴¹ pressure was on federal negotiators to come up with an equally progressive solution to resolve future land use disputes situated in areas considered for national park useage. The Haida's insistence on full participation at the negotiation table ultimately strengthened the position of the environmental coalition, while concomitantly assuring the Haida of an avenue to continue discussions in the area of land claims. After roadblocks and numerous arrests in 1985-86, both the provincial government and private sector recognized the influence aboriginal people had gained over resource development in areas designated for preservation purposes on or near traditional Indian lands. This issue alone forced the federal government to deal with land claims since it became clear that this would be the only way a national park could be formed; so while at the same time the aboriginal community was attempting to get the support of the federal government, they were also drawing the provincial government into the debate which was imperative as a negotiation ploy. Without the provincial government

⁴¹ This applies strictly to national parks in the Yukon and Northwest Territories as few others south of the 60° have evolved or been challenged by aboriginal groups, except in provincial parks.

acknowledging the questions of aboriginal land use, the federal government would not defend aboriginal rights or other issues being debated.

4.3.9. THE PUBLIC INTEREST

The media exposure gained by these issues contributed to South Moresby receiving an increasing amount of public attention and sympathy for preserving the area. The public interest as a user group only became an issue after the federal government began attempting to enter the dispute to assist in its resolution. The public's interest in the dispute and the timing of environmental issues also propelled the question of preservation and aboriginal rights to new heights in the B.C. and national media, as a number of "green" publications and interest groups emerged around this issue.⁴²

Environmental activism had also become a legitimate form of protest in the early 1980's in British Columbia, reflecting the concerns many citizens felt about the province's ecology. Before the federal government entered the dispute, road blockades and acts of civil disobedience were a common method of disrupting logging and attracting media attention. These techniques of expressing dissatisfaction did not gain widespread support in B.C., but they achieved

⁴² The 1980's were a prosperous time for environmental groups, particularly in B.C. where the environmental movement has always had a strong following. For a more indepth review of environmental politics in B.C., see Dorcey, 1987.

national media attention, informed the public over the nature of the issue, and forced political leaders to search for alternative solutions to large-scale forestry in the area.

The public's support and inquisitiveness of the proponents behind the SMNPR also increased as the issue received greater attention. A train caravan sponsored by the IPS and the Haida travelled across Canada from Halifax, Nova Scotia to Vancouver, B.C. gaining support for South Moresby by informing people of the area's unique ecology (Sewell, et al, 1989). People also began to lobby provincial and federal politicians through letter writing campaigns and television (Sewell, et al, 1989). All these events peaked in 1985, when the B.C. government chose to address the concerns of the environmental groups and began discussions with the federal government to establish a national park. It was at this point that the federal government shifted away from its previous role of self-imposed mediator, where it tried to bring all stakeholders together, to that of being a fully involved participant in an attempt to resolve the dispute by creating a national park.

4.4 MATURATION OF SOUTH MORESBY CONFLICT FROM 1974-86

Between 1974 and 1986, the forestry practices controversy progressed through a number of transitions before culminating in the provincial government's request to the federal government that it establish a national park. Each of the

dispute participants attempted to position themselves to maximize opportunities when they arose, while at the same time attempting to minimize the potential credibility problems that would accommodate an organization unwilling to show flexibility in reaching some form of agreement over the future use of the area. A number of strategies were employed by the disputing parties to strengthen and maintain their bargaining positions once negotiations commenced. However, what becomes evident during these two stages is that the provincial government could not ignore the political impact that special interest groups were having on the general public.

The B.C. government initially adopted a tough stance against preservation, based on the risk of other forest tenures falling victim to similar environmental pressures elsewhere in the province. As proprietor of the resource and liable to licensed companies for its use, the provincial government did not want to be viewed as accommodating or giving in to environmental interests. Much of MOF's rationale for going to court in 1979 was to legitimize the provincial government's status as regulator and owner of the resource. The case was tested twice, once in February and again in April of 1979 (Pinkerton, 1983). A favourable ruling by the B.C. Supreme Court entrenched the Minister Of Forests' right to administer licenses as the Crown deemed fit; albeit, the ruling brought into question the issue of procedural fairness

and the right for public participation and scrutiny of ministerial decision-making (Rankin and Horne, 1979).

These events suggest that the provincial government was beginning to recognize that court rulings in favour of greater public participation would challenge and scrutinize its maintenance of a closed planning process. Yet if the Crown was to be seen accommodating the IPS, it could be interpreted as acknowledging the legitimacy of rescinding "evergreen clauses"⁴³ in any TFL up for renewal across the province. At the time, the provincial government thought if it opened up the forest tenure system to the scrutiny of special interest groups, they would have been challenged by the forest industry. The only avenue for the provincial government to protect itself from lawsuits against the forest and mining industry became litigation, in an attempt to force environmental groups out of the policy-making process.

By winning the case, the B.C. government won a period of grace in which the South Moresby Land Use Alternatives Committee (SMLUAC) and the Public Advisory Committee (PAC) continued their work on applying the concept of multiple use

⁴³ Evergreen clauses are contractual obligations within a TFL permit which allows forest companies a renewal of tenure in perpetuity. In older tenure agreements, these arrangements still exist, but in newer agreements they do not (Pearse, 1976).

planning, as logging continued on Moresby Island.⁴⁴ The government also received an additional period of grace when the IPS appealed its case to the Supreme Court Of Canada (Rankin and Horne, 1979). The lack of attention given to wilderness preservation issues between 1980 and 1983, as a result of slumping international timber prices, suggests the provincial government received a reprieve; however, not knowing it would soon have to respond to additional requests for preserving Moresby Island, it began entertaining proposals from a variety of interest groups on just what to do with the area (Sewell, et al, 1989).

The only alternative the provincial government had to delay preserving some part of Moresby Island was to allow the IPS and Haida to challenge it through the courts. These actions would force the provincial government to retaliate, by closing down logging operations and taking the protesters to court. By adopting this stance, the provincial government aligned itself with the private sector and began to integrate the argument for economic development, investment stability and employment as a mechanism to legitimize its position of supporting the forest industry. With the submission of the South Moresby Resource Planning Team's (SMRPT) final report in 1983, the government's position became crystalized around the

⁴⁴ PAC was set up before the SMLUAC study and attempted to perform many of the recommendations the 1978 Royal Commission on Forest had suggested. See Pinkerton, p. 78-79.

anti-preservationist position (Canada, 1986). It is at this time that various interest groups began to join forces and challenge the provincial government on its position; in particular, the Council Of Haida First Nations and a coalition of environmental groups (Sewell, et al, 1989).

Once the Haida and IPS coalition joined forces, their efforts began to affect the provincial government. A number of events transpired in 1983 which shifted the balance of public opinion away from a neutral posture favouring the provincial government, to one where they started to reassess their stance. With the SMRPT report offering four options to the provincial government (ranging from complete preservation to continued multiple use planning) and the provincial government rejecting all of them to adopt its own position, MOF was put in the awkward position of having to substantiate this stance to the public against a backlash of media assaults (British Columbia, 1983).

The B.C. government's rejection of the SMRPT recommendations brought together four environmental groups, which began to lobby various government officials at both the provincial and federal level. With their efforts coinciding with the federal government's official recognition of the Haida comprehensive land claim in 1983 (Canada, 1991), the provincial government's strategy of taking the IPS-Haida coalition to court was losing credibility with the public. The federal government viewed these events as a good

opportunity to begin publically discussing the future of South Moresby with the B.C. government to the point where the provincial government began to consider ways of enticing compensation for turning the area into a national park (Canada, 1986). With the provincial government now considering negotiating solely with the federal government, the dispute increased in salience as environmental groups viewed the maneuver as another attempt by the provincial government to obstruct public participation and negotiate an agreement behind closed doors.

The provincial government never provided its own form of dispute resolution until it created the Wilderness Advisory Committee (WAC) in 1985. WAC's mandate was to evaluate all wilderness preservation-versus-economic development disputes on-going in the province and make recommendations on a timeframe to deal with them. The WAC's inception was interpreted by all organizations outside of government as a final attempt by provincial legislators to reduce the level of anxiety over wilderness preservation in the province, while providing the public with a vehicle to participate in determining what areas deserved protection (O'Riordan, 1989).

In the past, a politically-appointed committee such as the WAC would have assisted in the resolution of minor political debates between environmental groups and the provincial government, but not under the prevailing circumstances. The national escalation of wilderness

preservation versus economic development disputes accentuated the level of debate and animosity against the provincial government to the point where the WAC study was viewed as an instrument of compromise. Not every user group welcomed the recommendations, as some areas were deemed as multiple use, others would receive either full preservation or no enforcement at all.

The first stage of this dispute has illustrated a number of factors concerning the nature of wilderness preservation-versus-economic development issues in the Queen Charlotte Islands:

1. The confrontational nature of environmental politics as a public policy issue in B.C. (Dorcey, 1987);
2. The close relationship between the B.C. government, as owner and administrator of the resource base, and the forest industry, as procurer (Pearse, 1988);
3. The degree to which a provincial government would support the private sector on issues of collective rights and public participation until the federal courts forced them to do otherwise (Rankin and Horne, (1979);
4. The failure of the private sector and senior B.C. government bureaucrats and politicians, to

acknowledge any responsibility for environmental policy development (personal interview: see Appendix 1).

5. The unwillingness of the federal government to aggressively press the B.C. government on the issue of comprehensive land claims (May, 1990).
6. The level of sophistication and activism that had become characteristic of negotiating tactics for the environmental-aboriginal coalition to pressure the provincial and federal governments into discussing the future of South Moresby (Sewell, et al, 1989).

Each of these factors had an impact on how the dispute would mature and the positions which were adopted by the affected parties. The debate also drew attention to the role of the federal government in addressing aboriginal concerns, and the amount of money required to establish a national park in an area experiencing a provincial land use dispute. As will become evident in the second part of this analysis, the position of the four user groups changed significantly after the provincial government began to show a willingness to consider accepting financial compensation for a land transfer.

4.5 THE SEARCH FOR COMPROMISE BETWEEN 1986-1988

The second part of the South Moresby dispute identifies events and negotiating positions adopted and met by the private sector, environmentalist-native coalition, and the federal and provincial governments. At this stage of the conflict, the dispute changed from one of recognizing the need to resolve the conflict to reaching a settlement between the parties who had an interest in the dispute. The federal government now became a party with an interest in the outcome, yet it was the provincial government that held the balance of power throughout the negotiation process. Since the area in question was under provincial jurisdiction, the province maintained control over the nature of priorities sought for making South Moresby any kind of wilderness reserve. However, with the B.C. government agreeing to enter into park designation negotiations with the federal government, the nature of the debate changed from one of anti-preservation posturing by the provincial government, to that of bargaining for financial compensation and receiving the most benefits possible for giving up title to the land.

The twelve years it had taken the IPS to convince the provincial government that preserving South Moresby was a credible proposition had now turned the negotiation process into one of trade-offs: if the provincial government received enough compensation for preserving the area, it would consider entertaining an offer from the federal government; if it did

not, the area would continue to be logged and the provincial government would deal with the fallout over public opinion (personal interview: see Appendix 1). With the federal government being the only institution capable of establishing a national park, and their insistence on being involved in a negotiated settlement, DOE's previous role of getting the disputing parties to the bargaining table and acting as a mediator between the various special interest groups ceased (Canada, 1990a). The federal government now became the sole organization representing the various special interest groups seeking the establishment of a national park as all other stakeholders allowed DOE to act as the leader throughout the negotiations (Sewell, et al, 1989).

Two observations can be made concerning the nature of the debate to this point. First, the South Moresby conflict had followed an historical pattern of park planning problems with its many legal delays, scrimmages over resource access rights, evergreen clauses for continued exploration and extraction, wilderness studies and political posturing between the proponent and opposing parties. This was not a new scenario for national park proponents, nor for the federal government in attempting to preserve wilderness areas.

Most national parks in Canada experienced a ten to twenty year timeline transition before they are established, so the resistance that transpired between the provincial and federal governments was somewhat expected. However, protracted

discussions by the federal government, as the park proponent over South Moresby's value, the use of court injunctions to stop resource extraction, and civil disobedience by the environmentalist-native coalition to force the provincial government to the bargaining table, were events that prolonged the planning process and made it difficult for national park status to be given to South Moresby (Sewell, et al, 1989). Albeit in many respects, without these distractions, the provincial government might not have chosen to designate the area for consideration as a national park.

The impact these events had on how park preservation was interpreted by the provincial government as an issue of public policy also became more evident as the debate heightened in controversy. With a number of environmental interests now articulating their concerns over the future of the area, and the public becoming more responsive to the demands of a growing environmental ethos, the provincial government recognized the importance of obtaining compensation for the area while it gained favourable media coverage. The other issue which had wider implications for the dispute resolution process, one that reflected what the provincial government's rationale was for taking such a hard line on the South Moresby question in the first place, was that of the financial

benefits the B.C. government would receive by staying at the negotiation table.⁴⁵

Over the next five years (1983-1988) in which the dispute gained national and international recognition, the provincial government was forced to draw attention to its own negotiation position concerning wilderness management, since it now was attempting to maximize a financial compensation package. The position it advocated would reflect how it intended to pursue this particular park proposal, and also how it might view future provincial and national park proposals. Based on this assessment, a decision could then be made on how the provincial government would determine its bargaining position, if it was to turn the South Moresby area over to the federal government, or what it would demand of the federal government in compensation. Table 5 chronologically identifies the main issues affecting the dispute and addresses how each actor participated in the controversy's mediation.

⁴⁵ While each stakeholder had a legitimate interest in the dispute, the provincial government's biggest fear was to recognize the area as a native land claim. The potential long-term effects for the B.C. government were enormous; subsequently, the establishment of a national park became an easy way for the B.C. government to save itself money. See Canada. DIAND. 1991. Report Of The British Columbia Claims Task Force. Ottawa, Ont.

TABLE 5: CHRONOLOGY OF EVENTS SURROUNDING SOUTH MORESBY DEBATE

1958	<p>Submission of second B.C. Sloan Royal Commission Report on Forest Policy; recommends use of evergreen licensing clause to promote stable investment climate in B.C. forest industry.</p> <p>Rayonier Canada awarded a twenty-one year license to harvest timber on Tree Farm License (TFL) 24 on Moresby Island.</p>
1971	<p>Council Of Haida Nations is formed by the Masset and Skidegate Bands of Queen Charlotte Islands to seek settlement of their aboriginal land claim.</p> <p>Pacific Rim National Park formed in natural region 1 of Parks Canada natural regions classification system.</p>
1972	NDP elected government of B.C.
1974	<p>Provincial government recommends logging moratorium on TFL 24; moratorium never legally enacted by provincial government or accepted by Rayonier Canada.</p> <p>Island Protection Society (IPS) founded by Gary Edenshaw, John Broadhead and Thom Henley.</p>
1975	NDP loses provincial election to Social Credit party.
1976	<p>B.C. Royal Commission On Timber Rights And Forest Policy created to consider recommendations for new provincial Forest Act.</p> <p>Judicial Review Procedural Act passed in B.C. provincial legislature, becoming basis for challenge to provincial Crown's ability to issue licensing instruments without an open process for public participation.</p> <p>First report on South Moresby submitted by ELUC to MOF.</p>
1977	MOF establishes Public Advisory Committee (PAC) to tour province and request input into Royal Commission on forestry.
1978	New Forest Act is proclaimed by provincial government.

- 1979 Social Credit re-elected in provincial election.
- IPS takes Ministry Of Forests to court over evergreen license renewal clause.
- MOF awards Rayonier Canada twenty-one year extension to existing license; IPS appeals case to the Supreme Court Of Canada; tone and language of dispute intensifies.
- South Moresby Resource Planning Team organized by MOF to evaluate proposition of creating a wilderness area in the Queen Charlotte Islands.
- PAC relieved of duties, claiming political interference and under-representation by MOF, private sector and environmental lobby.
- 1980 First survey of South Moresby issue by federal politicians was the tabling of private members Bill-C454 by NDP M.P. Jim Fulton, an Act to assist the provincial government jointly operate a national or provincial park in the area.
- 1981 Interim submission of South Moresby Land Use Alternatives Report by the South Moresby Resource Planning Team (SMRPT) to Ministry Of Forests; recommends designation of ecological reserve status for two watersheds on two islands adjacent to South Moresby.
- IPS loses appeal in Supreme Court Of Canada.
- 1983 The Haida land claim given formal recognition by the federal Department Of Indian Affairs And Northern Development.
- Submission of South Moresby Land Use Alternatives Final Report by the South Moresby Resource Planning Team to Ministry Of Forests; recommends four options ranging from continued resource use to preservation of wilderness values; provincial government recommends continued extraction with minor provincial park status given to Moresby Island.
- 1984 Provincial government begins listening to joint national park establishment proposals from the federal government, but rejects offer. Debate goes public with Trudeau's Liberal government proposing national park designation.

Progressive Conservative Party elected in federal election

1985 Formal submission by the federal Minister Of Environment to form a national park on Moresby Island.

Wilderness Advisory Committee (WAC) created by Premier Bennett to evaluate need for wilderness protection in B.C.

Federal Minister Of Environment pledges to make South Moresby a national park upon submission of report to WAC.

Environmental groups and Haida First Nation file court injunction to halt logging of TFL 24; road blockades and arrests of seventy-two people follow.

1986

March Submission of WAC Report; recommends protection of South Moresby as a national park to be phased in over ten years with allowance for some continued resource extraction.

May Provincial government accepts recommendations of WAC and reaches agreement in principle to begin negotiating terms of reference for park designation with federal government.

October Social Credit Party re-elected using the preservation of South Moresby as a provincial park as an election issue.

November Provincial government approaches federal government over establishment of South Moresby as a national park after arrests and court injunctions stopped forest operations.

1987

January Federal government adopts proposed boundaries envisioned by IPS and Haida for national park rather than those proposed by WAC.

March Provincial government announces six week logging moratorium on South Moresby and Lyle Islands; expands proposed park boundaries north of WAC proposal to include south slope of Lyell and portions of Richardson, Kunga and Tanu islands.

- April** Provincial government extends acceptance of final offer from the federal government until first week of May; proposes new package to federal government including altered boundaries for all of Lyell, Richardson, Tanu and Kunga Islands plus \$8 million dollars in compensation for timber rights. Federal government to pay for all negotiations with forest industry and third parties, assume responsibility for all lands in question, ensure employment for forest workforce on Lyell Island for ten years, construct a small craft dock and wharf for the Town of Sandspit, \$20 million dollar expenditure on capital improvements over ten years, and ten annual payments of \$10 million dollars into the Queen Charlotte Island forest ecology benefit fund.
- May** Negotiations reach impasse after federal government rejects the provincial proposal (above). Federal Minister of Environment lobbies cabinet colleagues to re-start negotiations. Discussions begin but now at First Minister-Deputy Prime Minister level. A two week extension is given by Premier Vander Zalm to the federal government to come up with an alternative proposal.
- June** Provincial government re-evaluates position wanting instead to establish a provincial park so forest operations can continue. Federal government begins preparing final offer of \$106 million: \$50 million spent over ten years for Queen Charlotte Island regional development fund; complete buy-out of timber rights and final timber rights acquisition of Pacific Rim National Park Reserve established in 1970; match provincial government's contribution of \$8 million for compensation of timber rights with an additional \$23 million.
- Conflict escalates between federal bureaucrats attempting to stop the agreement over high costs, and the Minister of DOE who wants the national park established. These problems forced the Deputy Prime Minister and Prime Minister into playing a larger role in the bargaining process, while increasing the items offered to the Premier of B.C. to sign the agreement.
- International public pressure now becomes a strong vehicle for preservation as the B.C. government is lobbied extensively by many international celebrities and non-profit organizations.

July Signing of Memorandum Of Understanding (MOU) between Government Of Canada and Province Of British Columbia. B.C.'s contribution equals \$8 million for forest compensation, \$12 million for economic development while federal government contribution equals \$86 million.

July 87-

July 88 Negotiations leading to MOA with many false starts over national park reserve boundaries.

1988

July Signing of Memorandum Of Agreement (MOA) between Governments Of Canada and Province Of British Columbia.

This chapter has identified the main variables necessary to draw conclusions about the role of various groups in the South Moresby National Park Reserve dispute. Each organization had its own mandate and demands which it tried to satisfy; particularly the federal government, which had little opportunity to access the debate, but somehow was successful in bringing the parties to a compromise solution. The remaining chapters will attempt to put those issues into perspective and determine what actual dispute resolution role the federal government played in contributing to the establishment of SMNPR.

CHAPTER 5 - UNDERSTANDING THE FEDERAL GOVERNMENT'S ROLE

This chapter is devoted to determining the role of the federal government within the context of the dispute surrounding the establishment of South Moresby National Park Reserve (SMNPR). The task will be accomplished by reviewing how the federal government entered the South Moresby controversy, analyzing the role of various federal departments involved in the debate as the dispute matured, and evaluating the implications these departmental actions had for the dispute resolution process as the federal government sought to influence the provincial land use planning process.

5.1 ACCESSING THE PROVINCIAL LAND USE PLANNING PROCESS

Numerous attempts throughout the 1980's by the Government of Canada to make Moresby Island a national park reserve have provoked many questions over the federal role in provincial land use disputes, and the lengths to which the federal government will go to access provincial land for national park purposes. Since most natural resource disputes occur outside the purview of federal jurisdiction, the federal government has had extremely limited success in promoting national parks as a competing or an alternative form of land use. On the rare occasion when it has gained access to provincial land

use debates, it has done so either by being invited to participate by the provincial government, or being thought of as a potential client to purchase the land being disposed.

Another reason why federal intervention into provincial land use disputes has been routinely disavowed is that there has never been a non-partisan body with judiciary-type powers, established jointly by the provinces and the federal government, to act as a dispute resolution mechanism for settling land use controversies. Other than the many Acts and regulations which indirectly relate to federal environmental responsibility in areas of provincial jurisdiction, the only way the Government of Canada can enter provincial land use disputes is if it has something concrete at stake in the discussions, or a provincial government asks them to participate. Few provinces, rarely, provide the federal government this opportunity to influence provincial land use planning; subsequently, when provincial land use disputes arise and the federal government sees value in the area for preservation purposes, it must go outside the traditional channels of federal-provincial relations to influence the wilderness preservation decision-making process.

As a result of such institutional constraints, the federal government has been forced to approach national park planning on a very ad hoc basis, either by influencing provincial land use disputes whenever possible in an attempt to maximize events which may facilitate establishing a

national park, or by continuing national park development through the traditional master park planning process. As occurred in the South Moresby case, the provincial government did not want to release this land to anyone, at any cost. It was more willing to take the issue to court and resolve it there than to search for some form of compromise to satisfy all user groups within the area. Implementing such an aggressive strategy across the province for land use decision-making perpetuated confrontations between environmentalists, aboriginal groups and the B.C. government. It is unlikely this situation would have changed in the case of South Moresby if the province had not discontinued its decision to fight the IPS-Haida coalition in the courts.

If the area was to be protected, the federal government needed a solution appealing enough for the provincial government to want to accept an offer for establishing a national park. This strategy had to evolve independent of the B.C. government's vision for the area, since the province did not want to see a provincial or national park established in the Queen Charlotte Islands. At the same time, the federal government needed certain events and circumstances to occur which would help bring it into the dispute as a third party, since it did not want to intervene independently through a federal line department. The federal government could not, therefore, approach this conflict from a traditional EDR perspective. Instead of using standardized consensus-building

techniques to bring the disputing parties together, the Government of Canada, through three separate departments, attempted to position itself in the latter years of the dispute to become a third party. Once the federal government became crucial for the dispute's resolution, it could then come to the stakeholders' assistance by tabling the concept of a national park reserve as a solution. Three methods to optimize the timing of these events evolved by which the federal government could implement this strategy.

The first approach for the federal government was to downplay federal involvement in the dispute so that the provincial government would not suspect it of intervening in provincial jurisdiction. The second approach was to sell itself to the provincial government as a potential mediator, once it became evident that the dispute would not be resolved easily, and the B.C. government was feeling more comfortable with federal assistance. The third approach would become the federal government's solution to the problem: bringing in the Department of the Environment (DOE) to fund a national park after the dispute had come to a point of impasse between the provincial government and the organizations opposing continued development.

The implementation of this strategy required the evolution of a number of political events outside the control of the federal Liberal Party which was in office for the first ten years of this affair. Additionally, it required the

Progressive Conservative Party (P.C.), once it was elected to political office in 1984, to adopt a pro-environment stance on the South Moresby issue. These events would create an image of the P.C.'s with the public as wilderness preservation advocates; this at a time when Ottawa was actually reducing funding for many environmental programs (personal interview: see Appendix 1). Accessing the dispute would also be made easier for the P.C.'s because of their past ties with the business community, and the B.C. government's belief that the P.C.'s would continue to isolate environmentalists (personal interview: see Appendix 1).

With the B.C. government delaying resolution of the dispute for over ten years, the measures taken by the P.C. Party, and the events that welcomed them into political office, were a purely fortuitous condition, as public opinion began to coalesce against the B.C. government. The strategy adopted by the federal government, therefore, became one based on two basic premises: downplay the issue of federal political intervention to give the impression that the Government of Canada was concerned over the issue; meanwhile, continually encourage the B.C. government to bring in a third party to settle the dispute (personal interview: see Appendix 1).

5.2. FEDERAL DEPARTMENTS INVOLVED IN THE SMNPR DISPUTE

Intervention through federal line departments was a politically risky consideration throughout the early part of

this dispute, since the constitution was already creating controversy across the country for the federal government. Debates were particularly acute in western Canada, as disputes over natural resource royalties complicated any form of discussion about the environment. Heated exchanges over federal intervention into provincial jurisdiction would have jeopardized any opportunity for a national park, isolating the federal government on future third party discussions if the opportunity arose. Interference, or the preception of interference in provincial jurisdiction, would have also intensified other political issues which needed to be discussed on a joint federal-provincial basis, such as constitutional amendments to natural resource administration, aboriginal rights and the issue of transfer payments. This condition did not stop the federal government from indirectly pursuing a role for itself in the dispute; however, three federal departments can be scrutinized from an EDR prespective for having a potential conflict as a third party: the Department of Fisheries (DOF), the Department of Indian Affairs and Northern Development (DIAND) and the Department of Environment (DOE).

DOF was the first department to get involved in this debate in 1977, when the federal government responded to concerns over the impact poor forestry practices were having on salmon spawning areas (May, 1990). There was little initial intervention by DOF since the B.C. government

complained bitterly over federal interference into provincial forest policy. However, after DOF viewed numerous sites along Riley Creek on Graham Island, and after the B.C. government ignored a federal court order to stop logging until a fisheries impact study could be conducted, the RCMP were sent in to shut down the logging operations of Q.C. Itoh (Pinkerton, 1983).

There were no long term federal-provincial political ramifications for Ottawa over this issue since the dispute had not yet matured into a wilderness designation debate, while the federal government could legitimize its intervention based on federal jurisdiction over fisheries. Although this political scrimmage did make the B.C. government more aware that the federal government was becoming increasingly concerned over the environment, it was one of only two events which brought DOF into the dispute. The other occurred in 1984, when the Haida proposed a co-management fisheries strategy with DOF to administer stocks in the Queen Charlotte Islands, but this was also rejected by the provincial government as political interference. These DOF initiatives, comparatively minor in a political sense, had very little impact on the dispute. There was little federal interest in creating anything more than a small political disturbance to let the provincial government know Ottawa was consciously aware of the events occurring in the courts between themselves and the IPS-Haida coalition (Pinkerton, 1983). However, the

federal government would become more involved in this dispute as a result of the actions of the local aboriginal community and the impact of federal court rulings on aboriginal title (Keller, 1990).

The federal government did not openly seek a national park for the South Moresby area when the issue of aboriginal title began to receive greater public attention in the late 1970's; but with parliamentary debates in 1980 encouraging a national park for South Moresby, the declaration of Anthony Island as a World Heritage Site, the filing of a comprehensive land claim by the Haida, and the constitutional debates of 1981 putting the Government of Canada under a microscope on aboriginal issues, the federal government knew it was being drawn into the South Moresby debate through DIAND.

The federal government had not yet made the commitment to support any party in the South Moresby dispute, but at the same time, it needed an issue to deflect public attention away from the comprehensive land claim filed by the Haida. The perception of potential intervention into the South Moresby dispute facilitated that need, since most people thought the federal government would deal with the issue immediately. However, a number of other events affecting aboriginal rights between 1973 and 1984, which were directly having an impact on the federal government's existing aboriginal policy, forced Ottawa to reassess its position on intervening in the dispute

and refraining from officially entering the South Moresby debate.

Numerous federal court rulings between 1973 and 1988 on aboriginal rights were beginning to have a considerable impact on federal-provincial-aboriginal relations in Canada (Bartlett, 1991a). The implications of the Calder case⁴⁶ were just beginning to be understood by the courts where questions of aboriginal title was concerned (Cassidy, 1988). This case, combined with the federal government's constitutional amendment entrenching aboriginal rights in the charter of rights, forced aboriginal issues to a new level of legal attention, as the courts began to test the judicial limits of aboriginal self-government, land claims and emerging aboriginal rights (Christian and Campbell, 1983). These issues became particularly critical for the federal government in 1984 with the Guerin case,⁴⁷ which began to define what the

⁴⁶ Calder was the first aboriginal legal case to deal with the issue of an aboriginal community acquiring non-treaty land which was not extinguished to the federal government. The case sought to determine if legislation had to be drafted to extinguish title to the land in question. The Nish'ga lost the case, but it forced the federal government to begin addressing the subject of surrendered and unsurrendered lands. See Reiter, 1990.

⁴⁷ Guerin dealt with the question "what level of care and responsibility was placed on the federal government as a fiduciary, to meet its obligation as a trustor?" In this case, DIAND did not receive the best deal possible for its client group, the Musqueam Indian Band, as the band could have received on its own. Subsequently, the federal government breached its fiduciary responsibility to the Musqueam Band, which additionally brought into question all other previous financial transactions

federal government's fiduciary responsibility was on aboriginal land use.

The task of defining these legal decisions was complicated further in B.C. by the provincial government's reluctance to recognize the issue of aboriginal title. Eighty-five percent of B.C. was excluded from the treaty-making process after B.C. joined confederation in 1871 (Canada, DIAND, 1986). Without treaties between the Government of Canada and B.C. aboriginal communities, aboriginal people had few rights except those granted under the federal constitution and the Indian Act. The provincial government used this condition to unilaterally force the federal government out of the comprehensive land claim process in B.C., conveying the impression that Ottawa would now have to take a neutral stance on aboriginal policy, given its weak past performance in defending aboriginal rights (personal interview: see Appendix 1).

For the federal government to now have any influence on the settlement of comprehensive land claims in B.C., court rulings, petitions and precedents were required to force the provincial government to re-evaluate and change its policies. These events further obliged the federal government to take a more active role in addressing aboriginal issues across the country. In the case of the Haida, the federal government,

conducted by DIAND on behalf of any Indian band. See Reiter, 1990.

through DOP, DOE and DIAND, began monitoring the impact forestry practices and other natural resource uses were having throughout the Queen Charlotte Islands more closely. Acknowledging the area as a land claim location legally committed the federal government to examine how best to resolve any disputes over land useage, and if possible, secure those areas through whatever measures were appropriate for future Haida use.

The two years between 1981 and 1983, before the federal government recognized the land claim, interest broadened over the area as acts of civil disobedience by the IPS-Haida coalition were beginning to draw attention to the concerns of these groups (Sewell, et al, 1989). Criticism from various political and social organizations was also becoming more common, as both the federal and provincial government tried to avoid debates on the future use of the area in the House of Commons and the B.C. legislature (May, 1990). Yet increasing attention to the land claim and the question of forestry management accentuated the federal government's responsibility to adopt a policy on South Moresby, as well as to examine various options through which to best address the question of land ownership, as part of its fiduciary duty.

DIAND also possessed the jurisdictional capacity to force the provincial government on the issue if it so chose, but with recent court cases ruling against the federal government, and the dispute not maturing to a point of complete impasse,

Ottawa's decision to maintain a low profile on the issue gave the B.C. government more time to find another approach to settle the dispute (Bartlett, 1991a). Therefore, throughout this period, the federal government did very little to directly address the issue of pursuing a national park. The perception did exist that the federal government was concerned about natural resource use, and that it had a perfect vehicle to intervene as a result of the federal responsibility for aboriginal affairs. However, it was the Department of Environment (DOE) which formally provided the federal government a channel to access the South Moresby dispute.

DOE did not take an official position on the South Moresby issue prior to its involvement in 1985 when it went public as a national park proponent (Scace and Nelson, 1987). Prior to making this statement, DOE had little influence in the land use planning process occurring in the Queen Charlotte Islands. DOE was perceived as a body which could intervene at any time, given the federal government's jurisdictional responsibility over the environment and the impact poor forestry practices were having on two areas that fell under federal authority, fisheries and aboriginal rights. DOE became the federal government's vehicle to pursue a mediated settlement when the dispute reached a point of impasse in 1985 because of its power and ability to establish national parks; however, it was only viewed by the P.C. Party as a potential solution for the provincial government. DOE's role was also,

therefore, one of a stakeholder, similar to the federal government's role through DIAND. It was only for the various user groups in favour of establishing a national park that Ottawa was viewed as playing the role of a mediator.

The impact these three departments had on the federal government's decision to enter the South Moresby controversy, therefore, evolved around an awkward set of circumstances. Although the federal government did not make unequivocal statements about wilderness preservation in the Queen Charlotte Islands before 1985, the actions of consecutive Ministers of Environment⁴⁸ were continually gesturing towards aligning itself with national park proponents once the debate started to heighten in the early 1980's. There was never a clear direction, though, from any federal departments on their position towards South Moresby, either to preserve or log the area. Additionally, there was never any motion by the federal government to either challenge the provincial government on what was going on in the area, or make any comments on policy issues they could determine such as culture, fisheries, the environment or aboriginal issues. These events made an ambiguous statement about how the Government of Canada viewed

⁴⁸ Both Liberal Environment Minister Charles Caccia, and P.C. Environment Ministers Suzanne Blais-Grenier and Tom MacMillan, were strong proponents of SMNPR. Each Minister provided new direction for the proposal from Caccia first speaking on the issue from the governing parties perspective, to Blais-Grenier stating the P.C.'s would only contribute \$4 million to the area's creation, to MacMillan obtaining \$106 million from Cabinet to finalize the deal.

itself as an institution capable of resolving environmental disputes when wilderness values it deemed of national importance were at stake. It also suggests how politically driven national park planning had become.

Although any discussion of a national park immediately makes Ottawa a stakeholder in land use discussions, DOE did not see itself as a stakeholder. DOE saw itself as a facilitator, which therefore allowed it to play the role of a mediator. These convictions were a consequence of not knowing what kind of statement to make on the issue and not having any control over events occurring within B.C. or the courts. It also reflected an anxiety within the Canadian Parks Service and DOE over the inability of the federal government to establish national parks because of difficulties encountered with provincial governments and various interest groups (personal interview: see Appendix 1). The role adopted by the federal government then became one of legitimizing a new process for establishing national parks, one that saw the federal government as a third party in provincial land use disputes, but only entering discussions when it became politically opportunistic.

5.3. THE FEDERAL GOVERNMENT AS A THIRD PARTY

If the federal government can be represented at all in this debate as a third party, it is during 1983-1986, when the Liberal and Progressive Conservative parties were in a

transition period for elected office. As has been illustrated leading up to 1983, the federal government tried more to avoid the politics of getting involved in this dispute than to address the issue of a national park for South Moresby. Even though the federal government has a constitutional responsibility for aboriginal affairs, it wanted to, and did, distance itself from those discussions, leaving the Haida land claim largely unacknowledged until land use became a component of the national park reserve agreement. But during the latter part of the Liberal's last few months in office, DOE began to view the establishment of a national park as a possible solution to the dispute. DOE could enter the dispute as a credible third party and exert political pressure on the stakeholders to force them into arriving at a solution. A national park became the mechanism by which a solution could be offered in answer to the B.C. government's problems.

When the P.C.'s were first elected in 1984, the federal government, and later DOE, adopted the position that they were the only party who could assist in resolving the dispute, since they were the only one who could afford to pay the price the provincial government wanted for the area. Having the financial ability to resolve the problem was thought to be enough to bring the disputing parties together (May, 1990). By conveying to the provincial government that they understood their concerns and could get all the parties to compromise at the negotiating table, Ottawa created an added level of

comfort for the B.C. government, enabling it to seriously consider DOE's offer. The federal government could also deflect any criticism from provincial politicians who suggested Ottawa was getting involved in the dispute to protect itself against the backlash of aboriginal rights. With the B.C. government not recognizing aboriginal title, and DIAND playing a limited role in the dispute, from an EDR perspective, it appears the federal government could act as an impartial third party in mediating an end to the dispute. However, it is this very issue which contradicts the federal government's role as mediator.

To gain access to the dispute, the federal government needed to be viewed as a non-threatening party who could contribute to the land use discussions between the B.C. government and the user group deemed most influential in the conflict -- the aboriginal and environmental community. The Government of Canada also needed to assuage the B.C. government's concern that federal involvement would not detract or infringe upon the provincial government's goal of maintaining forestry jobs within the Queen Charlotte Islands. One way this objective could be accomplished was if the federal government participated, or was viewed as participating, as a conciliator or some other form of conflict resolution mechanism, to assist the provincial government end the dispute between loggers, environmentalists and the local aboriginal community.

Additionally, if a settlement could not be reached between the stakeholders, and the federal government wanted to offer the province a national park as a solution to the dispute, it needed to be viewed as a credible third party, capable of offering considerable compensation to the B.C. government to purchase the access rights from all existing user groups. The department(s) which would then represent the federal government in the negotiation process, and the timing of their entry into the debate, became crucial factors influencing the role the federal government adopted over the six year period (between 1981 and 1987) leading up to the national park's formation.

Only after this timeframe did the Department of Environment (DOE) begin to play a more active and up front role in the pursuit of a national park reserve at South Moresby. In 1985, the dispute had evolved to a point where continued logging would have resulted in constant arrests and litigation. The B.C. government had been experiencing these types of tactics by the IPS-Haida coalition since 1977. The B.C. MOF was extremely cognizant of this fact and wanted to end the fighting over the use of the area's forest resources. In late 1985, the B.C. government began informal discussions with the federal DOE, with the Canadian Parks Service (CPS) as its primary negotiator, to establish a national park reserve at South Moresby (British Columbia, 1986).

Upon DOE qualifying it was pursuing a national park for South Moresby, the federal government became a stakeholder in the strictest sense of the word. Up until then, Ottawa had not committed itself to any specific policy position on the question of preserving South Moresby. Even though it was an administrator of two Indian reserves on Graham Island, the federal government did not consider this a conflict of interest which would prejudice its acting as a mediator in the dispute. From an EDR perspective, all previous interests to this point in time by Ottawa were pursued according to the actions of a non-stakeholder.

5.4 MEASURING THE FEDERAL GOVERNMENT'S PERFORMANCE AS A THIRD PARTY

To determine if the federal government has been a mediator in this dispute, it is necessary to go back to the second chapter and re-examine some of the criteria which a mediator must adhere to, if that individual or agency is to play a role in resolving environmental disputes. In the case of South Moresby, a national park became the solution for the provincial government in 1986, after it exhausted all legal avenues to keep the land under a forestry designation. The previous twelve years, from a conflict resolution perspective, were a period based strictly on adversarial decision-making.

At this point in time, the federal government finally decided to promote the area as a national park reserve, which

is what brings into question whether the federal government can be considered a mediator. To determine the exact role of the federal government in this provincial land use dispute, it is important to test the criteria required of a mediator in order to facilitate a dispute. Eight questions need to be asked to verify the assertion that DOE was a legitimate mediator in the dispute at South Moresby (Cormick and Patton, 1980):

1. Was a point of impasse reached over this debate?

Environmental disputes are one of those forms of decision-making in which the answer to how the various parties perceive the issue is usually known before it is given. This dispute had been at a point of impasse for four years before the B.C. government decided to seek a settlement. The only impasse reached was that experienced by the provincial government, which did not want to see logging stopped in the area. After being in court for four years (1977-81), and then having to confront protestors and an international media campaign for another four years (1983-87), the provincial government and forest companies involved had exhausted all other forms of maintaining executive control over forestry management practices in the Queen Charlotte Islands. It appears the preservation of South Moresby became an issue

simply based on when, and not if, the area would be turned into a national park.

A point of impasse, however, was not reached for the parties seeking some form of wilderness protection. The IPS-Haida coalition had been fighting this issue for over thirteen years before the national park reserve agreement was ratified. They probably would have continued for another thirteen years if the B.C. government had not agreed to find a compromise to the dispute. With the Haida land claim also not being discussed throughout this entire event, the local aboriginal community would have caused, and still is causing, a political headache for the federal government, which became the administrator of the area once the national park reserve agreement was ratified. A point of impasse, however, does exist for the federal government which must still come to some form of settlement over the land claim area by the Haida. There is also uncertainty over who should have a lead role in guiding the new policies that are emerging as a result of the Haida being given administrative powers under the Archipelago Management Board.

2. Was there an equal balance of power between the parties seeking a settlement?

It became evident early in the dispute that the forces opposing continued development did not know what they were up

against compared to the parties seeking to continue forestry operations. The provincial government owned the resource base, had the financial support of a powerful industry lobby to challenge opposition user groups in litigation, and had the support of most communities in the area, as many of them were dependent on the forest industry for employment. The only option available to the weaker user groups was to find a solution which would give them parity against the provincial government and forest companies. That solution became to create a controversy by taking the B.C. government and the forest companies to court over land management.

Environmental groups survive on conflict and the publicity it generates. It is what has kept these organizations going in Canada for the last thirty years since it has been only recently that they have standing in the courts.⁴⁹ The only method they can use to have their objectives recognized is to challenge public policy in the courts. This was the main reason environmental dispute resolution expanded in the U.S.A. and why negotiated rule-making has become more commonplace in both the U.S.A. and Canada (Dorcey and Riek, 1987). While these legal challenges may, and usually do, take considerable time before they are resolved, they nonetheless give environmental organizations time to prepare a strategy to counteract what major companies

⁴⁹ For a review of the Rafferty-Alameda decision which changed the question of standing in the courts for environmental groups, see FEARO Report, 1991.

are attempting to do. After the provincial government and forest industry coalition decided to give up its fight and seek a solution to the dispute, the parties became equal, or as equal as they could become given their different organizational characteristics.

DOE also possessed considerable power once it entered the debate, since it could provide a solution to the disputing parties and pay for it without having to confer with another party for assistance. However, this is also the reason, as will be discussed in question #5, why the federal government can not be considered a mediator in this dispute.

3. Did the mediator initiate and facilitate the negotiation process?

The IPS-Haida coalition did instigate and encourage the B.C. government to discuss re-evaluating the long-term cutting plans for the area with other competing user groups who wanted to access the provincial land use decision-making process. But DOE also assisted in that function once it became evident that the provincial government was coming under increasing pressure to make a decision on the future use of that area. DOE also facilitated the negotiation process for a national park between each user group when a compensation package was being prepared for the rights holders, the provincial government and the aboriginal community.

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4. Did the mediator impose a solution?

None of the parties involved in this dispute imposed a solution on the provincial government, which in the end was the body which had to make a decision as to the future use of this area. However, DOE did become quite forceful in bringing the issue of a national park into the dispute. If DOE was not considered a mediator in conflict resolution terms, then promoting a national park would be considered an option brought to the table by the mediator. But with DOE attempting to act as a mediator and a national park proponent, it compromised its position of remaining non-partisan through imposing a solution in the form of a national park.

5. Was the mediator an advocate of the solution being tabled?

The federal government and DOE were advocates of the national park solution being tabled to the provincial government.

6. Was the solution amenable to all parties in the dispute?

The national park solution became an answer to the parties in the dispute after the federal government made the

commitment to buy out the various user rights in the South Moresby area. Before that point in time, the only solution being considered by the provincial government was to continue logging. For the other interest groups, there were mixed reviews about the agreed-upon settlement between the federal and provincial governments.

The IPS was content with the establishment of a national park since its only goal was to see the area preserved under any form of designation. The recreationalists were ambiguous since they wanted the area protected, but they also wanted a part of the area left open for fishing and hunting, which did not occur. The aboriginal community was also split on the settlement since they were seeking a resolution to their land claim. Instead they received assurances of no more logging, or any other form of natural resource extraction, in the region. However, they were given administrative powers under a new management board, the right to continue traditional resource use, and funding for various economic development projects.

For the provincial government, the results were also mixed. It resolved the dispute after a lengthy stand-off with various user groups, and was also given a sizeable share of money to pay for the forest companies' lost profits and to cover its own lost royalty revenues. But it also lost control over, and title to, a highly productive forest area, while illustrating to the forest industry that it was unwilling to

go the distance for them in court and on the issue of wilderness preservation.

This agreement shows that the terms reached between the various user groups were a solution of compromise for the provincial government, which had to salvage something from the discussions which were going against. All parties either directly or indirectly involved in the dispute won and lost something. However, that the agreement was paid for by the mediator suggests that the mediator was not adhering to the requirements placed on itself as a non-partisan body.

7. Was a solution reached by all the parties collectively?

The solution was not reached by all the parties collectively. It was independently reached by the provincial government, albeit it was influenced by a number of special interests who wanted to see some form of wilderness preservation. Since the provincial government owned the land in question, it had the final decision on its use. However legally, the federal government can expropriate provincial land if the area is needed for an issue of national concern or interest.

8. Were compromises made to reach a solution?

The provincial government did not compromise throughout the life of this dispute, except when they decided to agree on the establishment of a national park. Although it was the crucial answer most parties in the dispute were looking for, it can not be considered compromising, as it is supposed to be done without coercion. The mediator was compromising continually, though, as the initial price put forward for the national park was \$28 million in 1984, but later jumped to \$106 million when the final agreement was ratified in 1988. In 1992, it looks like this sum will grow again as forest companies continue to increase their assessment costs for lost forest revenues. It is uncertain how much the federal government will pay to establish national parks in Canada, but if this case is an indicator, it will undoubtedly be politically motivated.

Based on the criteria determining what differentiates a mediator from any other type of conflict resolution practitioner, it is evident that the federal government can not be considered a mediator in this dispute according to how it is defined in the literature. While DOE may have viewed itself as a mediator later on in the dispute, too many conflicts of interest existed between the jurisdictional responsibilities of the federal government and DOE's mandate to establish national parks for DOE to be considered a

mediator. It is evident that in some instances, DOE did actually play the role of a mediator, as it brought together various disputing user groups who were attempting to influence the provincial government's land use decision-making process.

Additionally, without federal intervention to bail-out the B.C. government, there would inevitably have been a continuation of this conflict, and the B.C. government might have walked away with nothing more than increased tension from environmentalists, the aboriginal community and the forest industry. By stepping in to buy-out each user group's rights, the federal government allowed everyone to come out of this debate favourably. So in many respects, DOE did play a facilitating role to the provincial government and the other parties either directly or indirectly affecting this dispute. However, from a theoretical basis, DOE broke many of the guidelines required of a mediator. Subsequently, what role did the federal government play in assisting in the resolution of this controversy?

5.5 WHAT WAS THE FEDERAL GOVERNMENT'S ROLE FROM AN EDR PERSPECTIVE?

According to the various types of conflict resolution techniques used in resolving environmental disputes in Canada, the federal government fails to qualify under any one particular dispute resolution formula. Since mediators are not allowed to have an interest in any of the parties or

solutions being put forward to resolve a dispute, then from a theoretical perspective, no governments in Canada can be considered potential mediators because they all have a stake in land management issues through their own agencies (Edmond, 1981). With most land in Canada owned by the state, state agencies administer and regulate all resource use within their specific boundaries. Such institutional arrangements mean that the state has a stake in each decision made which affects its role as a land administrator.

As a result, while the state can make decisions on issues which affect specific sectors it has an interest in, a complex system of decision-making emerges if it is allowed to intervene on issues where an outside decision-maker, such as an arbitrator or adjudicator, can make a binding decision (Jeffery, 1987). This type of decision-making process is more appropriate when all parties involved in a dispute have something at stake, and the state is not the majority property owner. In a country such as Canada where the political process is based on the executive powers of a parliamentary system, the state has everything to lose if a decision is ruled against, since it loses control over a share of its power base. But in a highly regulated land use planning environment, the state will always find a role for itself as it is inevitably involved, one way or another, with natural resource use. If decision-makers can not develop a solution to address these types of concerns, then the courts may be

legislated to play a larger role in understanding the question of environmental rights as is currently being debated in Ontario. If not conflict between natural resource users will continue until a solution is found.

Canada's parliamentary system has contributed very little to experimenting with, identifying, or adopting alternative forms of conflict resolution techniques within land management (Canadian Bar Association, 1989). While regulatory reform is persistently encouraged to open the decision-making process up for greater public participation, the status quo has typically ignored these calls for reform since it would diminish their powerbase within political office (personal interview: see Appendix 1). Ignoring this type of land management reality has created an extremely isolationist and politically biased decision-making process for public participation. With the federal and provincial governments' maintaining considerable discretionary power in so few hands, politicians and public bodies such as tribunals and administrative boards can be selective over how natural resource agencies are administered, and the type of issues they choose to become involved with. For the federal government to have been a legitimate mediator in this dispute, it would have had to be completely distanced from any question of federal jurisdiction, found alternative funding arrangements for the establishment of a wilderness designation area, and would have been sought earlier as a third party to the dispute by the provincial government.

The sequence of events which evolved over the last four years of this dispute were simply a prelude to how the federal government attempted to take advantage of this situation when the opportunity presented itself. DOE became a hybrid type of conflict resolver. It was both a facilitator and a mediator, but it was neither one in the true sense of the word. The role of the federal government can not be understated though because it did accomplish what other user groups in the dispute were seeking, but could not achieve -- the preservation of South Moresby. Moreover, if the federal government was anything in this dispute, it was an opportunist. DOE waited for the right time before it offered a national park as a solution to the B.C. government. It was the only party which had the power and money to accomplish such a task. In many regards, DOE was nothing more than a financier, as this land acquisition process has become the only avenue for it to expand the national park system. Such a process for establishing national parks only reinforces how politically driven the national park planning process has been in the past and in all likelihood, will remain in the future.

CHAPTER 6 - CONCLUSION

The strategy adopted by the federal government to act as a mediator and pursue a national park reserve at South Moresby is an issue which has been difficult to delineate from an EDK perspective. Based on the historical role mediators have played in defining and resolving environmental disputes (Cormick, 1987), and what is expected of that individual or agency in its role as a non-partisian observer, it is uncommon to find a mediator so consumed with the outcome of a dispute to the point where that organization is providing funding for the conflict's resolution.

In the case of the South Moresby dispute and national parks in general, it is evident that the federal government has interpreted its role to be much broader than what its historical mandate was when it first became involved in the planning of national parks. The federal government's decision to pursue a park designation for the South Moresby area in 1984 reflected more of an opportunity to be viewed as an advocate of environmental rights and to get favourable reviews from the electorate before the 1988 federal election, than one to maintain a strong position on environmental protection.

The transformation of DOE's role from one of a self-imposed mediator in 1983 to that of a negotiator in 1986

dramatically changed how the federal government functioned in its capacity to encourage federal involvement in forming national parks. Instead of taking a passive role and being an observer, as most mediating bodies are required to do, DOE attempted to be all things to all groups involved in the dispute. The federal government's support was sought by most user groups to influence the decision-making process, thereby increasing DOE's bargaining strength based on the inroads made on behalf of each user group.

These successes had various meanings for different user groups: for environmentalists, to pursue park creation as a reflection of the federal government's commitment to preservation values and a new national parks strategy; for First Nation communities, to become a symbol of how committed the federal government was to acknowledging the cultural values of aboriginal Canadians and a first step in recognizing self-government and cultural determination for aboriginal people; for the private sector, to illustrate how flexible the government had become in making wilderness preservation a political and monetary issue, and the lengths it would pursue to have unique areas preserved for future protection uses; and for the provincial government, to illustrate how much bargaining strength the province possessed over jurisdictional issues and the importance of resource development as a staple for the B.C. economy.

Although it took thirteen years and a lot of political will, the making of South Moresby National Park Reserve brought into question a number of facets of the national park planning process many individuals and agencies had been identifying for a long time: that the process for creating national parks in Canada is as much a condition of political posturing and elected representation, as it is a result of the voices of various special interest groups influencing the decision-making process and the growth of concern for the environment. Undoubtedly professionals who conduct these types of studies for the Canadian Parks Service believe the contribution they are making is a valuable one, and in most cases it is as they attempt to fulfil the CPS's mandate according to current government policy in the Green Plan. But the history of national park planning indicates that while the CPS does have a defined role, it is limited by the type of political party in office, and what environmental values that party deems appropriate for itself to be re-elected into office.

The attention given to the issue of mediation and the self-imposed precedents the federal government placed on itself as a proponent of national park creation have yet to entirely unfold. However, the absence of a mediation or environmental dispute resolution process to deal with contentious land use issues, and the use of ad hoc institutional mechanisms as conflict management instruments,

illustrates how ill-informed the public and private sectors remain, and how unwilling they are to reach some form of compromise when addressing questions of competing natural resource use and preserving the Canadian wilderness. This issue raises further questions over how governments regulate and administer natural resources, how they meet the demands of increasing numbers of resource users, and why there is a need to amicably resolve contentious environmental conflicts instead of letting them be played out in the legal system.

APPENDIX 1 - PERSONAL INTERVIEWS

Due to reasons of avowed confidentiality, the following list of individuals, who were contacted for their opinions on the role of the federal and provincial government's during the South Moresby dispute, are cited as anonymous, and subsequently, can not be quoted in a specific context:

<u>NAME</u>	<u>DATE</u>	<u>LOCATION</u>
Barbara Barrie	Spring, 1991	Ottawa, Ont.
Ray Castelli	Summer, 1991	Ottawa, Ont.
Brian Derrah	Fall, 1991	Ottawa, Ont.
Terry Hubberts	Summer, 1991	Victoria, B.C.
Paul Kariya	Fall, 1991	Ottawa, Ont.
Jack Kempf	Winter, 1991	Victoria, B.C.
Owen Lippert	Spring, 1991	Ottawa, Ont.
Jim MacEachern	Fall, 1991	Ottawa, Ont.
Greg MacDougall	Fall, 1991	Ottawa, Ont.
Elizabeth May	Winter, 1991	Ottawa, Ont.
Gary Merkel	Summer, 1991	Vancouver, B.C.
Richard Propokanko	Summer, 1991	Ottawa, Ont.
Joseph Whiteside	Summer, 1991	Ottawa, Ont.

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