

**FINANCING ABORIGINAL SELF-GOVERNMENT
IN CANADA**

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**Institute of
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Kingston, Ontario**

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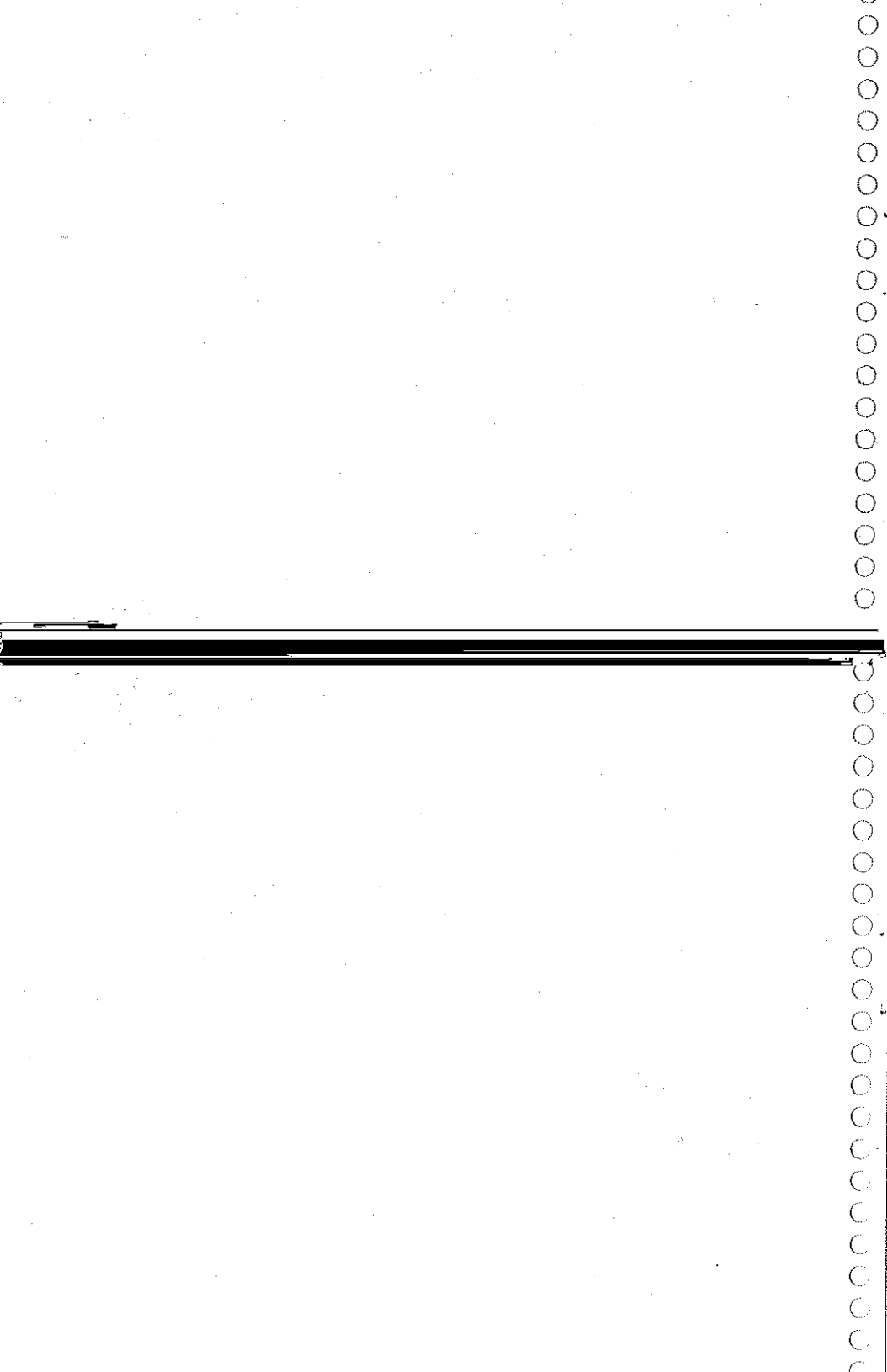
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CHAPTER 1 - FUNDING OF ABORIGINAL INSTITUTIONS

1. "Own Source" Revenues

A. Taxation

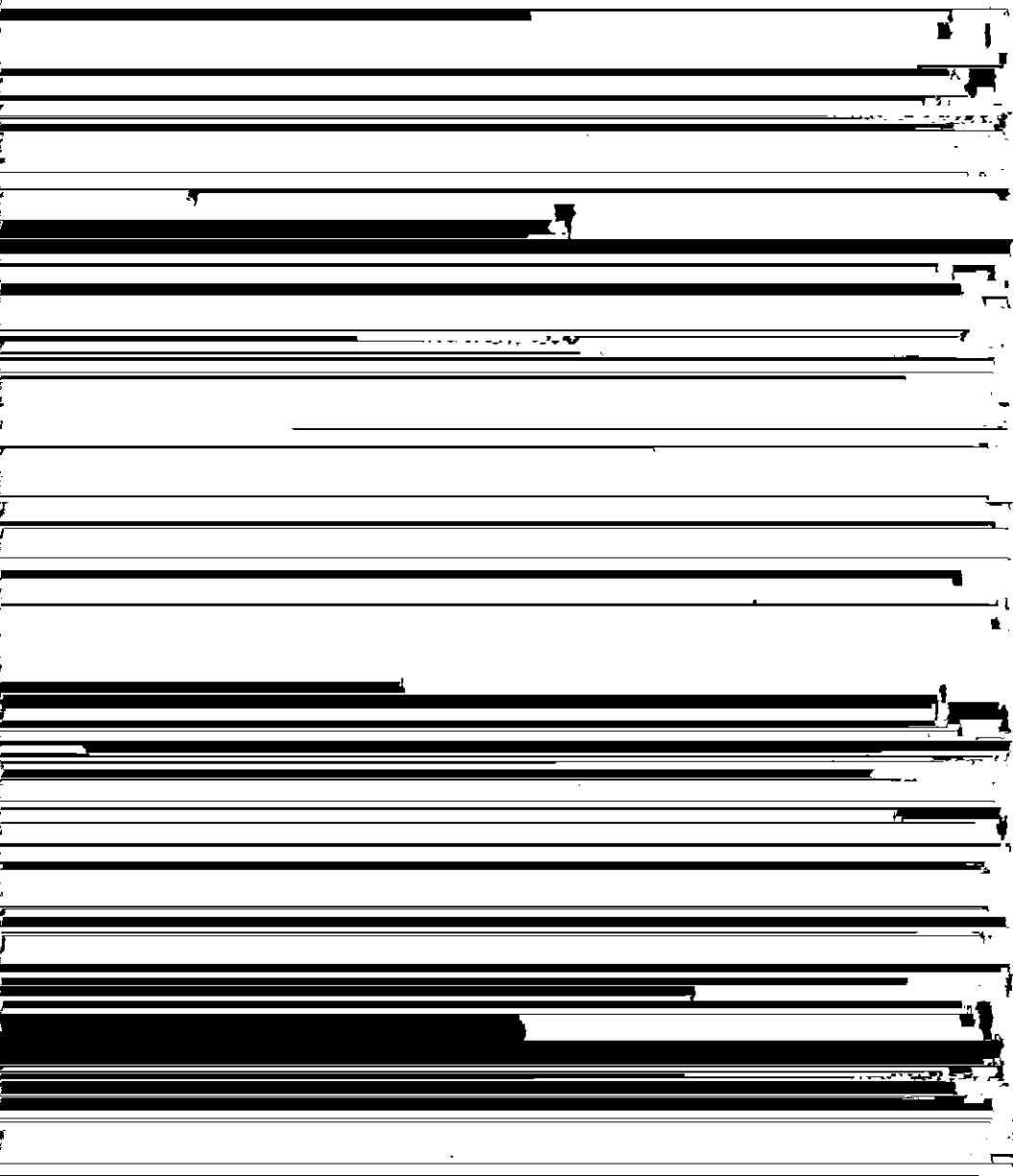
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Description

Illustrations

Description

Illustrations



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months prior to the 1963 First Ministers' Conference (FMC).

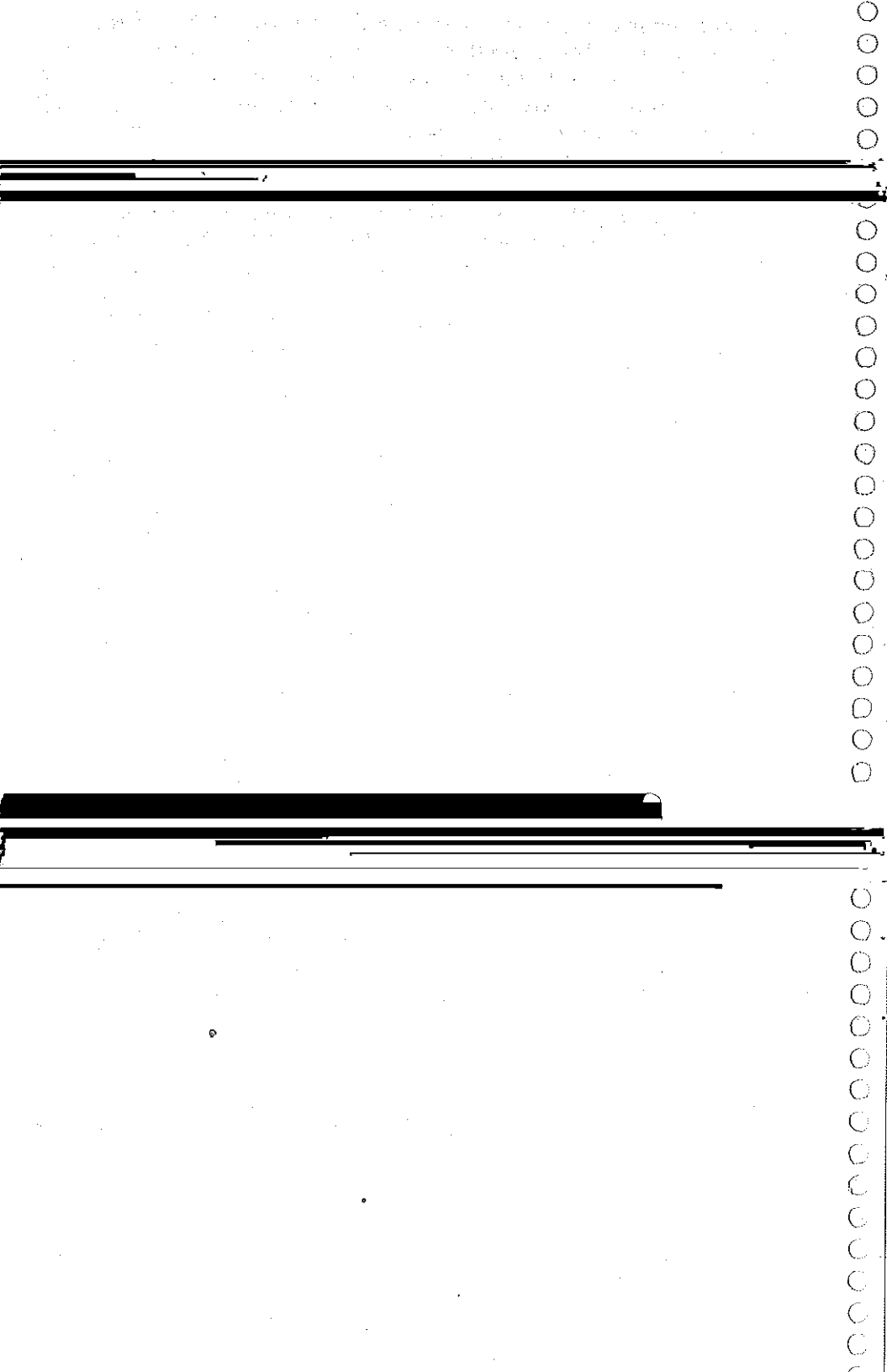
in 1987. If this search is to be successful, it will be necessary first to inquire into, and then to resolve or assuage a number of genuine concerns about aboriginal

aboriginal self-government.

Marc Malone is a consultant, based in Paris, France, who works frequently with the Canadian Inuit and the OECD (Organization for Economic Cooperation and Development). He is a former advisor to the Canadian federal government on federal-provincial relations, and

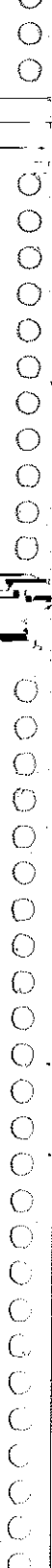
continues to write on Quebec and Canadian federalism.

David C. Hawkes
Associate Director
Institute of Intergovernmental Relations
May 1986



soient développées à l'égard des modalités de financement de l'autonomie politique des autochtones sont analysées et par la suite appliquées. L'analyse mène à la conclusion que les placements en bloc sont la clé et

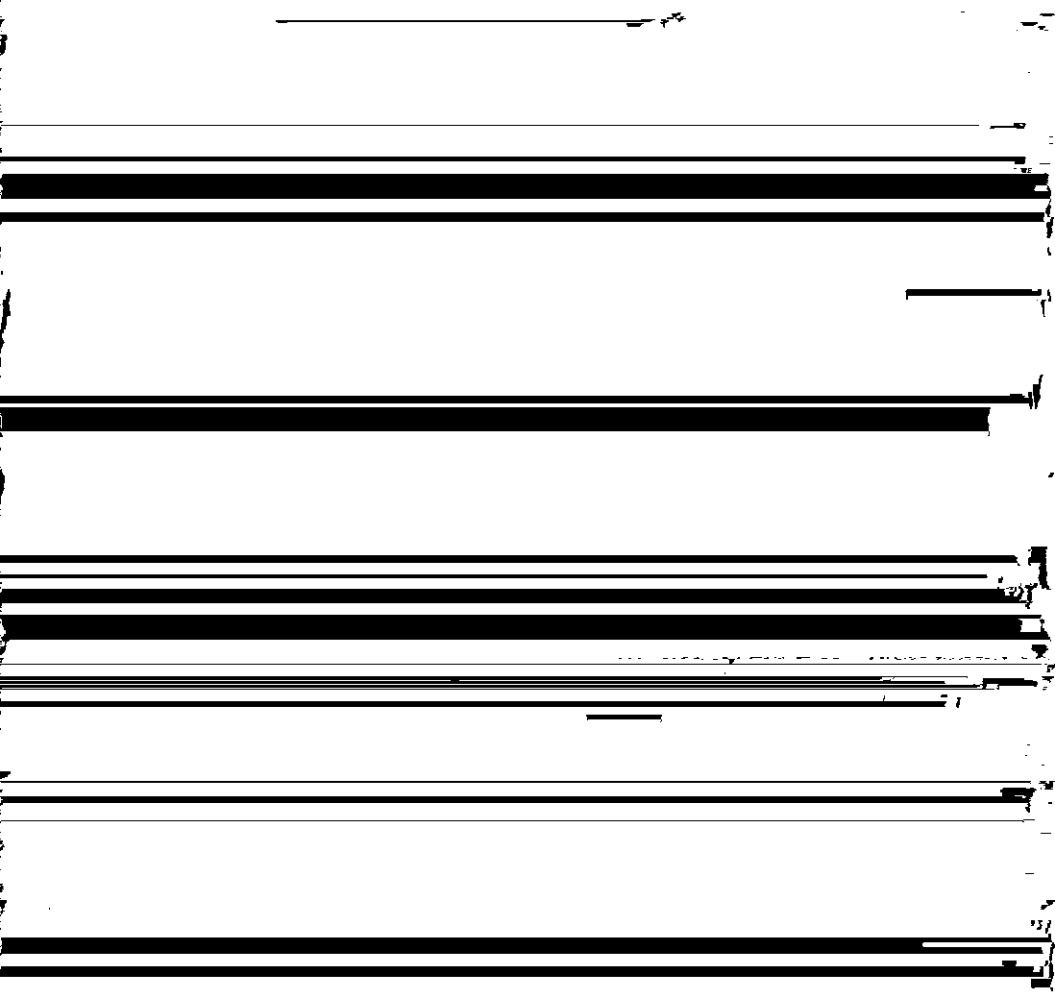
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... federal-provincial questions look limp.

affirmed that the aboriginal peoples of Canada have the right to self-governing institutions" subject to the identification and negotiation of "financial arrangements related thereto".⁷ Any student of Canada's constitutional reform process will emphasize its inherent complexity; whether complete patriation occurred or not in 1982,⁸ it took Canadians 114 years to agree to this step.

the transfer mode detract from accountability?



Self government in present circumstances.

The first step in the process of self government is the establishment of a local authority. This is done by the people of the area themselves, who elect representatives to a local council. The council then meets regularly to discuss and decide on the local affairs of the area. This process is known as self government. It is a process which is being carried out in many parts of the world at present. The first step is to elect a local authority. This is done by the people of the area themselves, who elect representatives to a local council. The council then meets regularly to discuss and decide on the local affairs of the area. This process is known as self government. It is a process which is being carried out in many parts of the world at present.



accounted for 25.7 per cent of expenditures. - (17) seven

provides about 20 per cent of their income.

revenues.

INDIAN AFFAIRS

(a) In Canada, Indians on reserve can enjoy access to a share of non-renewable resource exploitation revenues,

the Office for Navajo Economic Opportunity employed 2,720 people!

social development fund (\$7 million).¹⁴

(b) Under pressure to proceed with petroleum development in Alaska, President Nixon signed, in 1971,



that rental payments (at present rate) constitute a quite theoretical proposition as Inuit households, because of understandable housing subsidies, only allocate three per cent of their income to rent.²⁰ Thriving commerce on

However, aboriginal institutions would be remiss if they were to uniquely focus upon sudden resource windfalls. The price of oil, at time of drafting, hovers around the \$11 (U.S.)/barrel level: in 1981, the authors of the National Energy Program forecast for oil levels predicted, for 1986, a \$50 (U.S.) plane. As noted by the London *Economist*: "All this was based on the

assumption that oil prices would rise significantly,

In their studies for Queen's University, both Ms. Graham and D. Sanders highlighted the unpleasant consequences for the Alaska North Slope Borough and the Navajo Tribal Council of "diminishing" oil and gas royalties.²⁶

overall issue of *services* directly and indirectly provided.

Account having been taken of a murky legal framework prevailing to the disadvantage of all Canada's natives,

aboriginal persons and provisions of unconditional transfers in a few instances, to conditional transfers, and to monies expended under the federal and provincial spending powers.

contains programme and specific purpose intents.

With its 58 per cent indigenous population, Northwest Territories block funding, agreed to in 1982,³⁷ supplies the best illustration of direct funding to institutions accountable to aboriginal peoples.

B. Conditional Transfers

Description

Specific-purpose grants (i.e., those pertaining to a given service such as schools or health care) demand negotiation between indigenous representatives and other

to the principle of *administrative delegation*. They are not necessarily predictable.

government to spend monies in those fields they wish to influence. Such fields don't always coincide with jurisdictional definitions (e.g., federal C.A.P. transfers or provincial expenditures on offices located abroad).

if governments spend money, they are enabled, in

Canadian Arctic Resources Committees describes the relationship between spending and subordination:^{4 5}

The current minister of Indian Affairs and Northern Development cut off funding for the Council of Yukon Indians when Yukon communities failed to ratify an agreement in principle in 1984. The previous government took similar action to force the Dene and the Metis of the Western Arctic to negotiate their claims together, against their wishes.

direct payments for additional institutions considered "accountable".⁴⁸

Question 1: Is The Existing System Adequate?

Adequacy of transfers between different institutions of government, as noted by Gordon Robertson in his Institute for Research on Public Policy publication on northern provinces,⁴⁹ is a permanent source of doubt and controversy. The equalization formula, for instance, is based on fiscal yield as opposed to fiscal need (i.e., the ability to raise tax as opposed to genuine expenditure requirements, as in housing subsidies or transport costs in the arctic).

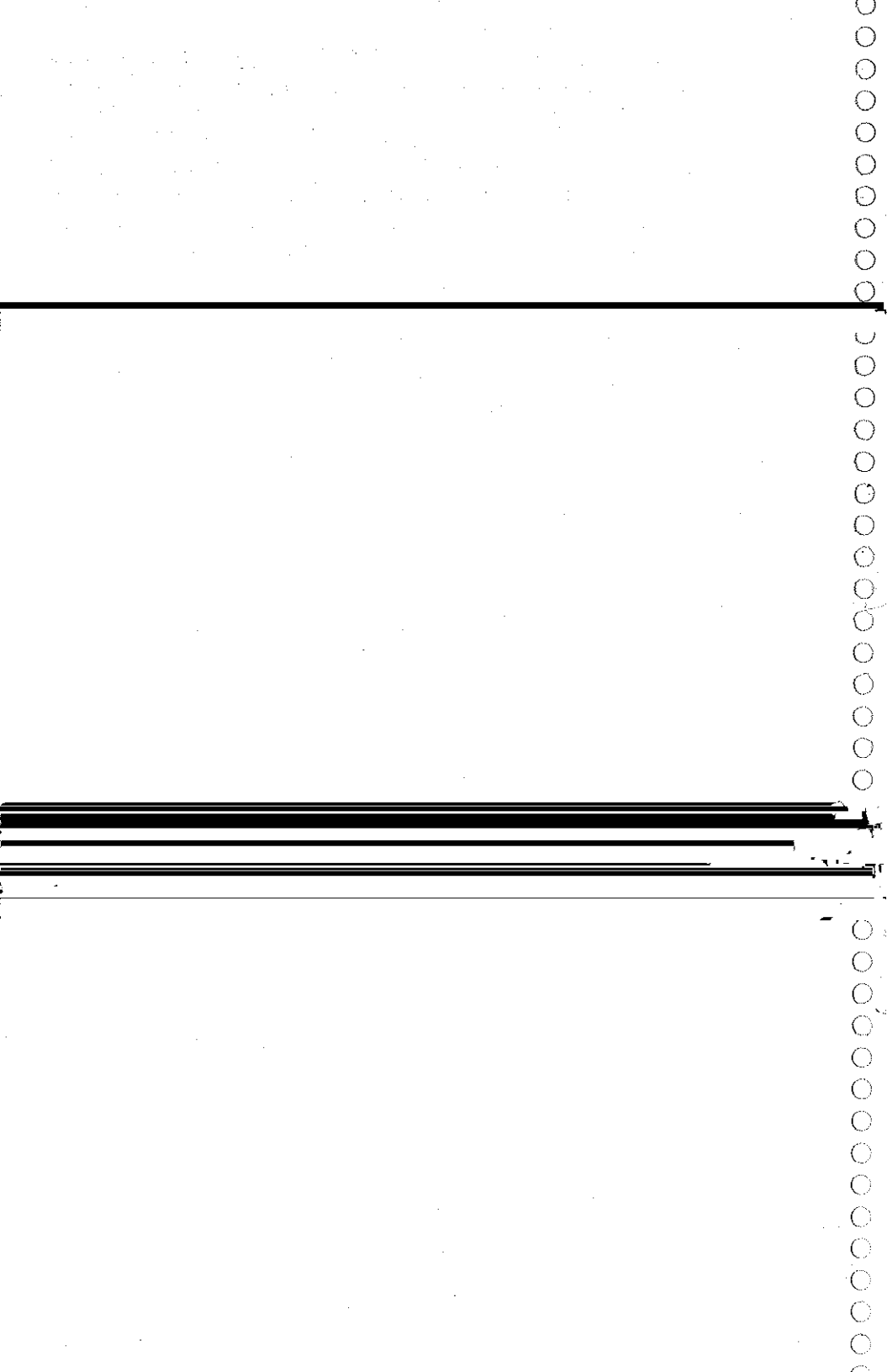
Nevertheless, there are two reasons to question the adequacy of government transfers to aboriginal persons

The first pertains, very simply, to recipient perceptions. During exchanges since 1982 between

... on the part of native representatives.

renable and predictable transfers:

...ing these conditions to [redacted] for [redacted] purposes, to seduce other jurisdictions.



... problem is that Canada and the provinces compete for the same electorate as do municipalities and provinces; competition does not exclude cooperation, but pervades the definition of arrangements shifting over time in relation to economic conditions.

points", the federal government quadrupled tax room left to the provinces. This evolution severely affected federal revenues - as of 1979, Ottawa retained only 34 per cent of all public revenues after transfers.

Energy Revenue-Sharing

This issue dominated federal-provincial relations following the 1973 OPEC offensive on oil prices. The national

was Canada's first corporation in 1968 in terms of assets and second in profits (\$707 million); Sask Power returned a 10 per cent rate of profits on sales.⁶⁸

B. "Other Source" Revenues

These include unconditional transfers, conditional transfers and deployment of the federal spending power.

specific-purpose grants in flexible modes: in 1980, the federal government was ploughing more money into universities than the provinces.⁷¹ E.P.F., since 1976, represents a *partially unconditional* grant in that provinces and territories, while maintaining medicare,

... strong "fiscal *imbalance*" prevailing among provinces.⁷⁶ Similar disparities should exist among aboriginal institutions.

[REDACTED]

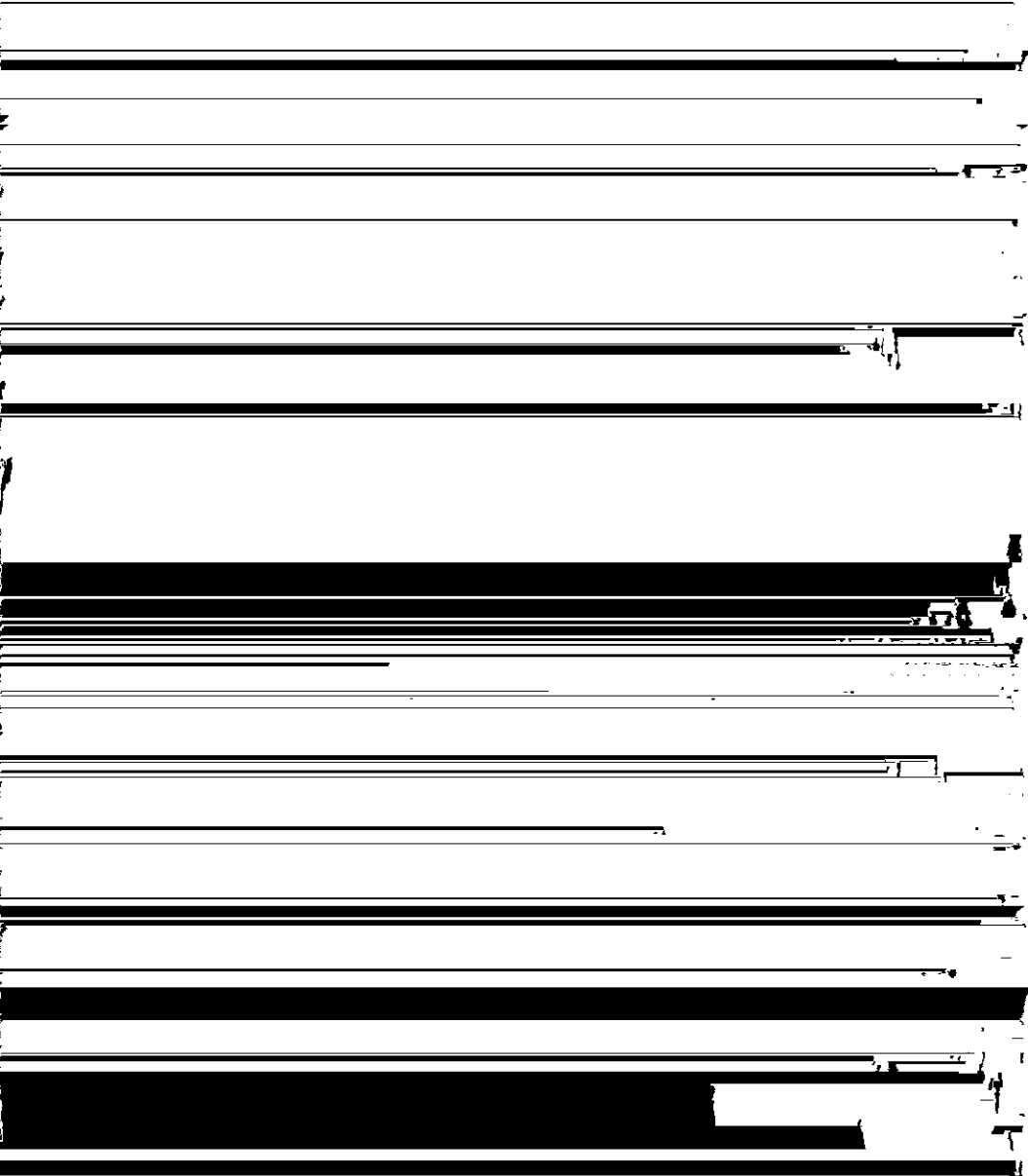
consultations, including federal representatives, municipal authorities counted upon greater legal recognition and related financial facilities. The abolition, in 1979, of M.S.U.A. and the collapse of the trilateral process ensured subordinate legal protocol for Canadian municipalities.⁸⁰

Such *regional governments* as have been constituted in Quebec, Montreal, the Hull area, Hamilton, Ottawa or

[REDACTED]

and legal confines: created by provincial legislation, they rely on member municipalities for financing. As could be easily imagined, this double inferiority leads to *conflict* and permanent negotiation.⁸¹

additional income, as for the Kativik Regional Government, accrues from municipal and provincial subsidies.⁸⁷



...government, it is not the government, a good thing



recognize the importance of accountability in the matter of service delivery. To paraphrase Truman, kitchens can get hot: elected leaders face tough decisions, especially in the field of revenue; if postponed, such decisions become difficult. If people don't choose, circumstances choose in their place.

self governing institutions.

interprovincial flows can pose a threat to national and provincial unity.¹²

6. the sharing of internal sovereignty with aboriginal institutions.

If some countries can boast of too much history, Canada lays claim to an excess of geography. Diversity excludes uniform or Cartesian approaches; fear of flexibility reflects an ignorance of reality.

equality of provinces should, in this instance, be dispelled. At the time of confederation, s.133 only bound the province of Quebec, which was also the only province to agree to a second legislative chamber. The B.N.A. Act stated that the construction of a railway between

...entitled to certain collective rights under the peace treaties signed between European nations in 1919-1920),¹⁸ the notion of aboriginal self-government off land requires serious consideration if and when account is taken of the implications of an increasing urban native population.

- (viii) E.P.F. "per capita" formula;
- (ix) indirect taxation;
- (x) programme administration funds;

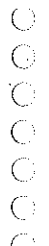


self-governing institutions with predictable revenues which they would have the discretion to spend on given sectors of their own choice. *With almost certain future recourse to transfers, block funding supplies the most politically effective and efficient method to substantiate self-government.*



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for certain designated purposes (e.g., education, health and welfare), and within the programme objective framework (e.g., no extra-billing on reserves or general educational criteria) agreed to with the financing authority, whether federal or provincial. It obtained favourable opinion from the special House of Commons Committee on Indian Self-Government in 1983.³³ This financing mode could apply to urban native services, on condition that parties concerned agree to membership criteria.

Meetings between officials, ministers and representatives of aboriginal institutions in 1986 revealed deep interest in this transfer approach,³⁴ although differences continue as regards the impact on federal transfers to the provinces for social purposes.

Under the E.P.F. formula devised in 1975 and agreed to in 1976, the provinces, in exchange for abandoning the "fifty cent buck" system, gained the power to mix funds with wide allocative scope under the umbrella of

Self-government arrangements and their modulation would have no effect on such ventures.

existing financial arrangements ensure reasonably comparable" or even "minimal"³⁷ public services to aboriginal peoples. This is also true of their access to a viable economic base, and to efficient - cost effective

programme design. In addition, as noted by Mr. Savoie

General Development Agreement published in 1981,
delegated service delivery entails excessively

any case, constitutional talks on aboriginal issues matters, since 1983, have been concentrated on one "key to change", as the Prime Minister said: self-government.⁴⁵ The land claims negotiation process should not be viewed as a substitute for serious conversations on self-governing institutions.

and of other aboriginal delegations to the constitutional talks since 1983.

The problem does not essentially pertain to law. It concerns an economic base to be constructed through positive measures (e.g., tax incentives, low rents, special tax exemptions granted by senior jurisdictions), in order to attract investments, and through negative measures, such as a variation on the Alaska North Slope Borough "Petroleum Development Tax" applied in 1972.

intra-provincial arrangement eschews strictly territorial definition, it could be applied to institutions divorced from a land base.

Discussion

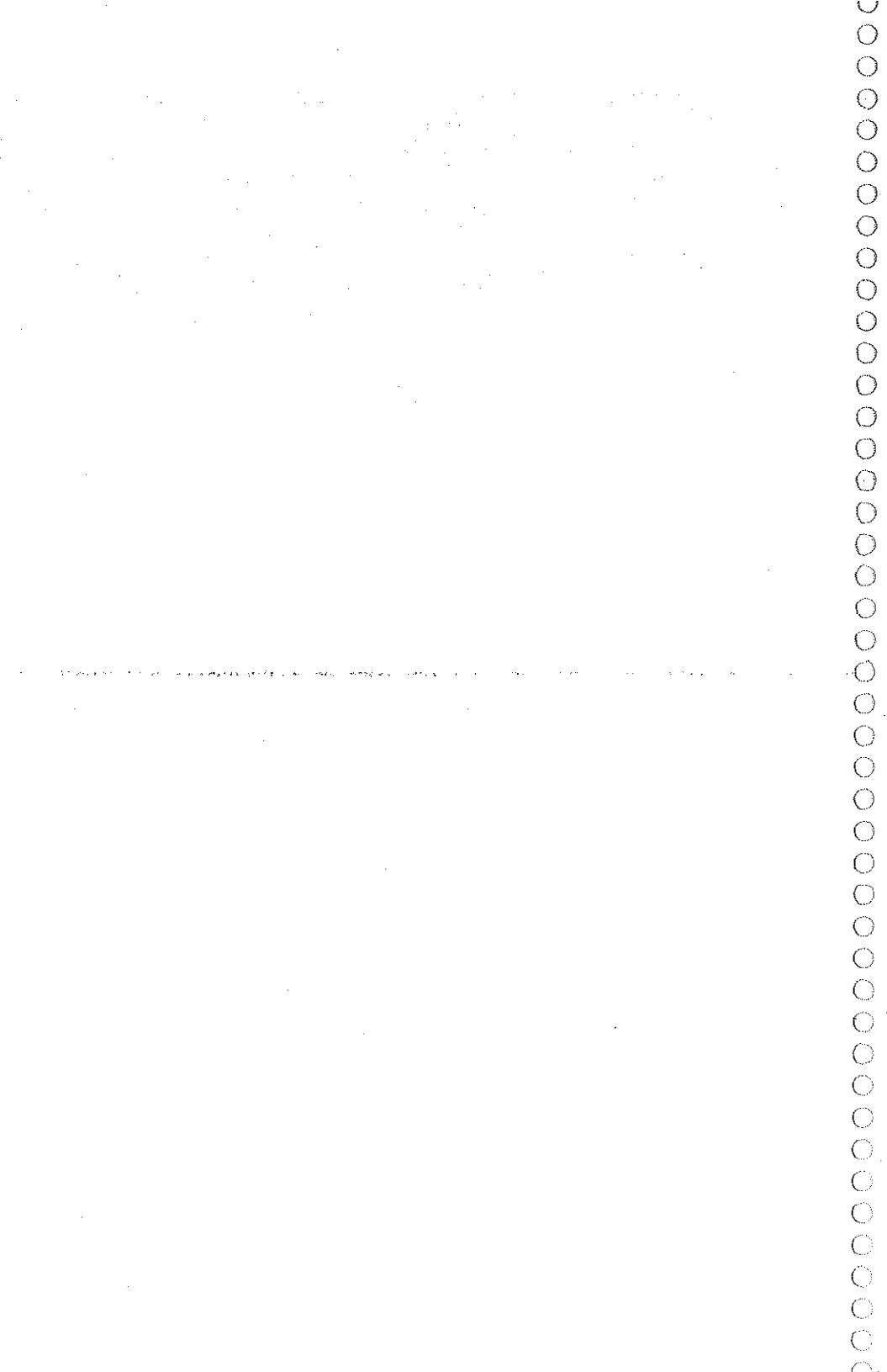
Perusal of the Appendix pertaining to the Kativik Regional Government should testify to the doubtful taxation revenues to be obtained by supra-municipal institutions from the existing aboriginal tax base. Previous analysis shows the fragility of regional government concepts in Canada, as opposed to the U.S. concepts of home rule administration and county government: "regions are the creature of provincial government in Canada".⁴⁹

Nevertheless, regional government presents many advantages when considering the delivery of services to

... natives in urban centres. (From an individual perspective) it takes account of economies of scale to be gained by centralized service delivery within a given province, which may contain Indians off-reserve, Metis and Inuit, and serious coordination cost gains, including accountability considerations. "Regional government" definition and implementation could demand flexibility and thought; but constitutional negotiations, according to an international expert, precisely relate to "the conciliation

legislative fora in order to ensure special law-making status.⁵⁴

OTHER CHARACTERISTICS OF TRANSDUCERS.



deemed to be potentially neutral or uncertain. It is not clear that the sharing of internal sovereignty model, for example, would either be "efficient" or lead to greater equity. Increased autonomy carries a cost, while ensuring, in theory, a greater ability to produce agreed results. It has also to be admitted, somewhat cynically, that comprehensive land claims accords constitute a cheap

Some of the positive impacts are two-faced. For instance, the ethnic corporate model presents the advantage for aboriginal peoples of very clear autonomy.

As will be noted, the main negative impacts pertain to the status quo option, to the delegation option, and to the land claims model.

Status Quo	-	-	+	0
Delegation	-	-	+	0
Land Claims	-	0	-	+
Municipal Model	+	+	0	0
Regional Model	0	+	0	+
Partially Sovereign	+	?	?	+

SYMBOLS:

- + = positive impact
- = negative impact
- 0 = neutral impact
- ? = uncertain impact

original constitutional nature, was adopted by the

Problems of federal-provincial relations are not resolved by independent economic analyses, useful as they are".⁷

...right to earn active revenues from services rendered or rentals.

4. The subordinate status of the K.R.G. is exemplified by the provincial obligation to submit its annual

programmes.

7. This specific factor led the Inuit Committee on National Issues to address M. Coolican, head of the special task force on the lands claims process, in the following terms:

The federal government should clearly articulate that self-government is the

aboriginal peoples...

... ..,

1983, p. 18.

5. Editeur officiel, *La convention de la Baie James et du Nord Québécois*, Quebec, 1978, p. XV.
6. Sanders D., *Legal Aspects of Economic Development on Indian Reserves*, Hull, DIAND, nd., p. 20.
7. DIAND, *Home Rule Government for Greenland*, 1979, pp. 150-156; Rouland N., *L'autonomie du Groenland*:

8. *Natural Resources*, M.S.S., 1986, pp. 225-226.
9. Dene Nation, *Public Government for the People of the North*, Yellowknife, November 9, 1981; *Living Treaties*, *op.cit.*, pp. 65-68.
10. DIAND, *The Western Arctic Claim* 1984, p. 7.

McGraw Hill Ryerson, 1980, p. 60.

W., *Intergovernmental Transfers in Canada*,
Canadian Tax Foundation, Toronto, 1980, 95 p; etc.

had not been consulted. This resulted in the demise of MSUA.

81. Graham, *op.cit.*, p. 96.

82. Volume III, p. 383-384.

83. *Idem*

84. Bureau de la Statistique, *Annuaire du Québec*, Quebec, 1982, p. 938.

85. Volume III, p. 382.

Manuscript, Brown University Documents

Library, 1969.

29. I.C.N.T., *Proposed Amendments to the Constitution*,
Ottawa, March 15, 1983, doc 800 17 016.
30. "Position Paper...", *op.cit.*, p. 2.
31. "Proceedings...", *op.cit.*, p. 100; "Aboriginal

- Self-Government in the United... , *op.cit.*, p. 60.
32. Hogg, *op.cit.*, p. 564.
33. "Proceedings...", *op.cit.*, p. 100.

Montreal, 1975, p. 53.

51. L'Heureux J., *The Division of Power and Municipalities*, University of Toronto Press, 1985.
52. Report on Working Group 4..., *op.cit.*
53. *Idem*
54. "Draft Statement of Issues", *op.cit.*, p. 11.

