

**ECONOMIC RESURGENCE AND
THE CONSTITUTIONAL AGENDA:
THE CASE OF THE
EAST COAST FISHERIES**

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FOREWORD

Increasingly, provincial governments are insisting that they should be able to shape the policy environment in which their major industries operate. Either they should have direct control under the constitution, or federal policy initiatives fundamentally affecting the provincial economy should be subject to provincial approval and endorsement. This attitude has been evident, for example, in the provinces' demands for involvement in trade talks with the United States, where some premiers have claimed a veto power over any draft agreement. Indeed, all premiers – even those strongly committed to the objective of free trade – have asserted a right to monitor and control the negotiation process. In part these claims have been founded on the possibility that provincial constitutional powers will be infringed, but even more, provincial involvement has been insisted upon because exclusion would be politically intolerable. When the economic future of the province is seen to be at stake, no provincial government can afford to sit on the sidelines. If jurisdiction is federal, provinces claim the right to be involved in the exercise of federal powers, or may seek the delegation of federal powers to provincial boards or agencies. Even better, from their point of view, is a full and irreversible transfer of powers through constitutional change.

These attitudes are well illustrated by a succession of federal-provincial controversies over the east coast fisheries. The most recent of these (March 1987) has been Newfoundland Premier Brian Peckford's outrage over a draft Canada-France agreement allocating cod stocks to French fishermen in the context of a territorial waters dispute. Incidents such as these blow up like sudden squalls, apparently out of the blue; but weather-wise observers know how rapidly non-forecasted storms can arise. Acquaintance with the recent background of federal and provincial involvement in the east coast fisheries, and intergovernmental disputes over policy and jurisdiction, is essential to becoming, in this context, "weatherwise."

A. Paul Pross and Susan McCorquodale, in this monograph, provide a superb survey and analysis of events that are essential to an

appreciation of contemporary (and, no doubt, future) disputes concerning the control and development of the east coast fisheries. Their study focuses on the late 1970s and early 1980s, a time of aimed-for redefinition of federal and provincial constitutional powers in several areas including the fisheries. Pross and McCorquodale show why control over the fisheries became a subject of constitutional controversy, what was at stake in the dispute, and why the attempt to transfer powers to the provinces in this area failed. That failure, however, has not ended the controversy. Newfoundland has never abandoned its claim to extended powers over the fishery; indeed, the possibility that this item will eventually be reinscribed on the federal-provincial agenda was foreshadowed by the provincial premiers at their meeting in Edmonton, August 1986, where the premiers agreed to give priority to Quebec's constitutional demands before raising new ones. Fisheries was a specifically mentioned item.

This study was initiated as part of a series entitled "Queen's Studies on the Future of the Canadian Communities," organized by the Institute of Intergovernmental Relations and supported by the Donner Canadian Foundation. It is a contribution to a particular group of studies on federalism and public policy. Other contributions are Keith Banting: *The Welfare State and Canadian Federalism*, published jointly by the Institute and McGill-Queen's University Press (1982; second edition forthcoming 1987); Allan Tupper: *Public Money in the Private Sector: Industrial Assistance Policy and Canadian Federalism* (Institute of Intergovernmental Relations, 1982); and Peter Leslie: *Federal State, National Economy* (University of Toronto Press, forthcoming 1987). The Institute of Intergovernmental Relations wishes to record its thanks to the Donner Canadian Foundation for its financial assistance.

Peter Leslie
Director
Institute of
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Government officials and numerous participants in the fishing industry were our informants as we carried out our research into this dispute. We are grateful to them for the forbearance and helpfulness with which they responded to our inquiries. Much as we would like to thank them individually and by name, our gratitude is best expressed by observing the convention that they should remain anonymous. We thank them, however, and hasten to add that we, not they, are responsible for the statements that appear in this study.

Sheilagh Dunn contributed considerably to the early stages of our research and in fact a portion of her background material on the economics of the fishery is incorporated in Chapter 2. We appreciated immensely the care and determination with which she pursued her enquiries and her participation in our discussions.

We want to acknowledge our debt to Douglas Brown who read our earlier manuscript for the Institute of Intergovernmental Relations and who made a number of extremely useful comments. With the pig-headedness of all authors we decided to ignore some of his advice, but we hope that he will feel that his intervention did some good and that the flaws that remain are minor. Again, we claim full responsibility for sins of omission and misinterpretation.

Peter Leslie has been a good, conscientious and tactful editor. We thank him for his patience and his capacity for imposing order on a manuscript that at times too vividly reflected the chaotic circumstances of the world it examines.

Finally we are grateful to Cindy MacDonald, Andrea Purvis, Patricia Candido and Valerie Jarus for their efforts to produce a professional and attractive publication.

*A. Paul Pross
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ABSTRACT

The 1970s were turbulent years for the East Coast fishing industry. Stock depletion and financial hardship in the early years of the decade led to major revisions of fisheries policy. In particular, the declaration of the 200-mile management zone, an act which was credited with causing a dramatic, though short-lived, economic resurgence in the closing years of the decade.

Declaration of the 200-mile limit had more fundamental impact than reviving the fishing economy. For the first time the rationalization and modernization of the industry, long advocated by Ottawa, became feasible. In fact a major restructuring of the industry was launched, precipitating debate over its social impact. Simultaneously, declaration of the limit brought about a shift in the power structure of the agencies concerned with the fishery, enhancing the opportunities for regionally based management. Politicians at both federal and provincial level, responding to different policy communities, reflected these fundamental changes by shifting their attention from the problems of supply management to those associated with managing the industry as a whole. Concerned with local autonomy and, particularly in the case of Newfoundland, buoyed by growing economic self confidence, Nova Scotia and Newfoundland called for expanded provincial jurisdiction over the fishery in the revised Canadian constitution. Their demands reached the level of constitutional debate, but failed to achieve constitutional change, largely because Nova Scotia withdrew from its alliance with Newfoundland.

The case is analysed from the perspective of several concepts in Canadian policy studies, including "province-building", "policy communities" and "federal-provincial diplomacy".

1 INTRODUCTION:

SECTORAL POLITICS AND CONSTITUTIONAL CHANGE

The 1970s were years of great change in Canada's East Coast fishing industry. Stock depletion occasioned a major reassessment of government policy which culminated, in January 1977, in the declaration of the 200 - mile limit. This in turn triggered fundamental changes in the structure of the industry, changes whose socio-economic implications, though profound, are still unclear. Throughout, these developments have been accompanied by intense debate, much of it questioning the competence of the federal agency responsible for fisheries management and the wisdom of federal policy.

The debate took place as the Canadian public in general engaged in a wider, far reaching discussion of constitutional reform. That discussion touched on almost every conceivable social and economic issue before culminating in patriation of the constitution. Yet the question of the fishery figured in it only briefly. The two debates, both profound, both pursued with intensity, both concerned with the proper role of federal and provincial governments, coalesced fleetingly in late 1980 and neither made a significant impact on the other.

Why should this be so? One might expect that a debate over fundamental change in a key resource industry would find a place in a larger discussion of constitutional relations, particularly when many of the issues which surfaced in that discussion grew out of similar debates in other resource sectors. The fact that the two debates had only a limited impact on one another is interesting in itself. Many aspects of the great Canadian constitutional debate will be studied as cases in public policy formation and in particular as occasions in which rival interests marshalled their forces, attempting to gain specific policy objectives. Such cases readily present themselves. The opportunities to identify and investigate instances in which major issues were not fully developed in the constitutional discussion are fewer and more elusive. As Matthew Crenson and others have pointed out, it is never easy to identify nondecision-making, or to investigate the event which never quite

happened.¹ Yet if we are to understand how issues arrive on the public agenda it is as important to enquire into issues which do not quite make it as it is to investigate how issues are resolved once they do reach that level. To use E.E. Schattschneider's phrase, some issues are organized into politics and others are organized out and it is as important, perhaps more important, to study the latter as the former if we are to understand the policy process.²

The case of the East Coast fisheries debate presents a good opportunity to do this. We cannot argue that the debate over fisheries policy has not appeared on the public agenda. In Atlantic Canada, at least, it is hotly debated and, as we have noted, it did appear briefly on the national agenda. But the general Canadian public has paid scant attention to it and in its few appearances on the national scene it has been treated as a regional issue, sometimes as a narrowly defined sectoral one. By looking at the fisheries case in the constitutional debate, then, we might shed some light not only on the internal dynamics of the constitutional process but on Canadian agenda-setting and on the way in which regional and sectoral interests cope with conflict when their efforts to broaden the basis of discussion are thwarted. For many concerned with sector policy formation a constitution is just another factor influencing or constraining policy - like budget formation or electioneering. The policy activist shapes his strategy to the political landscape and takes advantage of it as best he can. Non-constitutional factors are often considered to be the decisive ones. Conversely, constitution-makers may not be much concerned with the specifics of policy. Consequently it is important not to overstate the salience of sector issues in constitution-making or vice-versa. To varying degrees each will influence the other, but except in a limited number of crucial policy sectors, each will also be incidental to the other. The fisheries policy discussions would have evolved in much the same way if the constitutional debate had not occurred and vice-versa. Since both did occur at the same time they attained a moderate salience to one another and were marginally affected thereby, but their impact on one another was limited. It is tempting to speculate on the extent to which other parts of the constitutional debate were similarly influenced by the generalship of sector policy strategists.

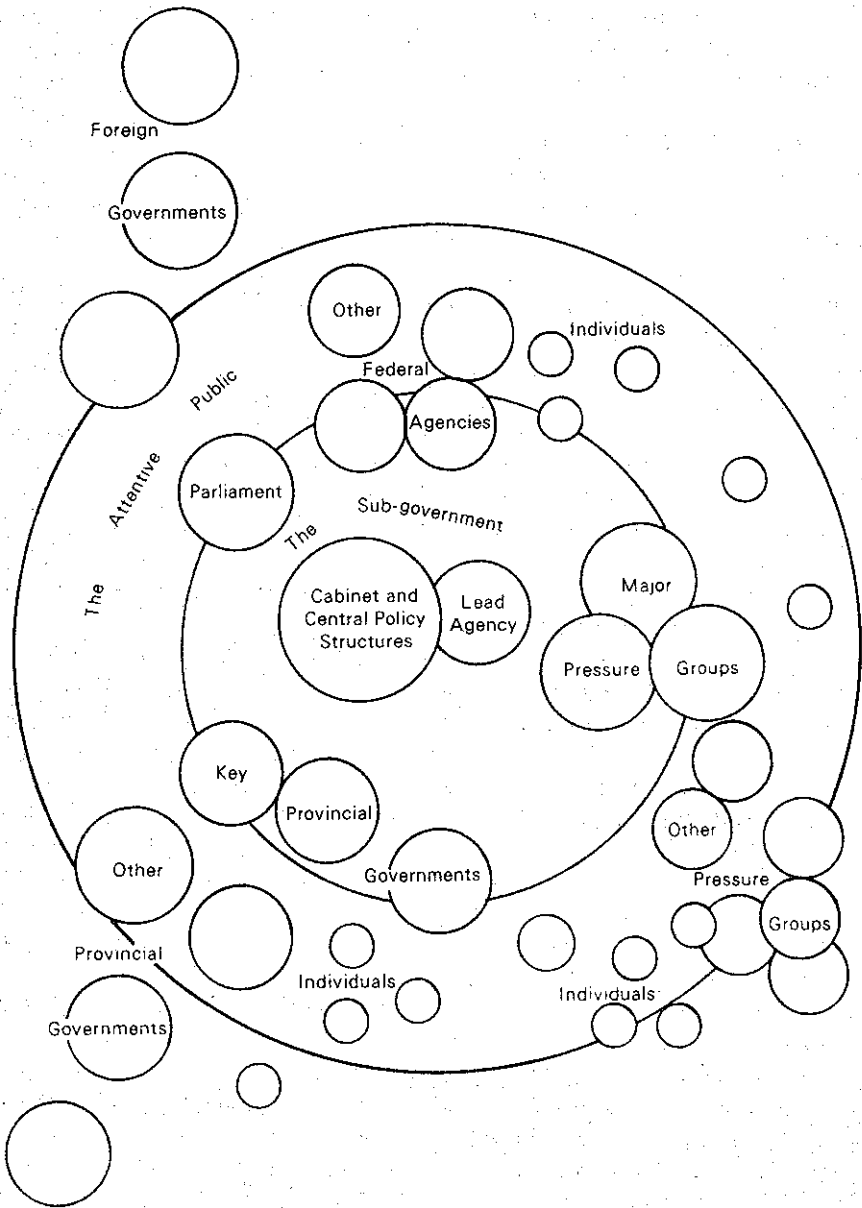
These last comments suggest that the case study has been approached from a particular perspective, one which assumes that the policy process is guided by certain fundamental forces. These constrain policy choices and indeed circumscribe participation in the policy process itself. Public policy is not the product of an elaborate interactive process engaging policy makers and citizens at large in a vigorous debate over issues of consequence. Rather, there is a division of labour within the

policy-making world, a division which cleaves generally along functional, or sectoral lines, though it may from time to time fall along class or even regional lines. We suggest that the fundamental division is sectoral because that is the division which is most evident in government organization and in public policy formation.³ Governments divide the world into functionally distinct segments and government agencies are built to "interface" with those segments. Most government agencies have difficulty coping with any segment other than the segment with which they were specifically built to deal. Policy-making becomes compartmentalized; public policy is seldom conceived of as applying to the community in general, but rather is related to specific sectors. Hence governments deal with transportation policy, fisheries policy, defense policy, and so on. An all-seeing cabinet, suitably supported by central policy structures, is supposed to draw together and harmonize the many strands of public policy which emerge from this process, but in reality the attention of the government cannot embrace so wide a span and all but the most significant policies come to be dominated by those who have the most to do with them on a day to day basis.

The phenomenon has been noted elsewhere, particularly in the United States where the term "sub-government" has been coined to describe the clusters of interest representatives, legislators and officials who, engaging in symbiotic relationship, tend to dominate sector policy formation. In *Canada*, Pross has argued that similar, though not identical, "policy communities" exercise the lion's share of influence in sector policy formation.⁴ (See Diagram 1.1) Thus, at the heart of the policy community, is the government agency responsible for administering public policy in a given sector. Surrounding it are key pressure groups and other government agencies having a vital interest in the policy field. These constitute the sub-government. A further band of influence is occupied by the "attentive public": secondary pressure groups, agencies with a minor interest in the field, corporations, and even individuals. All of these have an interest in the policy field but are either not motivated or are insufficiently powerful to intervene continuously in policy determination. They contribute to sector public policy, but do not dominate it in the same way that the sub-government does. In short, in fisheries policy, as in other fields, government action is the product of interactions within a policy community, rather than the product of a broader relationship between government and the public at large. Admittedly, the structure of the policy community is dynamic and the relations between actors will vary over time and across issues; but in the long run the policy community develops and sets public policy. This is encouraged by the sub-government which tends to strive for control over policy discussion, and sees the policy community as a protective device

that can be used to limit, rather than expand, opportunities for the public at large to intervene in the framework of regulations and services established for governing a particular sector of the economy. Thus it is the goal of the sub-government to reduce all issues that may have policy significance to the level of routine.

Diagram 1.1 THE POLICY COMMUNITY



Issues are not always contained within their appropriate policy communities, however. At times the tendency of the sub-government to limit the breadth of discussion is overwhelmed by circumstances beyond its control. Changing economic conditions, technological innovation, evolving perceptions of the public interest may all threaten the capacity of the dominant actors in a policy field to guide debate. Individual interests, seized of a new technology, may challenge the power structure in the sub-government. The evolution of new public concerns, expressed in the reorganization of government departments, can administer rude shocks to policy communities that have developed a comfortable symbiosis with long-established agencies. In attempting to develop an analytical framework capable of capturing this dynamic quality, Charles Jones argues for a functional approach to questions of "agenda setting".⁵ Agreeing with Schattschneider and others that the perception and definition of problems dealt with by governments is often biased in favour of some groups, Jones suggests that by identifying the functional objective being sought by specific members of a policy community the analyst enhances his or her capacity to examine their "agenda setting strategies". Thus groups that are not part of the sub-government may try to expand issues, to increase public awareness of policy options in order to optimize their own influence on agenda setting. Issue expansion consequently is an important part of the process through which the level of conflict over a policy issue is brought to a point at which debate escapes the community and is embraced by the larger political community.

The structure of policy communities is primarily defined by the sectoral orientation of modern industrialized society. It reflects the tendency of today's governments to so arrange themselves that they meet the supply and demand management needs of the economy. It is important to note, however, that the division of labour we can observe in Canadian policy formation is not only sectoral. The conceptual framework that we have just outlined implies as well, the concept of democratic elitism. That is, that the public at large not only leaves policy formation to sectoral actors, but that in general those actors tend to belong to elite groups. Most will be seen to be members of bureaucratic elites - they participate because of the offices they hold - but some at least, particularly those in the business world, take part because of ascriptive roles. The activities of these elites are governed by the lessons learned through role socialization but can be checked by the public at large if they run counter to widely accepted norms of behaviour or general understandings about social and economic relationships.

Similarly, there are occasions when the division of labor in policy-making falls along geographic lines. The most obvious examples

involve the issues which concern local governments. Public policy formation at the local government level in Halifax may conceivably interest the citizens of Vancouver, but the latter would be extremely unlikely to take part in it. A less obvious instance of the geographic delineation of policy participation – but one which can be seen to occur in the fisheries case – sees interests in specific regions having a dominant part in a policy discussion. The Crow Rate issue, for example, was initially seen as a Western issue even though it had implications for agricultural and transportation policy in the rest of Canada.

Finally, it is conceivable, and indeed likely, that more than one of these cleavages will be seen to operate simultaneously. Sectoral policy formation may be dominated by the interaction of sector elites within a specific geographic region, even though the public policy in question may have wide ramifications for the country at large.

In the case in question we will argue that geographic factors – in the form of regionalism – played no small part in the upheaval which convulsed the fisheries policy community. We will suggest that the salience of regional feeling was enhanced by Ottawa's decision to declare management responsibility over the 200-mile zone because it removed an important constraint on provincial aspirations in the field, the constraint of foreign participation in the fishery. As long as other countries were a force to be reckoned with off the East Coast, the provinces were prevented from taking a significant part in the making of fisheries policy simply because Ottawa and Ottawa alone could treat with foreign authorities. Once the international community recognized Canada's pre-eminent management role in the zone, their use of the resource was largely removed from the international political arena and became instead a technical issue within a regulatory regime in which domestic considerations had a prominent influence. Thus the federal government successfully eliminated an important source of conflict within the policy community, but made possible the clearer and more forceful articulation of regional and provincial concerns by the governments of Atlantic Canada.

We will approach this development by using, in conjunction with the concept of the policy community, a theory developed to explain the evolution of federal-provincial relations in Canada since World War II, particularly the rising conflict between Ottawa and the western provinces.

This is the theory of "province building" which has been put forward by Cairns, Black, Pratt and others.⁶ These observers note that while it was true that since 1867 Canadians had been engaged in the construction of a new national state, they had at the same time also been building provinces. Within provinces a burgeoning bureaucratic elite had grown up in partnership with a variety of other elites and together they had

built up an impressive network of social, political and physical communication ties which allowed them to confidently manage state systems bigger in scope, competence and importance than some foreign sovereignties. Since then the confidence and capacity of the provinces has grown from strength to strength until today we can confidently outline in some detail the expanded role of the provincial level of government. In their introduction to a book dealing with provincial governments, Chandler and Chandler note some of the specific indicators of that enhanced role.⁷ These include not only the increased size of provincial expenditures and revenues, but also the rising proportion these totals represent of the gross national products; there are also the increased regulatory functions for provinces and going hand-in-hand with them, rising numbers of provincial employees. The consequence has been what Chandler and Chandler term "policy growth" which has brought in its train significant changes in federal-provincial interaction. Other authors have pointed to the structural changes induced in provincial governments as a consequence of DREE (Department of Regional Economic Expansion) activities in the Atlantic Canada. Savoie for instance concludes that the General Development Agreement approach had the effect of centralizing decision making at the provincial government level.⁸ The essence of province-building is the desire of local elites to control their own destinies and what in their eyes amounts to the same thing, the destiny of the region in which they are influential. Since the economy of most Canadian regions is dominated by gigantic national and multinational corporations whose headquarters are usually in some distant city and whose decision-making processes are generally impervious to local concerns, and since the federal government has come to be perceived as unsympathetic to regional needs, provincial governments have become to local elites their major instrument of self-determination. Nor have they been content to manipulate provincial governments from a purely political vantage point. The 1960s and 1970s witnessed dramatic changes in provincial bureaucracies. They ceased to be considered dreary havens for the unambitious and acquired a new vitality as the sons and daughters of established families discovered that bureaucratic entrepreneurship offers challenges as compelling as any to be found in the restricted private sector that they have inherited. As a result provincial governments expanded; enhanced their policy capacity and became more alert to the policy implications of private sector development, particularly in resource sectors, and to the intrusion of federal regulation. These transformations have been most noticed in Alberta and Quebec, but they have occurred in other provinces as well. Consequently, we shall consider the possibility that province-building can

explain some of the aggressiveness which led to the appearance of the fishery issue on the constitutional agenda.

The concept of the policy community is useful because it helps identify the actors in the processes of public decision-making and their changing relationships with one another. This is demonstrated more than once in the case study. Undoubtedly the upheaval in the fishing industry which pushed fisheries policy issues into the public arena was caused in large part by the changing power relations of certain actors. For example, on the private sector side, the pre-eminent position of National Sea Products, was challenged by the upstart H.B Nickerson and Sons when the latter firm took over the former. Together the two firms displayed a new assertiveness towards Ottawa and the federal regulatory regime. Both the "Nick/Nat" merger and the new attitude of the companies were precipitated by the federal government's decision to assert Canada's exclusive responsibility for managing a 200-mile economic zone off the East Coast. That decision also modified relationships between key federal agencies concerned with the fishery and between Ottawa and the provincial governments, which having for many years lacked a strong positional role in the policy community, now saw an opportunity to "nationalize" an issue. Ottawa took control of the 200-mile zone because it finally accepted the view that it would have to take a less reactive and more proactive "management" role in the east coast fishery, but in doing so it disturbed a settled pattern of relationships that had governed the industry for several decades.

In sum, our policy community approach gives us a conceptual vehicle for identifying the actors working to exert their influence on a particular branch of policy. Within its general framework we should be able to distinguish actors whose participation is sectoral in origin from those whose participation reflects more complex, regional considerations. As well, the approach should help us describe and explain how their interactions with one another contributed to a steady heightening of the level of conflict over the fishery issue, to a point where the issue penetrated the barriers that confined it to the policy community and launched itself into the constitutional debate. In terms of the broader research enquiry into the relationship between sector policy formation and constitution-making, of which this study is a part, the policy community approach should help us explain how and why it is that some issues "make it" to great national debates such as the constitutional debate, and continue to hold a place there, whilst others never achieve that eminence.

These are the general concepts which inform the following account of the brief interaction between the fisheries policy debate and the constitutional debate. In a later chapter we will return to them; elaborate

them in the context of the case, and consider as well the utility of other concepts which could help us understand how the fisheries issue became entangled in the constitutional imbroglio and what resulted from it. Before reaching that point, however, we will organize our data into three distinct discussions. The first presents necessary background information concerning the constitutional framework within which the fishery was administered prior to the constitutional debate. It also presents some basic information about the fishery, the structure of the industry, its dependent communities and fisheries policy in general. We next look at the evolution of fisheries policy during the crucial years at the beginning and middle of the 1970s. This is more immediate information for our central chapter which recounts the intrusion of the fisheries issue into the constitutional debate. Finally, as we have indicated, we will attempt an analysis of the case as an exercise in constitutional politics and as a case in policy formulation.

The reader familiar with the more recent history of the fishing industry will approach this study well aware of the irony which underlies our title. Indeed, the history of the fishing industry will approach this study well aware of the irony which underlies our title. Indeed, in view of the financial collapse of the major fish companies between 1981 and 1983 we might well be criticized for suggesting that economic resurgence was a major factor in the constitutional debates which took place only a few years earlier. Nevertheless from the time the the federal government announced its decision to exert Canadian management control over the 200-mile economic zone until 1981, the fishery was extremely buoyant. Decisions taken then spelt immense trouble only a few years later, but at the time they seemed to many to be fully justified by the circumstances surrounding the industry. Those same circumstances and many of those decisions gave point and vigour to the policy debate. Consequently our discussion must seek to recreate that mood. To fail to do so - to reinterpret that debate in the light of later trials and tribulations - would simply render much of the debate inexplicable and destroy its significance. It is partly for this reason that we have purposely avoided discussing the crisis which began in 1981 and which led in 1983 to the absorption of several Newfoundland companies into a government controlled firm; in 1984 to the demise of H.B. Nickerson and Sons and the restructuring of National Sea Products. That and the fact that we have elected to examine the relationship between a sector policy debate and the constitutional debate. What happened in the fishery after those two debates, though dramatic and immensely important, is not germane to our present discussion.

2 ECONOMICS AND PUBLIC POLICY IN THE EAST COAST FISHERY

In the last decade the east coast fishery has occasioned brighter hopes and deeper divisions than at any other time in its four hundred year history. It has been a decade of fundamental changes in government policies and in industrial structure: changes which will radically affect the society of Atlantic Canada and which from time to time have precipitated such intense dispute that on the occasion at present under study, fisheries questions reached the level of constitutional debate and later were the object of a major inquiry.

Throughout the economic condition of the fishery has been profoundly influenced by public policy. There are few policy sectors where the decisions of government affect the day to day calculations of businessmen so extensively, so variously, and so minutely. From catch to table fisheries products are regulated every step of the way.¹ Not surprisingly, those who are engaged in the fishery enjoy a love-hate relationship with government. They are often the first to call for government intervention, yet detest government even as they are being assisted. This paradox is inherent in the nature of the fishery itself: historically, and until recently, the fishery has been treated as a common property resource.² Open to all, it was exploited by all to the point where governments had to intervene extensively to prevent irremediable resource depletion. Government intervention has been particularly important in the Canadian Atlantic fishery during the last two decades as public authorities attempted, first, to protect our own industry from the ravages of intense international competition, and more recently to assume the supply management function which the modern economy assigns to government.

Consequently, when we undertake to explain how and why the question of the fishery found its way into the constitutional debate, we must first outline the recent interrelated evolution of the fishing economy and public policy, finding in it a rising spiral of conflict as the federal government sought not only to come to grips with the management

function, but to shape the industry to meet public policy objectives far broader than those pertaining to the fishery itself. To understand properly the evaluation of this spiral of conflict we must first review the origins of a major crisis in the industry in 1974 and examine how the federal and provincial governments responded to it, looking particularly at the value conflicts which emerged in the fishery as the implications of government policy became apparent.

Developing Crises in Supply and Demand

Until about 1955, only Canada, the U.S.A. and five or six Western European countries fished off Canada's Atlantic Coast. Fishing in international waters is subject to international regulation only where and when this can be achieved by specific agreements. In 1949 the governments of the United States, Canada, Iceland and seven interested European countries signed an international convention which established the International Commission on the Northwest Atlantic Fishery (ICNAF).³ The Commission, on the basis of scientific investigation, made proposals to the interested governments (which numbered 18 by the mid-1970s) for joint regulation of the fisheries in the interests of conservation of the fish stocks. But in reality, international regulation meant no regulation. Until 1979 ICNAF regulations were restricted to gear control (the setting of mesh sizes and the like) and it was not until decreasing catches registered an alarming depletion of fish stocks that ICNAF could establish closed areas and seasons; set total allowable catches (TAC's) and allocate shares (quotas) to member nations. Throughout the period, inspection and enforcement remained a problem. Fishing effort intensified continuously from the late 1950s onwards as new entrants to the fishery (Japan, U.S.S.R., West Germany) exploited the richest fishing grounds in the world with a new technology: the large freezer-trawler able to catch immense quantities of fish and freeze them on board. The total catch rose from 500,00 to 4,500,00 metric tons (the metric ton, or tonne (t), is equivalent to 2,204 pounds and is the standard unit of volume in fisheries statistics) by 1973, but Canada's share of the annual "groundfish" catch (fish such as cod, haddock and hake which feed on the sea bottom) dropped during this period from well over one-third to a little more than a quarter. In 1965 Canada took 20.2 per cent of the northwest Atlantic groundfish catch, a striking contrast to the 34.5 per cent she took in 1958. A larger, more efficient fleet increased Canadian landings from the ICNAF area to 25.8 per cent in 1973, but this country's share remained significantly below 1950s levels.⁴

Canada's first policy reaction to the post-war invasion of foreign fleets was to develop her own competitive capacity. From the beginning of the

period Ottawa was preoccupied with what it felt was the backwardness of the fishing industry. Technological developments in fishing equipment, techniques and products during the inter-war period had facilitated the expansion of the fresh/frozen trade in the United States. Economies of scale and standardization of quality – two hallmarks of modern food industries – were introduced into the fish processing business.⁵ However, the Canadian Atlantic Coast fishing industry was not characterized by the same degree of modernization. According to early federal analyses, industrial development was retarded mainly because of human failings which resulted in unnecessary structural deficiencies. Opposition to change by processors and fishermen had perpetuated a dependence on a "small-boat, low-productivity environment" which generated little capital for investment. Thus, despite favourable economic prospects in the fresh/frozen trade, the Atlantic fishing industry was distinguished by low productivity and low incomes and an attachment to the technologically primitive saltfishery.⁶

In 1944, Steward Bates of the federal Department of Fisheries prepared a report for the Nova Scotia Royal Commission on Provincial Development and Rehabilitation on the state of the Atlantic seafishery.⁷ His remedy for the depressed Nova Scotia fishing industry was straight-forward – capital would have to be provided through public and private efforts to establish a modern competitive fresh/frozen fish industry. North American markets existed for these products so a favourable return on investment would be forthcoming to entrepreneurs entering the fresh/frozen trade. In Bates' view better incomes and productivity were the natural result of re-organization at the processing level. Consequently when the federal government adopted his advice during the immediate post-war period, its general policy on fisheries development was directed toward modernization and mechanization of the Atlantic Coast fishing industry as a means of making life better for those dependent on the fishery. This policy involved introducing substantial changes into the harvesting, processing and marketing sectors of the industry.

In order to establish a modern, efficient fishing industry with financial returns comparable to other industries, it was recognized that the individual fisherman would have to modify substantially his catching techniques. Federal officials felt that the greatest opportunities for individual benefits lay in the offshore industry.⁸ The large volume and regularity of offshore landings could support a fresh/frozen industry onshore. The many limitations, man-made and natural, on the productivity of the daily, inshore fishing operation made that sector unreliable for a dependable supply of raw material for fresh/frozen processing facilities. Therefore, federal policy was designed to encourage

fishermen to shift into offshore fishing operations which utilized larger vessels and mechanical gear. This objective was pursued largely through subsidies for vessel construction which fostered the expansion and modernization of the Atlantic offshore fleet.

In 1947, a comprehensive plan of capital assistance to fishermen for the construction of draggers and longliners was instituted and the principal subsidy programme was administered by the Department of Fisheries.⁹ The construction of draggers and longliners in excess of 60 feet was subsidized at the rate of \$165 per gross ton on the condition that the vessels be equipped with mechanical gear and that they be owned by four or more fishermen. Payments were made through provincial loan boards, although in 1951 provincial departments or agencies were authorized to disburse funds.

Changes were made over the next 20 years in the size of the subsidy and the minimum length and tonnage requirements. Because of rising construction costs, the subsidy was raised to \$250 per gross ton in 1961 only to be replaced in 1964 by a contribution based on a percentage of approved cost. In that year, the minimum length of eligibility was lowered to 35 feet although vessels over 55 feet and less than 100 gross tons received a more favourable subsidy. In 1970, the subsidy on vessels less than 45 feet was eliminated and the same level of financing applied to all vessel sizes.

The effect of the vessel subsidy programme has been assessed according to its success in realizing immediate and long-range policy objectives. The immediate purpose of the subsidy programme was the encouragement of participation in the offshore fishery through expansion and modernization of the offshore fleet. As a corollary, individual productivity and incomes would be increased. In a 1970 study, C.L. Mitchell of the federal Department of Fisheries concluded that the programme was significant in stimulating offshore vessel¹⁰ construction although it was not the major source of financing. From 1957 to 1966, the average increase in the number of offshore vessels on the Atlantic Coast was 51 per cent: Newfoundland's offshore fleet doubled in size while Nova Scotia's already large fleet increase one-fifth. However, the most significant structural change in the fleet was the increased proportion of larger vessels. The large vessel fleet expanded 146 per cent in four years while the intermediate-sized fleet increased only 35 per cent in the same period. This additional harvesting capability began to fulfill its purpose by 1966 when total offshore landings exceeded those from the inshore fleet.

An expanded fleet did encourage greater numbers of fishermen to engage in offshore fishing operations. Between 1962 and 1966, the number of full-time fishermen (usually employed in the offshore fishery) jumped

45 per cent in Newfoundland and 20 per cent in Nova Scotia while the number of inshore fishermen actually declined in the same period. Income levels for offshore fishermen justified the change. Average net incomes for inshore fishermen were consistently around \$1,000 per year while incomes in the offshore fishery ranged from \$4,000 to \$14,000 in 1966 depending on the vessel and level of responsibility.

Mitchell pinpointed several undesirable consequences of the vessel subsidy programme. The preference for larger vessels, despite the greater efficiency of intermediate-sized vessels resulted in excessive harvesting capacity given the size of the resource and market demand. Fleet expansion policies also stimulated expansion of processing plants because a large, continual supply of fish was guaranteed. At the same time the problem of the inshore fishery had not been resolved. The policy had been intended to shift efforts away from the inshore fishery but subsidies for "experimental" vessels in the 35-45 foot range had contributed to the expansion of that fleet. Mitchell, as a civil servant, could not say so, but others outside the public service readily attributed this ambivalence in policy to the pressure brought to bear on regional MPs and provincial governments by coastal communities. Mitchell himself concluded that:

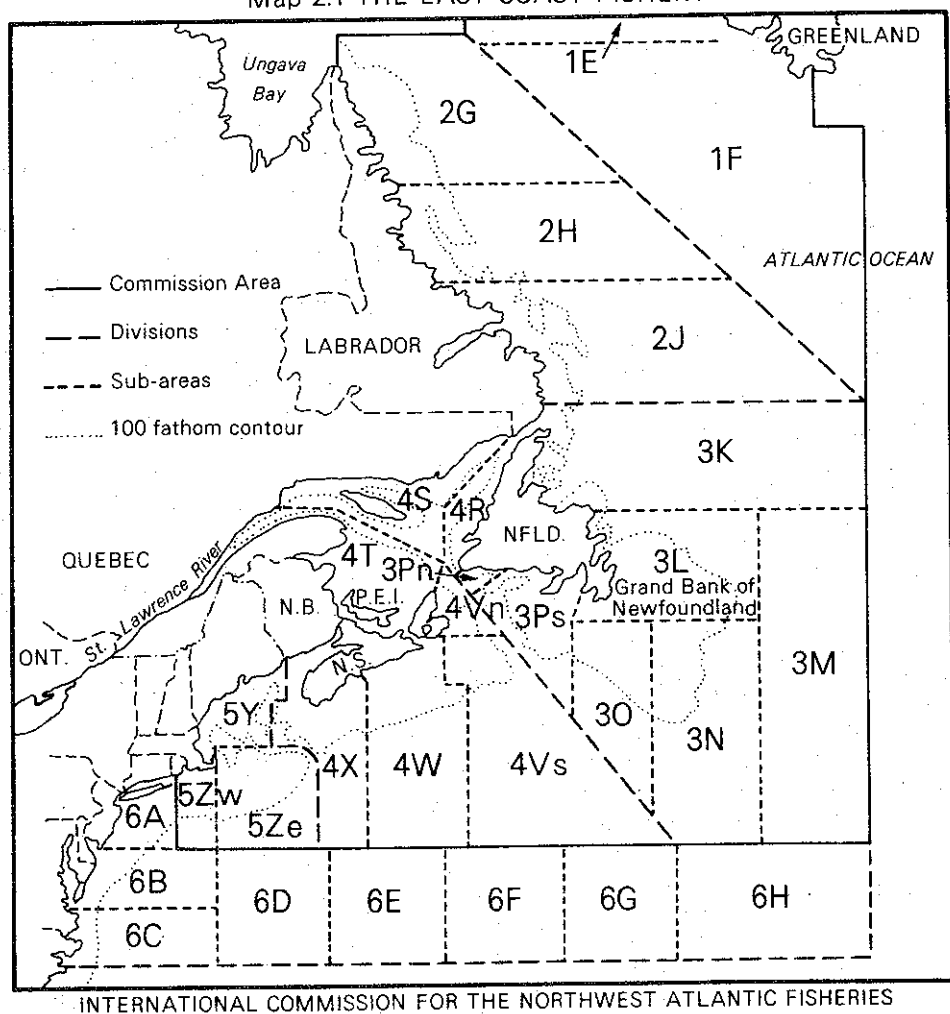
The recent slump in groundfish prices in North America and the financial difficulties of some Canadian processors indicate that there was, at least, a temporary over-supply of groundfish products and excess production capacity at both primary and secondary stages of production ... With the benefit of hindsight, we can conclude that the expansion in fishing fleet and plant capacity proceeded faster in some fisheries than was justified by the market, and in this expansion government policy ... played an important part.¹¹

The vessel subsidy programme, then, contributed to the double-edged problem this country faced in the mid-1970s. On the one hand it added considerably to the catching capacity of the nations fishing the banks, and so to the over-exploitation of the stocks. On the other it contributed to the over-supply of fish on the market.

Before discussing the problems of supply Canada encountered by the early 1970s we must look more closely at how the overdevelopment of Canadian and foreign fleets affected one key fishing ground, and the contribution that it made to the growing tension between the inshore and offshore sectors of the industry. Of particular economic, social and emotional importance are the cod swimming in ICNAF sub-areas 2J3KL (see Map 2.1). This stock stays offshore for most of the year, but in the spring it follows a bait fish, the caplin, inshore and there in a brief

seasonal fishery it supports the economic and social well-being of large parts of rural Newfoundland. In fact, this "stock" of cod is one on which the Newfoundland fishery has depended for over 400 years. However, because the stock swims both offshore and inshore it is the source of bitter disputes between two branches of the fishery: cod taken offshore by deepsea trawlers cannot be taken inshore by individual fishermen using traditional gear. Offshore exploitation thus affects the inshore fishery of Newfoundland. Indeed, one recent study has suggested that if the offshore harvest trends of the 1970s had continued unabated, the inshore harvests would have been driven to the vanishing point by the early 1980s.¹²

Map 2.1 THE EAST COAST FISHERY



As Table 2.1 indicates increased fishing effort by foreign nations rose to its peak in 1968, forcing a corresponding drop in the share of the catch for both Canada and Newfoundland. By 1974 it was clear that the resource was being depleted.

TABLE 2.1
GROUND FISH HARVESTS IN ICNAF SUB-AREAS 2 AND 3
SELECTED YEARS 1956 - 77

	Harvest				Share		
	Total	Distant Water Nations	Canada	Newfoundland	Distant Water Nation	Canada	Newfoundland
	(Thousands of tonnes)			(landings)			(landings)
1956	539.7	246.7	293.0	253.4	45.7	54.2	46.9
1961	969.5	724.9	244.6	217.0	74.8	25.2	22.4
1964	1 005.3	759.2	246.1	227.6	75.5	24.4	22.6
1968	1 473.1	1 219.3	253.8	240.9	82.8	17.3	16.4
1972	1 039.9	830.4	209.5	194.2	79.9	20.2	18.7
1973	851.4	650.7	200.7	189.3	76.4	23.5	22.2
1974	847.9	697.5	150.4	142.6	82.3	17.7	16.8
1975	685.0	526.0	159.0	146.7	76.8	23.2	21.4
1976	568.7	344.6	224.1	204.7	60.6	39.4	36.0
1977	494.3	232.4	261.9	240.1	47.0	53.0	48.6

1960 statistics are not available. 1977 statistics are provisional. The heading "Canada" includes Newfoundland, the Maritimes, and Quebec.

SOURCE: ICNAF, Statistical Bulletin, as reported in Gordon R. Munro, *A Promise of Abundance*, a study prepared for the Economic Council of Canada, 1980.

That is, it was being pushed beyond its natural capacity to regenerate. Thus, not only was Canada taking less, both relatively and absolutely, from the fishing grounds on her own doorstep, it was becoming increasingly obvious that unless some drastic steps were taken, this country would never regain what she had lost.

At the same time that the crisis on the "supply side" was becoming apparent, difficulties were mounting as far as demand was concerned. The industry is highly dependent on export markets. Canada is one of a select number of nations catching over 1,000 tonnes of fish per year. During the early 1970s she consistently ranked second or third in terms of the value of fish products exported, and since 1977, partly as a result of the declaration of the 200 mile economic zone, she has headed the list. The value of Canadian fish exports rose 120 per cent between 1975 and 1978, and in 1980 reached U.S.\$1,073 million, an increase of 140 per cent over 1975. Some 85 per cent of the catch and 66 per cent of the total value of fish exports is generated in Atlantic Canada. (see Table 2.2).

TABLE 2.2
SUMMARY OF CATCHES AND VALUES, BY REGION
1955 - 1980

	<i>Atlantic (% of total Canadian)</i>		<i>Pacific (% of total Canadian)</i>	
	Quantity (in tonnes)	Value (in million \$)	Quantity (in tonnes)	Value (in million \$)
1955	69%	55%	24%	30%
1960	76	58	18	28
1965	71	60	24	30
1970	88	64	9	29
1975	82	65	11	27
1978	82	59	14	36
1980	86	69	10	24
1981	85	66	12	27

SOURCE: *Annual Statistical Review of Canadian Fisheries*, Vols. 9 to 14. Government of Canada, Fisheries and Oceans.

While the value of fish exports is not impressive in comparison with Canada's exports of oil, newsprint or wheat - wheat, alone, earned \$3.7 billion in export sales in 1981 - the harvesting and processing of fish is regionally very significant and there is considerable export potential.

The further distribution of catch value amongst the five eastern provinces is as given in Table 2.3. In each province fishing is of immense local importance, but as the table shows, within the overall Atlantic region the two provinces of Nova Scotia and Newfoundland dominate.

TABLE 2.3
ATLANTIC SEA FISHERIES - CATCHES AND VALUES BY PROVINCE
1955 - 80*

	Nova Scotia		New Brunswick		P.E.I.		Quebec		Newfoundland	
	Q (tons)	V (\$)	Q (tons)	V (\$)	Q (tons)	V (\$)	Q (tons)	V (\$)	Q (tons)	V (\$)
1955	33	46	11	13	2	6	9	6	43	30
1960	24	43	15	15	2	7	7	6	41	26
1965	40	50	15	11	3	7	8	6	41	26
1970	27	42	18	13	11	8	11	8	40	27
1975	44	48	15	13	2	6	7	8	32	24
1978	38	47	13	12	2	6	6	7	40	28
1980	38	45	9	9	3	5	7	8	43	32
1981	39	47	8.6	10	3	5	7	8	42	30

*expressed as % of Atlantic Total

Q = in metric tons

V = thousand dollars

SOURCE: *Annual Statistical Review of Canadian Fisheries*, Vols. 9 to 14, Government of Canada, Fisheries and Oceans.

The product exported is dominated by fresh and frozen shellfish (chiefly scallops and shrimp) and by frozen salmon (principally from British Columbia) and cod. About 60 per cent of Canadian fish exports go to the United States. In certain sub-groups, such as fresh and frozen fillets, that country takes nearly all of our export product. Consequently, to a considerable extent, Canadian firms are what economists call "price takers" in the American market; they have very little market power. A 1977 study by the federal Department of Industry, Trade and Commerce indicated that this was likely to continue to be the case into 1985.¹³ It is probable that over the 1980-85 period that U.S. domestic fishing effort will increase. As a result Industry Trade and Commerce argued it may be that the U.S. will not be able to absorb all of Atlantic Canada's production. A more recent study by Munro is less pessimistic, but it too urges "vigorous efforts" to expand exports beyond the American market. Yet very little of the Canadian product has entered the European Common Market countries largely because of the latter's tariff structure.¹⁴

In 1974 the industry's dependence on a single market combined with the crisis in supply that we have already described to precipitate a series

of shocks whose effects have still not been fully absorbed. Until 1974 the full impact of Canada's declining share of a declining catch had been masked by rising prices. In that year, however, a 20 per cent fall in the U.S. market price of fish along with higher fuel prices and the fact that Canadians were harvesting less than their traditional catch combined to put many fishermen, particularly Newfoundland fishermen, out of work.¹⁵

The Effects of Crisis

In an area of chronic low employment, the loss of fisheries jobs had enormous local impact. Measuring this impact then and now, however, is not easy. Over time the Department of Fisheries and Oceans has experimented with three different criteria for counting the number of people employed directly in the fishery. One measure, initiated in 1973, was to require all fishermen to register in order to be allowed to fish. One could therefore count the number of licenses issued and, arguably, arrive at an employment figure. But this takes no account of use of a license. Kirby in 1983 estimated that 96.6 per cent of full-time licenses held were actually used for commercial fishing, but that on average only 72.2 per cent of part-time licenses were used.¹⁶ A second approach has been to try to take account of "time spent in fishing activities", classifying fishermen as "full-time" (10 months or over), "part-time" (5-10 months) or "occasional" (less than 5 months). But in Newfoundland time spent is distorted by the fact that weather and ice conditions prevent most fishermen from engaging in fishing for probably half of the year. In Nova Scotia the situation is quite different. In that province a high proportion of fishermen work off-shore which means year-round access to the resource. (The Atlantic fishing industry can be roughly divided in two parts: inshore and offshore. The former employs the largest number of men and equipment and is seasonal in operation; the latter employs fewer men on larger boats, but can provide work to both fishermen and plant workers for a much longer season. The smaller boats are owned by individuals, the larger vessels are generally owned by only a few major companies which are able to achieve vertical integration of fish processing and, in varying degrees, marketing operations.) A third approach, used since 1978, is to classify fishermen according to the percentage of total income earned from fishing, i.e., 76-100 per cent equals "full-time"; 26-75 per cent equals "part-time" and 0-25 per cent equals "occasional."

In 1973 at the start of the registration system, the Department of Fisheries and Oceans counted 39,000 fishermen in Atlantic Canada; 5,000 full-time, 13,200 part-time and 20,500 as occasional.¹⁷ In 1983 Kirby

reported that there were 48,434 personal commercial licenses held in the region.¹⁸ However, recently published historical data compiled by Copes gives a better indication of trends between 1968 and 1980 for the four Atlantic provinces and for Quebec.¹⁹ Copes has applied various "weights" to calculate Full-Time Equivalents (FTE) by both the "time-spent" and the "income share" criteria. His figures presented in Table 2.4, indicate clearly that by whatever measure is used, employment, especially in the two provinces of Nova Scotia and Newfoundland, was very hard hit between 1973 and 1975. Added to this were the employment effects in related fields, directly in fish processing plants, indirectly in such areas as shipbuilding, supply firms and so on.²⁰

Total employment in the fishing industry in Atlantic Canada must be read in context. In terms of the industry's contribution to Gross Provincial Product, fishing contributes about 10 per cent to the economies of Newfoundland, Prince Edward Island and Nova Scotia; but less than three per cent to New Brunswick and Quebec.²¹ Contribution to the G.P.P. is one thing, however, and employment is another. In the province of Newfoundland for instance, mining makes a greater contribution to the G.P.P. but mining is a capital intensive industry and ranks behind the fishery in terms of employment, generating in the 1970s about 6,000 man-years of employment annually compared to 19,000 in fisheries.²² In a region of chronic unemployment, jobs in the fisheries are of critical importance and over the years politicians and local fisheries managers have deflected long-term policy goals in order to maintain employment and improve the incomes of fishermen. Policy-makers can never forget that within the region about 75 per cent of all communities take part in commercial fishing, and of these, some 20 per cent (roughly 250,000 people) have no other economic base.²³

TABLE 2.4

NUMBER OF REGISTERED FISHERMEN IN ATLANTIC COAST PROVINCES, COMPARED WITH FULL-TIME-EQUIVALENT ESTIMATES, 1968-1980

Prov. and type of count	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980
Newfoundland													
Registered	19,335	17,770	17,765	15,961	14,452	15,313	12,793	15,802	15,351	20,243	26,447	32,352	35,080
FTE, time spent	10,435*	9,442	8,781	6,702	5,701	5,995	5,431	5,636	5,659	7,109#	8,948#	10,699	12,123
FTE, occupation	15,399	13,968*	13,260*	10,804*	9,315*	9,903*	8,802*	9,787*	9,634*	12,352*	15,798#	19,079*	21,297*
Nova Scotia													
Registered	13,108	11,717	11,018	10,688	11,735	10,600	10,460	10,435	10,409	n.a.	10,311	10,799	11,432
FTE, time spent	7,854	7,320	7,091	6,789	7,679	6,869	6,792	6,770	6,747	n.a.	6,675*	6,792*	7,243*
FTE, income share	6,717*	6,311*	6,147*	5,865*	6,615*	5,947*	5,884*	5,864*	5,844*	n.a.	5,780	5,849	6,247
Prince Edward Island													
Registered	3,301	2,965	2,801	2,677	3,210	2,636	2,610	2,739	2,866	n.a.	2,061	2,421	2,657
FTE, time spent	1,518	1,439	1,427	1,446	1,583	1,434	1,419	1,459	1,497	n.a.	1,074*	1,225*	1,356*
FTE, income share	1,906*	1,806*	1,791*	1,819*	1,969*	1,797*	1,777*	1,825*	1,873*	n.a.	1,346	1,532	1,698
New Brunswick													
Registered	5,766	5,358	5,081	5,148	5,067	4,997	4,898	5,118	6,076	n.a.	4,748	5,165	5,753
FTE, time spent	2,642	2,581	2,471	2,464	2,513	2,422	2,387	2,464	3,024	n.a.	2,334*	2,485*	2,761*
FTE, income share	2,542*	2,521*	2,412*	2,399*	2,462*	2,359*	2,326*	2,406*	2,985*	n.a.	2,301	2,438	2,709
Total, Atlantic Provinces													
Registered	41,530	37,810	36,665	34,474	34,464	33,546	30,761	34,094	34,702	n.a.	43,567	50,737	54,992
FTE, time spent	22,449	20,782	19,769	17,401	17,476	16,800	16,028	16,330	16,927	n.a.	19,030	21,201	23,483
Quebec													
Registered	4,179	5,121	5,092	5,252	5,277	5,450	5,703	6,470	6,083	4,752	4,929	5,148	n.a.
FTE, time spent	2,114	1,930	2,062	2,524	2,139	2,245	2,079	2,296	2,249	2,035	2,120	2,214#	n.a.
Total, Atlantic Coast													
Registered	45,709	42,931	41,757	39,726	39,741	38,996	36,464	40,564	40,785	n.a.	48,496	55,885	n.a.
FTE, time spent	24,563	22,712	21,831	19,925	19,615	19,045	18,107	18,626	19,176	n.a.	21,150	23,415	n.a.
n.a. - not available													
						* estimated, using conversion factors						# by interpolation or extrapolation	

Source: Calculated from Canada, Department of Fisheries and Oceans, *Annual Statistical Review of Canadian Fisheries*, Vols. 9-13.From: Parzival Copes, "Fisheries Management on Canada's Atlantic Coast: Economic Factors and Socio-Political Constraints," *The Canadian Journal of Regional Science*, Vol. VI, No. 1, Spring 1983 (pp. 1-32).

Policy Responses

The federal government responded to the 1974 crisis first by providing short-term financial assistance and second, by taking steps to tackle the underlying supply management problem from which the crisis in part stemmed. The first of these responses does not warrant lengthy comment here. Suffice it to say that Ottawa responded to falling fish prices, the rising cost of fuel and the threatened failure of firms by allocating "special grants", amounting to some \$140 million between 1974 and 1977, to assist specific firms.²⁴ The measures taken to deal with the problems of supply that were inherent in the common property nature of the resource were far more important. In effect, Ottawa assumed in the fishery the supply management role that modern governments have taken on in the majority of resource sectors.²⁵ It did this by taking two separate series of steps both of which depended on rejecting the traditional assumption that the resource should belong to no one person or nation. Thus on the international front Ottawa moved to establish a 200-mile economic zone that would be managed by this country. On the domestic side, steps were taken which will in the long run assign to individual fishermen and fishing enterprises property rights in the resource.

The ICNAF arrangements were not abandoned precipitately. Despite the growing clamour for declaration of a 200-mile zone, Canada employed various diplomatic means between 1974 and 1976 to effect better management of the Northwest Atlantic fisheries. In 1975 a 40 per cent reduction in fishing effort by ICNAF nations was obtained, but only after East Coast ports were closed to Soviet ships. Nevertheless, the industry's 1974 difficulties put compelling pressure on the federal government to work through the Law of the Sea Conference for Canadian control of the fish resources off its coasts. Although the LOS negotiations failed to produce a global treaty on the more efficient use of the world's ocean resources, they did create a climate of opinion that by June 1976 permitted Canada to announce, without fear of retaliation, that on 1 January 1977, it would extend unilaterally its fisheries jurisdiction to 200 miles. The crisis in the fishery prohibited further delay. As External Affairs Minister, Allan MacEachen put it, "There will be no fishery resource left to protect if action is not taken now."²⁶

Much attention was paid to this event. Great hopes were built upon it. "A dream come true" burred the Financial Post in early 1978 and described Gerald A. Regan comparing "the potential role of fish (in) Nova Scotia's economy to the wealth of oil in Alberta or potash in Saskatchewan".²⁷ Subsequent public discussion was similarly preoccupied. Until the 1981-82 financial difficulties of the major processors, and the ensuing debate over "Restructuring", very little

public attention was paid to the fundamental economic, social and ultimately political consequences of extended jurisdiction. Within the policy community, however, it was recognized that extended jurisdiction portended far more than simply the opportunity to put the industry on a profitable footing. The way in which the industry adapted to extended jurisdiction would determine the survival or decline of many coastal communities. The organization of the fishery, as in the past, would determine the pattern of life of much of Atlantic Canada. So much so that many prominent politicians – the Minister of Fisheries and Oceans in particular – felt that the public interest compelled their close supervision of and frequent intervention in the redevelopment of the industry. It was an approach that was deeply resented by many of the more powerful actors in the policy community (who were, nevertheless, not above taking advantage of it from time to time) but it reflected the concern of many smaller operators and inshore fishing communities that they would not be able to survive in a restructured, rationalized fishery. Consequently it had a good deal of grass roots support.²⁸

At the heart of this concern was the realization that to achieve the level of supply management demanded by Atlantic Canada's modern fishing economy, the federal government would have to do on the domestic front what it had already done internationally. It would have to abandon the long standing belief that fish are a common property resource. It would have to convert a common property resource into private property for individual fishermen or fishing companies. That is, the state would create property rights where none previously existed and, under certain conditions, would permit them to be bought and sold in the market place.

This step had immense implications for the prosecution of the fishery. It meant completely reversing a system of values that had governed the industry for as long as man had fished the banks. For that reason, we should spend a few moments elaborating the concept of the "common property" resource. Basically it holds that fish, like air or the oceans themselves, are the common property of all mankind; nobody "owns" the fish in the sea. But in the same way as air pollution by one person impinges significantly on all other persons, so overexploitation of the fisheries can reduce the supply of the resource for all of us. Unless a third party, the collective state, intervenes there is no incentive for an individual fisherman to husband the resource. Any fish he leaves uncaught might be caught the next day by another fisherman. The incentive is to get as much as you can as quickly as you can. The result is "overcrowding" as many individuals or firms rush with as much gear as possible to exploit the resource. There is no concern for long-term benefits. Everybody's property is nobody's property. This is not merely

a theoretical problem. The annihilation of the anchovy fishery off Peru, the drastic decimation of the Pacific halibut stock off the United States and Canada or the herring off Europe all illustrate the devastating consequence of unregulated exploitation of a common property resource.²⁹

H. Scott Gordon and Anthony Scott were among the first to draw attention to the economic (and indeed the biological) consequences of this state of affairs.³⁰ If the resource is a common property one, they argued, and if the resource is producing a good return on investment, it will invariably attract fishing effort. This effort is likely to increase until the stock of fish is run down. If management authorities move to impose restrictions on total harvests, this will indeed allow the resource to grow, but it will in turn attract new or returning fishing effort even though the management regime will not permit the total harvest to be increased. A limited catch of fish will be spread over an increasing number of fishermen. Thus in order to harvest at a biological sustainable level and to insure that the fishery will yield a sustainable economic "rent" to those engaged in the industry, it is necessary, so the argument goes, to both limit the total allowable catch and to limit entry, or limit access to the fishery.³¹

During the 1950s and 1960s these developments in fisheries economics were incorporated in policy analysis and influenced expert recommendations. It came to be generally accepted that the origin of low incomes and poor productivity lay in the structure of the primary stage of production. Excessive labour was employed at the harvesting level, especially in the inshore fishery and so prevented optimum distribution of benefits from the resource. Unrestricted entry to the fishery; the fact that there were few capital requirements for participation in the inshore fishery, and a lack of alternate employment opportunities in isolated areas, were all blamed for the over-supply of labour in the industry.³² These perceptions were grafted on the federal government's earlier policy which had been developed out of Bates' view that better incomes and productivity would be the natural result of re-organization at the processing level and which had attempted to shift fishermen from the inshore to the offshore industry through the incentives offered in the vessel subsidy programme.³³ However, the policy which began to emerge during the 1960s differed from the earlier approach in one important respect. Earlier policy had been based on the assumption that the fishery depended on an obsolete technology and that labour simply had to be shifted from one sector of the industry to another. Now it was believed that the crux of the problem lay with the labour supply itself; that labour had to be persuaded to leave the industry. Government now saw as its objective the attainment of a "proper mix" of capital and labour in the

industry so that maximum returns would be guaranteed to all dependent on it. In other words, the elimination of labour surplus, not the acquisition of up-to-date technology, had become the object of federal policy.

At first Ottawa believed that this objective could be realized, partially at least, in a laissez-faire manner. The existence of employment opportunities in other sectors would naturally draw excess labour away from the inshore fishery, which was regarded as a haven for the unemployed.³⁴ Once excess labour was withdrawn, greater productivity would be ensured for those choosing to remain fishermen or those who lacked access to other jobs. Greater productivity would mean that capital once again would be invested in more efficient mechanical gear which would guarantee further financial returns. Initially, however, government intervention was necessary to encourage investment of capital in the offshore fishery, where the prospects for higher incomes and better productivity were greatest. Thus the vessel subsidy programme was reinforced. When the political influence of coastal communities blunted the thrust of the vessel subsidy programme by securing its extension to inshore boats, the federal government turned to a more draconian method of persuading inshore fishermen to leave the industry. It induced the Newfoundland government to adopt the "Fisheries Household Resettlement Programme" which encouraged rationalization of the industry and centralization of the population by the simple, but drastic expedient of closing down outpost communities.³⁵ We will discuss the political consequences of this scheme later. For the moment we have to note that ultimately Ottawa's approach failed. The mobility of the inshore fisherman was limited. Neither the capital intensive offshore fishery, nor the developing processing sector, which was in any case employing large numbers of women, could absorb all the labour which was becoming surplus to the inshore sector. Entry into other occupations was virtually impossible for many inshore fishermen who found that their levels of education and training were low, and their "occupational adaptability" not of a high order. In any event high rates of unemployment elsewhere in the Atlantic region meant that alternative job opportunities were scarce (or nonexistent), while for a great many leaving the region altogether and "going down the road" proved a snare and a delusion.³⁶

With its vessel subsidy programme distorted beyond recognition and the resettlement programme an economic and political disaster, Ottawa sought another way to tackle the labour surplus problem. This time it turned to the concept of licensing. The first steps were taken in this direction in 1968 when the minister of the day, Jack Davis, tried unsuccessfully to control and reduce excessive fishing capacity in the west coast salmon fleet. In 1973 David announced to the House of Commons

his intention to *register* all commercial fishing vessels and to *license* all vessels, skippers and operators in the Atlantic fishery. As the policy was initially implemented no limits were put on the numbers of inshore licenses issued, but gradually limits were put on the number of trawlers allowed to fish offshore and on access to certain valuable species, such as shrimp, offshore scallop, lobster, salmon, herring and crab.³⁷

The imposition of controls on access to the resource raised fundamental political and ethical questions about the distribution of wealth. In this particular case it went to the heart of the relationship between the inshore and offshore sectors. At the immediate level there were practical questions such as who would be granted the right to fish and on what objective criteria? How much income would be permitted to licensed fishermen on the one hand and to capital on the other? If an individual license is a state-created asset, what happens when a license-holder wishes to sell out? Should his quota be returned to a government operated "bank" there to be handed out again, or should the right to fish be sold to the highest bidder? If the latter is adopted as policy, what does this imply for the make-up of the industry? That is, would vertically integrated companies backed with sufficient capital soon come to own all the rights? On the other hand, if nothing is done to limit entry, will we become incapable of capturing the highest possible economic benefits from what is after all a renewable resource?

Those who knew the fishery and knew Newfoundland recognized at once what Davis' move implied for that province. In November 1973 the then-Premier of Newfoundland, Frank Moores, requested a study from Memorial University on "... the likely implication of a (licensing) policy for the fisheries and especially the small boat fishermen of Newfoundland". The study pointed out that the question was more than a simple one of identifying the "bona fide" fisherman. The authors noted:

By granting a license to fish to some individuals and not to others, or by deciding that fishing effort will be allowed to expand offshore but not inshore, or that fishing effort will be allowed to expand in some areas for some species but not in others, the government is conferring income upon some of its citizens and denying access to it by others.³⁸

The debate over licensing policy was now fully joined. In an effort to overcome the debilitating overexploitation of a common property resource, Canada had moved to restrict entry and to regulate the catch rate. The change in policy created new economic values; inevitably some of those in the industry would gain as a result and others would lose. But because the fishery is such an important part of the Atlantic region

economy, especially that of Newfoundland, the change in policy also affected the broader range of social values around which many communities in the region are organized. Given the fundamental nature of the concerns at issue, the traditionally highly politicized character of the fishery, and the fact that public policy had precipitated these value changes in the first place, it was to be expected that the issue of licensing, and the questions it raised, would become a major political concern. This it did, serving as one of the underlying irritants troubling relations between Ottawa and Newfoundland, and to a lesser extent the other Atlantic provinces throughout the 1970s.

A Social Fishery or an Economic Fishery?

As is the way with major political questions, the licensing issue, itself a symbol of the broader question of property right, became encapsulated in a single, distorting slogan. Members of the policy community were asked, "Does Canada want a social fishery or an economic fishery?" By thus creating what we regard as an essentially false dichotomy, debate was narrowed and competing values hidden in slogans.

Perhaps the clearest definition of the term an "economic fishery" came from the Kirby Task Force which, in setting out the objectives of fisheries policy, argued that:

The Atlantic fishing industry should be economically viable on an on-going basis, where to be viable implies an ability to survive downturns with only a normal business failure rate and without government assistance.³⁹

In saying this, the Task Force was simply reiterating what had been Ottawa's view since the late 1950s: that the fishery can only be successful if it eliminates its pool of surplus labour.

The Task Force eloquently acknowledged the value of a coastal society built on the fishery, and its social, economic and political importance to the fabric of Canada. But it is not, they argued, a society that should be maintained at all costs.⁴⁰ In particular, the inshore fishery should cease to be "the employer of last resort", used by policy makers to absorb (or hide) workers made redundant by the failure of economic policy in the rest of the economy. The fishery should not, in Munro's words, be "singled out as one sector through which social assistance could be distributed by subtle means".⁴¹

To many officials, to the majority of economists, and later to the Kirby Task Force, the choice between an economic and a social fishery was straightforward. The fishery had to become economically viable.

Hence licensing and other methods of limiting entry had to be adopted. Along with what later came to be known as "quota" and "enterprise" allocations, they represented the principal way through which government could manage the supply of fish so that those who remained in the fishery could earn a decent income from it. Consequently the federal authorities began to move, as we have seen, toward more extensive licensing and more complete regulation of fishing effort.⁴²

At the provincial level, however, the choice posed greater problems and the argument for a "social fishery", with its emphasis on employment and the preservation of a rural, "outport" way of life had more appeal. Nova Scotia with its influential major firms and its more diverse economy was inclined to favour the federal approach, but in Newfoundland provincial authorities had to be more concerned with the social impact of federal licensing and allocation policies. Furthermore, their experience with Ottawa's policies had been a bitter one. As we shall see, Confederation itself had effectively destroyed the policy thrust that had been developed in the 1930s and 1940s, dismantling important administrative structures and setting aside the traditional salt fish trade in favour of the technologically more advanced, U.S.-oriented frozen fish trade. For two decades Ottawa had argued that the only route to industry viability lay in eliminating its surplus labour and for two decades Newfoundland had replied that the fishery supported one third of the labour force because alternative employment simply did not exist. Therefore it was better to try to expand markets in order to support the population rather than to hope for natural labour force shrinkage or to deliberately pursue rationalization. This was anathema to federal policy makers who had steadfastly avoided dabbling in marketing elsewhere in Canada and were averse to a region-specific, socially oriented approach. Even under the leadership of the dynamic Smallwood, the province had not been able to make headway against Ottawa's conviction. In 1951 and again in the early 1960s the provincial government had tried to interest federal officials in a fisheries policy that St. John's felt would be effective.⁴³ On both occasions the provincial initiatives were allowed to die in the face of the federal argument that the greatest economic benefits lay offshore, that rationalization of the industry was essential, and that the inshore fishery should be left to its own devices where, presumably, it would decline leaving the residue of surplus labour to move to other areas.⁴⁴ The national government's major policies, initially the vessel subsidy programme, then the resettlement programme and now licensing, had been designed to achieve that end. Whatever the merits of Ottawa's case, and conventional wisdom amongst economists has always supported the federal position, it was becoming clear by the early 1970s that the policies Newfoundland had had to accept during the 1950s and 1960s

defied the fact that the pattern of settlement in the province had developed largely in response to the demands of the inshore fishery. For many communities there was simply no other economic base. Thus, given the economic conditions of Atlantic Canada, a policy which made fishermen "redundant" either forced them to migrate or to go on welfare.

No provincial government could with impunity remain unresponsive to the misery that resulted from these policies. In 1972, the Conservatives under Frank Moores defeated Smallwood's Liberals in a campaign which stressed rural development. Obviously there was more than one reason for Smallwood's defeat.⁴⁵ Time, modernization, urbanization were catching up with an era; but in local mythology another important factor was the almost universal condemnation of the resettlement programme. The natural closing down of Newfoundland outports might have been tolerated; government-supported and government-induced resettlement was quite another proposition.

The new government brought with it a significant change in philosophy. Economic development would take place, but not through industrialization and huge public investments in oil refineries or linerboard mills. Rather it was to be achieved through, amongst other things, rural development. These were years of excitement in Newfoundland's rural communities and amongst inshore fishermen, as local infrastructure was strengthened, cottage industries and a province-wide network of "Rural Development Authorities" were established, all aimed at local self-help. These were also the years when the Newfoundland Fish, Food and Allied Workers Union (NFFAWU) welded together – for the first time in Atlantic Canada – plant workers, trawlermen, and inshore fishermen. The core of the union's support came from a developing type of owner-captains; modern entrepreneurs with individual investments in a 65 foot longliner, a mid-shore boat worth between \$40,000 and \$700,000. These men would not see their future impeded by the old merchant class dominating small rural outports. The union, as spokesman for the fishery workers, and especially voicing the interests of the longliner captains, allied itself with the federal authorities who also sought a more modern, rationalized, economic fishery. But licensing and increased federal regulation of the new resource did not suit the provincial government.

Concomitantly with its stress on rural development, the Moores⁴⁶ government consistently took issue with Ottawa's licensing and fisheries development policies. The province preferred the protection of the rural economic base by establishing new independent fish processing plants, among other things. These plants, often owned by local entrepreneurs, were not the integrated harvesting, processing, and marketing operations of the Big Five, but they did represent a new response to local needs. The

Kirby Report documented the growth between 1977 and 1981 of new processing capacity. Kirby noted that the largest increase (over 30 per cent in four years) occurred in Newfoundland.⁴⁶ The provincial authorities, starting from a need to stop the rural migration favoured by the national government, took up a stance which increasingly stressed the need for an independent economic base for outports, a base built on local fish processing and a supply of cheap, raw products.

This approach, initiated by Moores, was confirmed and reinforced when, in March 1979, Brian Peckford, cabinet minister in the Moores administration and the leader of the small group which had put forward an aggressive provincial regime to control offshore petroleum development, was elected as Leader of the Progressive Conservatives. He led the party to a 33 to 19 seat victory in the June 1979 election. Peckford and his post-Confederation generation of Newfoundlanders were confident they could put the mistakes of the past behind them. Hibernia held the promise of wealth and this time economic development would not take place at the expense of or neglect of the fisheries. Increasingly in an impressive number of policy documents the provincial government articulated the social fishery arguments. Behind their more and more aggressive tone lay the bitter memory of the resettlement programme and a quarter century of federal fisheries policy.

By the mid 1970s Ottawa's own approach to the fishery had changed substantially. Whereas in the 1950s and 1960s federal policy had reflected the views of scientists concerned with stock management and engineers who tended to favour a capital intensive industry, by the mid-1970s Ottawa had become at one and the same time more sensitive to the social aspects of the fishery; less certain that technological development and economics of scale were the keys to prosperity in the industry and considerably more aggressive in asserting its intention to manage the fishery.⁴⁷ The reasons for this will be touched upon in the next chapter and will not occupy us here. They were related to changing perceptions in the policy community, to Canada's assumption of management responsibilities in the 200-mile zone; to a new mix of professional influences in the federal bureaucracy, and most noticeably, to the views of the new minister Romeo Leblanc.

The self-styled "Minister of Fishermen" was localist in orientation. Described as "resolutely parochial"⁴⁸ he vigorously promised measures intended to benefit independent fishermen. In his famous 1977 "Yarmouth Speech" he stated: "I want the ordinary man to own something solid and to have power enough, with his mates, to resist control and, instead shape his own destiny. We want to give the fishery back to the fishermen ... I believe the independent fishermen should grow increasingly into midshore and, as necessary into the offshore class

of vessels ... Until the fishermen are truly equal partners with the processors, the federal government will stand up against the big interests."⁴⁹ When LeBlanc became Minister of State for Fisheries in 1974 he had made it clear that his priorities lay with preserving the community structure of Atlantic Canada. To that end he appointed Community Service officers to develop closer ties between fishing communities and the Department; he restricted exploitation of certain grounds, such as the Gulf, to inshore vessels; he encouraged the organization of inshore fishermen in order to counterbalance the well-organized voice of the major processors; he maintained vessel subsidy programmes, and he did a great deal to contain the expansionary tendencies of the large operators.⁵⁰

LeBlanc's approach might have been expected to win the support of his Newfoundland counterparts, at least. Instead, throughout the late 1970s irritation and tension mounted between Ottawa and St. John's. In part, this may have been related to difficulties in other policy fields - such as the off-shore oil dispute or the Labrador power question - but much of it was firmly planted in the fishery. Mr. LeBlanc's own aggressive posture did not endear him to provincial officials in any of the provinces. Furthermore, though he proved to be an outspoken supporter of the fisherman entrepreneur with a considerable personal stake in the modernizing sector of the industry, he was also firmly and eloquently convinced that Ottawa should dominate fisheries policy. In the eyes of provincial ministers and many of their officials, his aggressive federalist stance was far more significant than widely publicized statements on social philosophy, especially as it was frequently presented in caustic and belligerent rhetoric.⁵¹

Difficulties at the ministerial level were only among the more pungent ingredients contributing to the rising tension surrounding the fishery. The fact was, the federal and provincial agencies were sending conflicting signals to one another. At the provincial level, as we shall see, fisheries departments were not always prepared to deal with the major issues now thrust upon them. Forced to the sidelines by the nature of fisheries policy making in the ICNAF period; scarcely consulted even when provinces undertook major fish plant development projects, and treated as little more than a part of their Ottawa lobbying organization by the processors, the Maritime departments were seldom able to muster the expertise to deal with the broad questions that emerged in the mid-1970s. Even Newfoundland, with its determination to call the shots in "its" fishery started far behind the federal agency and could not hope to equal the breadth of its resources. Consequently provincial fisheries positions were not always clearly defined or consistently taken.

The signals coming from the federal level were confused for different reasons. LeBlanc for example, might be reluctant to permit massive expansion of the offshore sector, but he could not – even if he had wished to do so – turn his back entirely on twenty years of federal policy or ignore the offshore lobby. Nor could he change overnight the philosophies of his officials. Many fisheries officials welcomed his concern for the inshore sector, but they were not generally influential at the outset of his regime. Nor did LeBlanc acquire immediately firm control over the policy system within fisheries administration. Consequently he and his officials often appeared to be at odds over the issues which divided the industry. The public impression created by these differences was exacerbated by the fact that Ottawa frequently seemed not to understand fully the socio-economic consequences of its new policy of extended jurisdiction.

This ambivalence was amply reflected in the major policy statement which preceded formal assumption of management responsibility for the 200-mile zone, the *Policy for Canada's Commercial Fisheries*, published in 1976, particularly in statements such as the following:

The long-term viability of the industry and trade depends on getting rid of certain structural defects – notably catching and processing over-capacity, dispersal of processing facilities, and fragmentation of business organization.

The well-being of fishing communities depends upon these changes being made in a gradual, systematic manner. The government of Canada has stated explicitly as far back as 1970, its position that while it is desirable to restructure the industry, "rationalization" could only proceed as quickly as acceptable alternative opportunities were opened up for people affected by these changes. The government is acutely aware that abrupt action to correct all defects across the board would be traumatic – that it could destroy the source of livelihood for large numbers of people and remove the economic base of one-industry communities and districts. Many such communities and districts are found in eastern and northern Newfoundland, around the Gulf of St. Lawrence, in the northern prairie region, and on the central coast of British Columbia.

This basic principle of minimizing the disruptive impact of change has therefore been an unchanging tenet of government policy for some years. What has changed since 1970 is a perception of the urgency of the situation: seen in the light of the current crisis, extensive restructuring is not merely desirable but imperative. The prospect of Canada achieving extended offshore

jurisdiction does nothing to lessen the urgency of the matter. The problems ... transcend jurisdiction. Even with extended jurisdiction, it will take years to restore fish stocks to a point where Canadian catches may be improved significantly.

In short, fisheries development is synonymous, in this context, with a restructuring of the industry itself for its very survival. Where adverse social side-effects such as reduced employment opportunities can be kept within acceptable limits, restructuring should proceed. Where damage to the community would outweigh advantages in the short run the changes must be postponed.⁵²

Ottawa's long-standing conviction that industrial viability could be achieved only if the fishery shed its surplus labour still survived in the 1976 document, but it was tempered by an awareness that the social consequences of rationalization would trigger political antipathies that could not easily be contained. The document was therefore cautious about the extent to which rationalization would be pursued, and uncertain as to how to address the social effects of restructuring. Nevertheless, the document continued to reflect a conviction that restructuring must take place and a determination that it would be accomplished. Small wonder, then, that Newfoundland officials discounted Romeo LeBlanc's concern for the inshore fishery and focussed instead on his officials' longstanding policy predilections and his own antagonism to provincial government participation in fisheries management.

In sum, the East Coast fishery entered the period of extended jurisdiction with a legacy of industrial and political failure. From the end of the Second World War, the industry had striven, with federal government support but without success, to match the fishing capacity and the market power of the foreign fleets working the banks. Canada's attempts to secure supply management through international cooperation had been equally unproductive, and had culminated in this country's decision to declare, unilaterally, its exclusive right to manage the fishery within the 200-mile limit. On the domestic front, Ottawa's conviction that the industry could only survive if its labour force was drastically reduced had led to a series of policies whose effects earned the bitter antagonism of the people of Newfoundland and their government. St. John's and Ottawa had worked at cross purposes and their efforts had produced effects that neither wanted.

By 1976 under a new minister, the federal fisheries agency was giving some signs that it had learned something from the failure of earlier policies and was prepared to treat the social consequences of fisheries restructuring with the seriousness they deserved. By 1976, however, Newfoundland's political leaders were convinced that the key to

prosperity in the fishery, as in other economic sectors, lay in local control. In the following chapter we will describe the constitutional administrative and political setting in which this conviction came to fruition and we will set the stage for recounting the events which launched the fisheries dispute into the constitutional debate.

3 THE CONSTITUTIONAL FRAMEWORK, ADMINISTRATIVE STRUCTURES AND THE FISHERIES POLICY COMMUNITY

When the Canadian terms of confederation were being negotiated in the 1860s, it was agreed that jurisdiction over natural resources should be either exclusively provincial or concurrent, as was the case for agriculture. Fisheries alone was made a federal responsibility (s. 91 (12)). One reason for this deliberate choice was the international aspect of the resource – seas and oceans were the property of the world community. There was also a British common law tradition that fishery resources were outside the property management system. Practical considerations too weighed with the fathers. Fish do not recognize national or provincial boundaries. It would seem that the nature of the resource itself argued that the management of it might better lie with the national government.

Over the years since 1867 jurisdiction over fisheries has grown into something of a paradox. The fish that are in the oceans are no one's property, though the federal government manages the resource within the 200-mile zone of exclusive economic management. But once acquired by a fisherman, the product, its processing and labour relations in the processing plant, become a provincial concern under SS 92 (13) and 92 (16) of the Constitution Act 1867. However, product which is destined for interprovincial or international trade (and approximately 65 percent of Canadian fish production enters international trade), once again becomes subject to federal regulation. Thus "fisheries" jurisdiction encompasses a myriad of areas which not only include such matters as gear regulations, the setting of quotas and export quality control, which are clearly federal, but also includes areas which are decidedly provincial, i.e., the training of fishermen, their organization into unions, the licensing of fish plants and the provision of workmen's compensation. The constitution, as with most matters in our federation sets out a role for both levels of government. And of course, actions by one level can affect the other. Ottawa can shape the fishery by using its spending power. It may, for instance, subsidize only a certain type of boat and thereby reshape a provincial fishing fleet or grant corporate income tax

concessions to companies organized in a particular manner and reshape a provincial industrial structure.

Thus, on the one hand responsibility for the resource itself rests with Ottawa. On the other, the provinces may, through their regulation of the landward side of the industry and their support or lack of support for fleet development, affect the way in which the resource is exploited, only to be checked in turn by the federal government's ability to finance development and to regulate interprovincial and international trade. Conflict is inherent where such paradox invests a key industry, and conflict has indeed been a part of the east coast fishery for several generations. It has reached a peak, however, in recent years, particularly endash. though not exclusively – during the period of the constitutional negotiations, where it forced its way on to the national agenda. In subsequent chapters we shall be examining that specific discussion in detail, but in the next few pages we must set out the institutional and constitutional background factors which will give meaning to our accounts of the events of 1979 and 1980. We will begin by outlining the administrative arrangements created within the federal and provincial governments for fisheries management. Then, using the conceptual framework of the policy community we will outline the structure and dynamics of that part of the fisheries policy community that was most involved in the constitutional debate. This will entail first, a close look at the federal department, which went under several guises during the period that concerns us; then the provincial agencies, and finally some of the more important private sector participants in the debate. We can not describe their relations with one another, or even the underlying dynamics of the community, in detail. However, we will attempt to convey a general sense of its structure and operation during this period.

Federal Structures

The present Department of Fisheries and Oceans traces its ancestry back to the Fisheries Branch operated by the Crown Lands Department of the United Canadas period.¹ For most of the period since Confederation it has existed as a separate department, though occasionally in response to administrative convenience or to the exigencies of War – from 1914 to 1920 it was part of the Department of Naval Services – it has been merged with other services. Its most notable descent from departmental status occurred in 1970 when it became the Fisheries and Marine Service in the newly created Department of the Environment. Its status as a portfolio has seldom been high. A few Ministers of Fisheries, notably James Sinclair, Romeo LeBlanc and Pierre DeBané, have taken a strong interest in it, but most have seen it as a way-station in their journey to

and from the higher levels of power. As a portfolio it has rarely offered the minister an opportunity to command national attention, or even to build a useful power base. For many years, for reasons that we will outline shortly, its major policy concerns tended to fall under the control of the Department of External Affairs and thus could seldom be used to political advantage by the middle ranking cabinet members who generally held the portfolio. Even the building of wharves and breakwaters, always a matter of moment in coastal regions, was until the 1970s the responsibility of the Department of Public Works, so that the Minister of Fisheries, to whom most communities turned when wharves and breakwaters had to be repaired or built, found himself caught between their urgent demands and the priorities set by a department with a geographically broader mandate and a more powerful minister. Thus constrained, few ministers took major initiatives in the portfolio and most seem to have preferred to consider it a technically oriented ministry best run by the experts who staffed it.²

During the first thirty years after World War II such a course seemed in any event to reflect the realities of fisheries management on the East Coast. The "richest fishing grounds in the world" might be on Canada's doorstep, but that did not give this country any exclusive right to the resource or even administrative control over it. The grounds, or "banks" were international common property and as such could be exploited by anyone able to muster the wherewithall needed to enter the industry. In the last chapter we described how, as a result, fish stocks declined to such an extent that in order to preserve what was left Canada had to unilaterally assume management control over a zone extending 200 miles from the coast. In the late 1940s, however, that option was not open to this country. The best that could be achieved was an international treaty setting up the International Commission on the North Atlantic Fishery (ICNAF) which was supposed to manage the fishery on scientific grounds. On the basis of expert advice, ICNAF would determine how much exploitation fish stocks could sustain in any given year; then it would apportion this total allowable catch (TAC) amongst the participating nations and prescribe a regulatory regime intended to ensure that these allotments, or quotas, were not exceeded.

The ICNAF arrangements were intended to substitute a technical process of decision making for an intensely political conflict. In general, such substitutions succeed only where there is a strong incentive to conform and where the parties involved can achieve some sort of consensus on the basic issues at play. These conditions did not exist in ICNAF and the exercise merely brought more fully into the political arena issues which had once been the sole concern of competing enterprises.

As a middle power Canada found ICNAF a tough league to play in.³ She had very little leverage with which to win her way in the negotiations that established quotas, nor could she effectively police the fishery. Her most potent weapon was science. If it could be shown – and as the years passed it became distressingly easy to do so – that fishing pressure was jeopardizing the stock, the the international fleet could be persuaded to accept more moderate TACs and even to respect regulations. Thus Canada sought to persuade ICNAF countries to harvest no more than the maximum sustainable yield (MSY), an amount equal to the quantity of new fish added to the stock each year, less the number of fish killed by natural rather than man-made causes. Though depletion of the stock attested to the fact that an MSY oriented regulatory regime was more a policy goal than a reality, the approach was nevertheless an important part of federal thinking about the fishery. It also reflected the prominence of fisheries biologists in fisheries policy development. Canada gained something of a reputation for fisheries biology. Armed with expertise supplied by the Fisheries Research Board of Canada, departmental officials could go to ICNAF meetings and use their science to persuade fellow members of the Commission that some “management” had to take place. Canadian information consequently often served as the base for what little management ICNAF either endorsed or enforced.

Science, then, became one of the twin pillars of Canadian fisheries policy. The other was diplomacy. All the expertise in the world would not help Canada at ICNAF, unless scientific information was deployed with consummate negotiating skill. The well-being of the Canadian industry depended first of all on international recognition of Canadian claims and, in making those claims, the Department of External Affairs became the chief agent for achieving the goals of the fishing community. From the perspective of the community, however, the Department of External Affairs was a rather unsatisfactory protector because the Department has a responsibility not only to concern itself with the fishing industry but the many other interests of Canadians abroad. Consequently, it has had from time to time to trade-off the interests of one group against the benefits that can be acquired for another group.⁴ As a result, it became very important to develop close working relations with the Department of External Affairs in the hopes that it might be more effectively brought to appreciate and work for the objectives of the fishery community. The whole policy analysis apparatus consequently had to be located near the Department of External Affairs in Ottawa. This of course reinforced a necessary consequence of our system of Cabinet government: the tendency to place policy mechanisms as well as a lot of supporting apparatus, as close as possible to the ministerial level, which of course was Ottawa. As well, the highly technical nature of ICNAF

regulations placed a premium on scientific information and much of the apparatus for this tended to be located in Ottawa as well.

Almost as a concomitant of this trend, as the Canadian fishery became increasingly subject to regulation (following ICNAF) the policy centre insisted on maintaining closer and closer control over activities at the periphery. Thus, until recently the field administration was highly fragmented with little coordination. In other words, though a centralized policy machine and a centralized and technically oriented administrative machine were remote from the east coast industry and apparently unresponsive to it, they were functional given the nature of the regulation of the resource base itself.

The ICNAF period, then, made necessary a policy process that was centralist in orientation and, as far as the Fisheries and Marine Service was concerned, dominated by scientists, most of them biologists or oceanographers. The only other significant professional influence in the Service came from the engineers who, from the early 1950s onwards, promoted the installation of new fishing technologies in boats, gears, and technique. This role, however, was secondary to that of the scientists and their colleagues, the diplomats.⁵

The biologists have been roundly blamed for the failure of Ottawa's fisheries management policies during the ICNAF period. Their preoccupation with stock management; their insistence that scientific data alone could provide the base for determining quotas, their tendency to treat fishermen as a piratical band of resource ravagers, and above all their dominance in the highly centralized federal department of fisheries antagonized the industry. The entrenchment of fisheries biologists and their paradigms in ICNAF's management system prevented the management flexibility essential to deal with the myriad economic and biological implications of fisheries regulation.⁶ Small wonder that the stock collapse of 1974-75 brought excoriation from those whose livelihood depended on the fishery.

As we have tried to show, however, the biologists were working within a tightly constrained policy framework. As long as Canada treated the offshore fishery resource as international common property and as long as this country behaved like a Boy Scout in a thieves den, effective stock management (even if it were scientifically feasible) would remain an ideal and eventual collapse of the stock would be inevitable. Possibly the misplaced scientific confidence of the fisheries biologists and/or the naivete of the scientific administrators prolonged the agony of the industry, but against that we must place the contribution the biologists made to Canada's position in ICNAF. At the time ICNAF was set up, their's was the only discipline to offer a fisheries management approach. They demonstrated the utility of scientific data and expertise in

international negotiation. Ultimately their contribution was insufficient, but it was nonetheless important.

Declaration of the 200-mile limit signalled Ottawa's recognition that its policies of international stock management had failed. It also precipitated a major change in the power structure of the Fisheries and Marine Service and in the policy community. The arrangements that we have just described suddenly became inappropriate. The declaration of the 200-mile limit not only meant the introduction of a long-term radical change in the resource base and in the market structure, it removed the rationale for the highly centralized policy/administrative machine that had been functional for so long. In other words, it was no longer necessary to make international arrangements paramount factors in determining fisheries policy.⁷ As well, science and technology ceased to be a necessity for international negotiation and, becoming a management tool, declined in policy significance.

All of this meant that two key policy actors in the policy community had their roles seriously affected. The Department of External Affairs continued to play a role in such matters as the George's Bank dispute and, with the Department of Industry, Trade and Commerce, in negotiating access to foreign markets. But its role was no longer central. Similarly, the scientific community became much less significant, though it continues to be important. As a recent study puts it, "the need to deal with the fact that unregulated fishing can destroy the fish stocks colours all policies developed for the fisheries"⁸ That is, the need to maintain fish stocks is "an anterior constraint on all other policies". Hence the biologist continues to play an important role in defining the limits of exploitation; in determining the total allowable catch. This role only becomes central, however, when we are pushing the limits of the resource, as we were in the early 1970s. As long as pressure on the resource remains within comfortable limits, stock maintenance policies continue to be anterior to all other policies but they do not dominate those policies, and those whose special charge they are cannot dominate other policy makers.

As the influence of diplomats and scientists declined, other actors became more important within the Fisheries and Marine Service. The most notable of these was the Minister himself. Romeo LeBlanc had come to Ottawa with the express purpose of rescuing the inshore fishery from the oblivion that threatened on the one hand from acceptance of international exploitation of the banks and on the other from an unsympathetic development policy that tended to favour the major operators. As we have explained, the ICNAF regime left little scope for ministerial initiative. Winning control of the 200-mile limit gave him something to work with. Instead of being a pawn of the technocrats,

hidebound by foreign policy and begging for patronage scraps from the Minister of Public Works, the Minister responsible for the Fisheries Act became a power in the land. For thousands of communities along the Atlantic and Gulf coasts, he ceased to be merely their advocate in Ottawa, he became the arbiter of their destinies, the man whose decisions on licensing and catch allocations could make or break them.⁹ His department, like other resource agencies in remote and dependent areas, was for many communities the Government of Canada. Nor did the agency remain for long a mere service in a larger agency. By 1978 it had become once again an independent agency controlling a budget of nearly \$300,000,000 and bearing the grandiose title of Department of Fisheries and Oceans.

LeBlanc brought a new policy thrust to the Department and with it organizational changes that further modified its power structure. His priority was the preservation of the community structure of Atlantic Canada.¹⁰ Unfortunately the Department was poorly equipped to handle the initiatives LeBlanc had in mind. On the one hand, as we have seen, its professional leadership had been provided by biologists who – to use the crude exaggeration of political rhetoric – had managed the fishery “in the best interests of the fish”, and, now that the ICNAF system had been discarded, were not able to balance the need for conservation of the resource with the economic needs of both fishermen and fish processing companies. On the other hand the Department’s engineers, who were more familiar with the industry, tended to be best acquainted with the firms and entrepreneurs who were able to invest capital and buy the bigger boats and newest gear. They were not self-consciously in favour of a capital-intensive fishery, but to the extent that they were in touch with the industry, they were in touch with the larger firms and their pressure group, the Fisheries Council of Canada. Thus, no more than the scientists, were they able to respond to LeBlanc’s concern for the inshore fishery.

Economists and, to a lesser extent, sociologists were able to address this concern which, as we have seen was rapidly translated into a major debate over the appropriate industrial structure for the fishery.¹¹ By 1976, the publication of the *Policy for Canada's Commercial Fisheries*, signalled their growing influence. In it the government argued that while it was necessary to preserve and replenish stocks, much more attention had to be paid to what would be in the best interests of the people who depended on the industry.¹² No longer could policy be governed by the need to manage for a maximum sustainable yield but by the desire to attain the “best use” of society’s resources. This latter term was defined as “... the sum of net social benefits, personal income, occupational opportunity, and consumer satisfaction”. The open access, free-for-all

fishery prevalent in the ICNAF years had brought too many fishermen, too many boats, and too many under-utilized processing plants into the industry. The immediate need was therefore to "curtail" open access and to "apply systems of entry control"¹³ In short, the *Policy for Canada's Commercial Fisheries* brought to the fore arguments that fisheries economists had urged on policy-makers for some years. Their position was to be at the heart of fisheries policy debate throughout the confrontation between Ottawa and the Atlantic provinces.

Finally the lead agency in the fisheries policy community was subjected to structural changes, as well as to changes in the relative significance of professional groups and in the role of the minister. Starting in the mid-1970s it initiated a trend toward decentralization, so that by the end of the decade regional directors-general possessed increased authority to coordinate regional operations and to administer regulations on a regional basis. The regional directors-general were also added to the most important policy committee of the agency, the Management Committee. A reorganized and re-named Department of Fisheries and Oceans, saw the administrative structure amended at the assistant deputy minister level by the creation of ADM's responsible for each of the different regions. In other words, within the new Department of Fisheries and Oceans a good deal of power and influence had shifted from the centre to the periphery; to the industrial area in which the fishery is prosecuted.

In sum, the status and internal power structure of the federal fisheries service, the key agency in the fisheries policy community changed radically during the 1970s. The agency, and thus the minister, acquired greatly increased power. Two professional groups, the scientists and the diplomats, had their power diminished whilst the economists and other social scientists became more influential as the attention of policy makers shifted from a concern with maintaining Canada's stake in a diminishing resource, to managing a much weakened long-established industry that had suddenly had its resource base vastly expanded. Just as the power relations of the professional groups in the agency adjusted to this new policy environment, so also the weight of influence within Fisheries and Oceans tilted somewhat from an overly centralized position to one which gave a greater role to the field.

Theoretically, the role of the traditional spokesmen for the industry should have been enhanced by these shifts in the power structure of the policy community. The provincial authorities were certainly anxious to play an enhanced role, as the constitutional debate demonstrated. On the other hand, the 1974 crisis and the subsequent declaration of extended jurisdiction strengthened the authority of the federal minister to determine resource allocation to specific firms and groups. This,

together with the overwhelmingly superior expert and technical resources of the federal agency, gave Romeo LeBlanc an extremely strong hand in the constitutional wrangle that began virtually as Canada took over the 200-mile zone. The extent of that technical superiority becomes clear when we look at the provincial structures that were in place in the mid-1970s.

The Evolution of Provincial Structures

The development of provincial policy and capability has tended to be concerned with three aspects of the field. First, an important spur to the formation of provincial organizations has been the need to administer fisheries loan systems that made loans to both fishermen and fish processing companies for the purpose of upgrading gear, boats and plants. Second, the provinces have collaborated with and sometime supplemented federal "development and promotion" schemes. This encompassed extension work, investment in education for fishermen, demonstration programmes for improved gear, aquaculture, and general research and development. Third, the provinces have concerned themselves with labour relations in the fishery including the working conditions of fishermen and plant workers. Recently, these three concerns have been supplemented by a growing conviction that the provinces must hold a watching brief as the federal authorities administer allocations and fishing regulations. In addition, individual provinces have developed special interests - the Nova Scotia department has a commitment to the promotion of aquaculture, for example - and two provinces, Quebec and Newfoundland, have unique legal and administrative arrangements. Quebec in 1922 acquired shared control of her coastal and inshore fisheries. Newfoundland, joining Canada in 1949 as a self-governing Dominion, did so under special Terms of Union, which in one or two aspects made it a province "unlike the others." We will examine these arrangements first, and then review the development of fisheries policies and structures in the three Maritime provinces.

In 1922 the province of Quebec entered into an administrative arrangement with the Dominion Government which in effect provided for the sharing of jurisdiction insofar as the inshore "fixed gear" fishery was concerned. Fixed gear refers to gill nets, cod traps, etc., and is different from "mobile gear" which is gear dragged by a boat. Regulation of the latter has remained a federal responsibility. This arrangement, known as the "Entente of 1922," and embodied in an Order-In-Council (P.C. # 360) dated 12 February 1922 had its origin in a 1921 decision of the judicial committee of the Privy Council.¹⁴ The case arose out of certain questions relating to the right of fishing in tidal waters of the province of Quebec.

An earlier case in 1898 had established that while S.92 (12) gave exclusive regulatory rights to the Dominion, this did not carry power to grant exclusive proprietary rights.¹⁵ The latter could lie, said the Court, either in the Crown in right of a province or with private rights. The effect of the 1921 decision was that insofar as the "solum" (i.e., the land) belonged to the province, it could grant the right to affix engines (i.e., wiers, or fixed gear) to it so long as there was no interference with existing public rights to fish or Dominion regulatory jurisdiction. The effect of the 1921 case was to authorize the Minister of Fisheries of Quebec to take charge of the inshore fixed gear fishery.

The Order-in-Council of 1922 assigned to the Quebec authorities "... all administration in all sea fisheries ... as well as jurisdiction over freshwater fish". The arguments used were two: the inconvenience to the fishermen who would have to obtain a license from two levels of government; and the cost of dual administration. A "considerable economy" would accrue to the Federal Exchequer if in addition, the provincial authorities undertook to maintain the two fish farms which the federal government had had in the Province of Quebec, and if officers who were members of federal fish and patrol vessels were transferred to provincial jurisdiction. In short, the federal authorities gave jurisdiction to administer the inshore, fixed gear fishery of Quebec to the province. In 1943 at the initiative of the Minister of Wildlife and Fisheries of Quebec the jurisdiction of Quebec was extended by instrument P.C. #1890, to include the fisheries of the Iles-de-la-Madeleine. As earlier, there was an exchange so that the permanent officers of the federal government resident on the islands henceforward became officers of the Province of Quebec. In 1959, however, the federal government "reassumed" the administration of the regulations for the inspection of fish and sea products intended for export and in July 1983 the federal Minister of Fisheries Pierre De Bané, announced that the Government of Canada had decided to reassume management of Quebec marine fisheries, as of 1 April 1984.¹⁶

The first Superior School of Fisheries in Canada was established in Quebec. In 1928 cooperative education which had been led by Diocesan Missionaries was centralized at the School of Agriculture at St. Anne-de-la-Pocatiere, affiliated with the Faculty of Science at Laval University. The programme eventually developed in a Superior School, with courses extended to a full four-year university training in fishing subjects. Complementary to this effort, an elementary vocational level programme was developed at Grand Riviere in 1958 in conjunction with the educational efforts of the local station of the Fisheries Research Board¹⁷ We can see from the *Public Accounts* that this commitment sustained itself from the 1930s into the 1960s at a time when a province

like Nova Scotia, more deeply dependent on the fishery, was having a difficult time with a more modest effort.

Cooperative education and organization was aided by another unique Quebec feature of provincial administration: the building in the 1930s of government-owned cold storage facilities, including bait depots. Stewart Bates in his report to the Nova Scotian government in 1944 remarked on how these facilities aided the transition of the Quebec industry from salt codfish to one based on fresh and frozen fish.¹⁸ In 1943 for the first time the fresh trade exceeded the salted trade on the Gaspé Coast. The government had aided this process by building a network of cold storage facilities on the Gaspé coast. The Budget Speech of 1947 noted that in the previous three years the Government had constructed fifty such facilities, compared with only five or six built before the war. By the 1970s, the special arrangements for Quebec had meant an uneasy relationship between the two levels of government. The Quebec Ministry issued licenses for commercial fishing but in order to calculate quota, a federal estimate of probable catches in the Quebec inshore fishery was arrived at, largely on the basis of the previous year's efforts, and this "inshore allowance" was reserved for that fishery. Conflict of jurisdiction occurred most notably in the Gulf of St. Lawrence. Stocks were not regenerating very fast and there had been an increase in middle distance effort as the Quebec fleet changed from a fixed to a mobile fishing mode. Small boat fishermen of Quebec and those from New Brunswick in the Bay of Chaleur had clashed as they sought to fish in the same waters.

The Department of Fisheries was established in Quebec in 1942, although the title has changed frequently over the intervening years, i.e., Department of Mines and Maritime Fisheries (1943), Department of Fisheries (1962) and Department of Tourism, Game and Fisheries (1964). By 1980 the Director General of Maritime Fish supervised a large branch of 347 full-time employees within the Ministry of Industry and Commerce. The branch has three regional bureaus and research laboratories: Gaspé, Iles-de-la-Madeleine and on the North Shore. This level of development occurs despite the fact that overall, the fisheries of Quebec contribute less than one per cent in value added to the commodity producing industries of the province. But the industry is of prime importance on a regional basis. It is the backbone of the economy of the Magdalen Islands and the lower North Shore and is a major activity in the Gaspé Peninsula. In 1977 there were just over 4,700 fishermen and 1,000 plant workers directly employed. But to this must be added labour engaged in the building and maintenance of various boats and marine installations, for operating ice-making plants, and in freezer and storage operations.

Government aid consists of loans for building or refitting of vessels, grants towards the acquisition of gear and a wide range of technical assistance. In 1975, \$1.1 million was allocated to grants for boat-building, gear replacement etc. and \$700,000 was advanced in interest free loans for the construction and repair of fishing vessels.¹⁹ Under terms of an Agreement negotiated in 1968 (and renegotiated in 1971) between Quebec and the government of Canada, some \$10 to \$14 million was to be spent on the development of well-equipped port facilities in a limited number of centres. In the Gaspé region, five such production centres were set aside and in the Magdalen Islands, two centres were proposed. These centres were to provide coastal fishermen with unloading and storage facilities and were to be linked by road to the nearest production plants. The budget of the provincial Directorate in 1977 was \$12.5 million, a sum which is approximately 1 1/4 per cent of the total provincial budget.²⁰

Newfoundland as colony and dominion pursued its own policies prior to 1949 and the consequence was both a legal difference from the other Canadian provinces, and an historical experience which influences present day concerns. Historically, the fishery has dominated the economic, social and political life of Newfoundland in a way that it has not elsewhere in the Atlantic provinces.

While still a colony Newfoundland aimed at the international recognition of its three-mile territorial sea. Incidents which stand out were the French Shore question, (not settled until 1904) and the Bait Acts (1905-06) aimed at establishing the right of Newfoundland to pass laws regulating the activities of American and Canadian fishermen.²¹ During the Commission of Government period (1934-1949) international claims continued to be made, one result being that Newfoundland won an independent seat at the founding International Commission for Northwest Atlantic Fisheries (ICNAF) Conference in Washington in 1949 which resulted in Newfoundland's separate signature of the ICNAF convention.²² The colony's statutory regulation of the fishery had begun in 1887-88 when legislation created an independent commission with a small administrative and scientific staff. By 1899 a separate department was established (something Nova Scotia and New Brunswick did not do until the 1960s) which has continued, in one form or another, until this day.

The early concerns of the fledgling department were the quality of fish product and the modernization of gear.²³ Warders were appointed to enforce such regulations as existed and owners of canning establishments were licensed and required to make statistical returns to St. John's. Piecemeal legislation, however, did not achieve the vital overall rationalization and modernization of the industry. That had to wait first for the "Coaker Regulations" of the 1920s and then for the establishment

in 1936 of the Newfoundland Fisheries Board (NFB). Norway and Iceland, Newfoundland's chief competitors had, earlier in these same inter-war years, adopted similar compulsory export associations as a necessary stage in the rationalization of the industry. William Coaker, founder of the Fishermen's Protective Union, the first fishermen's union in Atlantic Canada, as Minister of Marine and Fisheries sought the ideal of a state-regulated fishery chiefly by way of national controls in the production of salt fish and an organized approach in the markets for all Newfoundland output. The regulations, however, foundered on divisions within the trade. Moreover, whatever the politics of the matter, government revenues that might have been ploughed into the industry were already heavily committed to servicing an imposing external debt.

The successful accomplishment of reform had to wait for Commission of Government, an appointed body which governed Newfoundland between 1934 and 1949. The Commission made all aspects of the catching, processing and marketing subject to regulation by the highly competent officials of the NFB. By means of export inspection, grading and licensing, buyer confidence in the quality of Newfoundland fish was improved. The Newfoundland exporters were compelled to participate in compulsory export groups. In 1947 these groups were merged into the Newfoundland Association of Fish Exporters Limited (NAFEL), a company with an exclusive license to export salt fish, which in marketing power and skill, was the equal of any of its competitors and far surpassed that of the fragmented exporters of the Maritimes.

The legislative and financial support thus created provided the basis for what was to become, relative to its size and resources, the best fisheries service in North America. The system which had evolved by 1947 was not quite a national processing and marketing company buying directly from fishermen (a system which had been established in 1932 by one of Newfoundland's chief competitors, Iceland), but the NFB did offer to Newfoundland a regulatory base and organization "far superior to anything available to Canada's east coast industry."²⁴ The policy thrust that lay behind the NFB can be compared to the impetus supporting creation of the Canadian Wheat Board in the 1930s. In Newfoundland, as on the Prairies, independent producers looked to collective action, through the creation of marketing boards, to buttress an economy based on a single staple resource. But whereas the Canadian Wheat Board had the legislative, and eventually the legal, support of the national system, the effect of Confederation was to undermine the advances Newfoundland had made toward creating a similar system on the east coast. In fact, the effect of Confederation with Canada was to destroy Newfoundland's internal thrust of public policy.²⁵ To Canadian

policy-makers the fishing industry was marginal and there was no industry-wide, united, interprovincial demand for government action.

The Terms of Union between Canada and Newfoundland made special provisions for the new province. Term 22(2) provided that:

All Fisheries Laws and all orders, rules, and regulations made thereunder shall continue in force in the Province of Newfoundland as if the Union had not been made, for a period of five years from the date of Union and thereafter until the Parliament of Canada otherwise provides, and shall continue to be administered by the Newfoundland Fisheries Board: and the costs involved in the maintenance of the Board and the administration of the Fisheries Laws shall be borne by the Government of Canada.

These provincial statutes provided for the inspection of fish boundaries; for shipbuilding; for the manufacture of oil and meal from herring and caplin and/or the sale and distribution of fishery salt. All were aimed at improving the quality of output and modernization, rather than the regulation of the fishery. According to David Alexander this bias in favour of market development was considered absolutely essential by Newfoundlanders.²⁶ With alternative employment not available to the one-third of the labour force employed in the fishery, it seemed more appropriate to look to expanding markets as the means of supporting the population than to expect natural labour force shrinkage or deliberately pursue rationalization policies. However, this reliance on market development, and its socio-economic implications, were inconsistent with federal policy with its pan-Canadian orientation. The federal government was opposed to public sector involvement in marketing. Rather it favoured assisting the industry at the catching and processing stages, in order to develop a modern, fresh/frozen industry able to tap the new markets emerging for these products. Returns to fishermen would increase as the technology, organization and products suitable for the new markets were introduced. Market development, therefore, was a non-issue for federal officials, and Newfoundland's market-oriented policies were discouraged.²⁷

Confederation brought a spate of legislation which was designed to provide an administrative framework basically similar to that which existed in the other Eastern provinces. The Fisheries Loan Board Act²⁸ first passed in 1949, set up a five-man board appointed by the Lt. Governor in Council, to make loans to fishermen or cooperatives or companies directly or indirectly for the catching, handling, processing or distribution of fish. Unlike the other Atlantic provinces, Newfoundland

has never failed to distinguish fisheries as a Department of government, and another of the earliest Acts of the new province was the re-establishment of the Department of Fisheries and Cooperatives.²⁹ The third 1949 enactment extended the operations of the Shipbuilding (Bounties) Act, first passed by the Commission of Government in 1938. The 1951 consolidation of Newfoundland statutes provides an overview of the legislative framework for fisheries in the province. There were Acts providing for the inspection of fish, for the manufacture of oil and meal from herring and caplin; Acts respecting the sale and distribution of fishery salt and to pay bounties on the rebuilding and repairing of coastal vessels and fishing ships, as well as acts providing for provincial administration in the field and for the support of development of the industry.

The Minister of Fisheries, Hon. J.T. Cheeseman, beginning an annual "Review of the Newfoundland Fisheries" published in the daily newspapers, gives us for 1959 some idea about what the Government was actually doing within the policy framework supplied by law. Alone among the Atlantic provinces, Newfoundland paid a "bounty" towards the building of approved boats. The Minister reported in 1959 that total bounty payments now exceeded \$288,000. Under a so-called "south coast program" the government was building a saltfish processing plant at Harbour Breton and a fresh and frozen fish plant at Rose Blanche (two isolated south coast communities which were, however, ice-free year round). A shipbuilding yard at Marystown was getting new infusions of capital and was building vessels designed in Newfoundland. Joint programmes with the federal government included vocational training with the Department of Labour and the building of community stages financed by the federal government under the Winter Works programme. One of the more expensive of these joint programmes involved the building of a processing plant at La Scie. The federal Department of Public Works provided marine works; the provincial Department of Municipal Affairs and Housing shared with Fisheries in the costs of a water line. The total expended was about \$4 million. The plant was then leased to a private company, Job Brothers, for three years and after assorted disasters, it was still on lease in 1973.

Fisheries education appears to have started in Newfoundland when the Commission of Government, with little money, established a Fisheries Research Laboratory at Bay Bulls in 1931. The Department of Natural Resources and the Newfoundland Fisheries Board undertook education schemes by publishing "service bulletins" in simple language. After 1949 a Division of Fisheries Education was established, followed later by the appointment of the Fisheries Development Authority: the

former controlled formal educational development and the latter contributed to it.

The first continuing fisheries training programme, in the form of "travelling schools" was established in 1958. The schools were adapted from those in operation in Nova Scotia. Gradually the effort expanded so that by 1963 the provincial Department of Fisheries operated various schools and served over 400 fishermen at a cost of \$52,000.³⁰ The Extension Department of Memorial University entered the field of fisheries education in 1961-62 by way of television and local "viewing groups" aided by federal fish inspectors and field workers from the university. Finally, effort was centralized in January, 1964 when the Premier opened the College of Fisheries, Navigation, Marine Engineering and Electronics. The College, by act of the legislature, was placed under the Board of Governors and a president appointed by the Lt. Governor in Council. Few colleges of higher technical education then existed in Canada, and today the institution is regarded as one of the best in the world.

Set apart from the department was one other authority: the Fisheries Loan Board, established in 1949. The F.L.B., like its counterparts in other provinces, was used to receive and disburse subsidies payable by the Federal Department of Fisheries and the Minister reported in 1963 that sums paid out totalled about \$500,000. The role of the Board differed somewhat from its counterparts in the other provinces, as this excerpt from its 1960 *Report* shows:

In the Atlantic provinces it is recognized that the regulations of the (other loans) boards are considerably more restrictive (than in Nfld.) and the fishermen themselves must have a larger equity. Nowhere in the Atlantic provinces are loans made for what may be termed expendible fishing supplies such as nets, traps, twine, etc. although in Quebec there is a subsidy paid on new nets of certain specification and design. This matter has been discussed with the Boards of the other provinces where the almost insurmountable difficulties of the government getting into the supplying business are fully recognized.

Local conditions also rendered the federal programme less effective in Newfoundland than elsewhere. The *Report* just quoted also points out that:

The Fisheries Improvement Loans Act (of the Government of Canada) is of practically no assistance to the Fishermen in this province, mainly because of the lack of banking facilities in many

areas as well as reluctance of most fishermen to deal with banks and the difficulty of getting someone to act as Guarantor. Where conditions are different, as for example, Prince Edward Island, many small loans to lobster fishermen have been made under this Act.

This latter judgment about the Act in question is confirmed in a 1967 paper by a staff member of the federal department. He stated that the operations under the Act were in its early years based largely on trial and error and were limited in scope. Between 1955 and 1967 a total of 1,900 loans were made to the value of \$3.4 million. Loans to fishermen made by the Fisheries Loans Boards in the five Atlantic provinces had been more extensive i.e., 1 April to 31 March 1961 a total of \$6.5 million.³¹

Throughout the 1950s and 1960s the federal attitude to fisheries administration dominated the Newfoundland scene. For the reasons we discussed in the last chapter, Ottawa took the view that it was necessary to abandon the traditional inshore fishery with its focus on the trade in salt cod. An efficient, technologically advanced industry capable of competing on equal terms with foreign competitors had to be put in its place. Consequently the inshore fishery and the salt cod trade were given no more than the minimal level of support dictated by political realities.

It would be wrong to think that Joseph Smallwood, the man who led the province into Confederation and who dominated Newfoundland politics throughout the period, fully shared this view. In fact, the federal partiality for rationalization and modernization of harvesting and processing operations was confronted with a tenacious Newfoundland protectiveness of its distinct fishing industry.³² In 1953, 1957 and again in 1963 the government in St. John's had sponsored reports and conferences that identified the problems associated with federal policies and sought solutions to them. But the provincial government was very largely dependent on Ottawa; the "feds" were necessary joint sponsors of any new initiative, and their response to pleas to assist the inshore fishery was always negative. There were to be "normal services only". What new initiatives there were, especially between 1963 and 1968, focussed on the "Fisheries Household Resettlement" programme which encouraged rationalization of the industry and centralization of the population. As we have seen the political consequences of Ottawa's policies were felt not at the federal level but at the provincial level where, in the 1972 provincial election, Frank Moores and his Conservatives ousted the Smallwood regime.

The change of government probably had its greatest impact on the provincial bureaucracy. Rationalization and restructuring which had been going on in Ottawa and Toronto were now brought to St. John's. The

Premier built up an Executive Council secretariat staffed by a new breed of well-educated Newfoundland public servants. The Royal Commission on the Economic State and Prospects of Newfoundland and Labrador (1967) had first brought most of these men together and many now moved into senior policy positions. The province was gathering together the political and bureaucratic resources to engage in "province-building".

Bureaucratic reorganization was initiated by the new government during its first year in office. A "Committee on Government Administration and Productivity", appointed in April 1972 recommended major changes in the structure and operations of the cabinet; in the organizations and functions of existing departments; in the responsibilities of a variety of non-departmental agencies and Crown Corporations, and in the prevailing Public Service Management System.³³ The report gave some figures on the size of the civil service (below) and noted that provincial employment represented 16 per cent of the Newfoundland labour force.

TABLE 3.1
GROWTH IN THE NEWFOUNDLAND PUBLIC SERVICES
1970 - 1979

	1970	1972	1975	1979
Departmental Service	6 800	7 000	10 000	11 400
Government Enterprise	1 000	4 000	3 000	3 100
Teachers	6 400	-----	7 800	8 000
Hospital Workers	6 300	-----	8 200	9 200
Memorial University	1 400	-----	3 000*	2 800*
Totals (% increase)	22 000	25 000(+12)	32 300(+22)	34 400(+7)

*estimate

SOURCE: Newfoundland Statistical Agency. *1972 Figures: Government White Paper on the Organization of the Public Service of Newfoundland and Labrador*, November 1972.

The government followed the advice of the Productivity Committee and instituted a cabinet committee system, including a "Priorities and Planning" Committee which was chaired by the premier. In a study done in 1976 it was reported that ministers and civil servants felt the system was working well, and was not unduly rigid nor time-consuming.³⁴ The

restructuring and new concern with bureaucratic organization was also reflected in the legislative output of 1973. In that year there were new acts for the Public Service Commission (considerably strengthening the independence and powers of the Commission), providing for public service collective bargaining and conflict of interest legislation. There were in addition a total of 14 new departmental acts – indicative of a fairly massive shift of structures and practices in what was still a small public service. What this all meant in terms of the relative influence of civil servants and their relations with ministers is of course unknown, but what we do know is that one “output” is very visible. The Government of Newfoundland produced in these years a very considerable number of well researched and articulate White Papers, Policy Statements and special studies (one of five volumes). Most of these documents were directed at economic development questions. Their tone indicated that the government was setting its own course and laying the groundwork to challenge the federal authorities. The fisheries field in particular, presided over by Walter Carter, a minister with as much missionary zeal as Romeo LeBlanc, was singled out for special attention. It became increasingly clear that the Newfoundland government was determined to redress the errors of the last twenty years, that it wanted greater control over the resource, and that a major part of fisheries policy should be made in Newfoundland.³⁵

In contrast to Newfoundland's longstanding concern for and active involvement in fisheries administration, we find that in the Maritime provinces of Nova Scotia, New Brunswick and Prince Edward Island provincial policy-making and jurisdiction have been confined to playing a supportive role to the dominant federal authorities. In 1944 in a Report to Nova Scotia's Royal Commission on Development and Rehabilitation, Stewart Bates of the federal Department of Fisheries wrote that Maritime Canada lacked interest in maritime matters.³⁶ The provinces drew only a very small share of their wealth from the sea, the fishing was mainly inshore, with only a few vessels on the outer banks, and there were no technical schools specializing in seamanship, navigation, marine architecture or engineering. The budgets of the provincial governments showed practically no expenditure on institutions or industries connected with the sea. Between them they spent annually one million dollars on agriculture and forestry development, but only negligible amounts on fishing or on fishermen's education. There was in effect no state supported maritime economy in Eastern Canada in the sense that Norway had a maritime economy. And although nature had washed off much of the soil and deposited it so as to make banks for a great fishery, the people and the governments of the regions worked hard to develop agriculture in preference to fishing.

Bates attributed this situation to the "essentially individualist" outlook of both fishermen and fish processing companies. Such people regarded any governmental activity with suspicion and, to quote his analogy, any government which undertook leadership could be likened to a general "... who is so pre-occupied with trying to get his army to accept his orders that he must leave strategy to take care of itself."³⁷ The fishing and fish processing "army" in Eastern Canada was small and it was divided. The industry was so diverse that no simple fisheries policy could be presented before a parliamentary forum. This was not entirely the fault of Maritime provincial governments. Quite apart from the fact that the diversity of fishing interests in the region inhibited the development of a consensus, Maritime governments found that issues were complicated by the fact that contiguous fishing grounds – the Gulf as well as the Scotian shelf – were subject to exploitation by other countries. As long as international fleets could fish within a few miles of Canada's coast, fisheries regulation – to the extent that it was possible at all – was best left in the hands of the federal government which could use its status as an international actor to negotiate a regulatory regime that would be recognized by the various countries exploiting the North Atlantic. Hence in the years immediately following World War II, Canada's efforts to establish the International Commission for the Northwest Atlantic Fishery (ICNAF) appeared to be the only feasible method through which governments in this country could tackle the problems of foreign competition and resource depletion.³⁸

In consequence the Maritime provinces depended on Ottawa to create the regulatory regime which governs the east coast fishery, and until relatively recently, took only a limited interest in fisheries development. They concerned themselves with ensuring that Ottawa properly understood their interests and securing for their sectors of the industry the best possible share of the development funds that the federal government was willing to pour into the industry in order to make it more competitive with its international rivals. In these circumstances, it is not surprising that Nova Scotia, generally considered the regional leader in the field, waited until 1943 to establish a departmental division concerned with the fishery, and did not upgrade it to departmental status until 1964.³⁹

The Fisheries Division created in 1943 was housed in the Department of Trade and Industry and specialized in fisheries education and development. Earlier, in 1928, a joint programme by Dalhousie University and the Biology Board of Canada (soon to be the Fisheries Research Board of Canada) had established a B.Sc. in fisheries. But after two years and seven students, the scheme was abandoned. New approaches apparently began during the winter of 1946-47 with engine and navigation

courses being given at three centres. A navigation school was opened in Lunenburg in 1951 but closed in 1955 because of lack of support. A new start was made in 1963 when a Fisheries Training Centre was established at Pictou.⁴⁰ Today, the Training and Field Services Division of the Department of Fisheries is still responsible for extensive training programmes for commercial fishermen. The Centre at Pictou is supplemented by courses held in fishing communities throughout the province and there are seven field representatives who act in liaison between fishermen and the industry and the department.

The principal focus of the Division clearly had to be in the administration of the Fisheries Loan Board. In 1944-45 the total expenditure for the Division for administration, scientific investigation, and education totalled \$39,095.⁴¹ In that same year "advances" through the F.L.B. totalled \$50,000 and by 1962 had reached \$853,043. The Fishermen's Loans Board consisted of between five to seven members appointed by the Lieutenant Governor-in-Council, with tenure for three years. The purposes, duties and powers of the Board were:

s.5(a) To administer the Fund for the purpose of improving and developing the fishing industry of the Province by making loans to fishermen and to other persons, associations or corporations engaged in the catching, handling, processing or distributing of fish or fish products.

s.5(b) To enter into Agreement with the Government of Canada for the better carrying out of this Act.⁴²

By 1954 a further responsibility had been assumed by the Division. Under the provincial Fisheries Act, the Minister of Trade and Industry was authorized to license canneries and fish plants and to apply ...

That part of the Meat and Canned Foods Act which deals with canned fish and canneries and the Fish Inspection Act enacted by the Parliament of Canada so far as any of them are within the Legislative competence of this Legislature, shall have the force of law in the Province of Nova Scotia as if enacted by this legislature.⁴³

The third principal interest of the provincial authorities lay in the area of labour relations, and thus outside the responsibility of fisheries officials. Nevertheless, legislation in the field has always reflected the conservative approach to unionization which has dominated official thinking in the provincial fisheries department. We will discuss this

aspect of provincial policy more fully when we examine the fisheries policy community.

In 1964 the undertakings of the Division and the status accorded the industry had developed to the point at which it was felt that a full-fledged Department of Fisheries should be created. There is no evidence to suggest that this reflected a move towards province-building. In fact, it appears that the move came as much in response to developments at the federal level as out of provincial concern or local pride. Nova Scotia found that it had to monitor and attempt to influence the regulatory regime that federal officials were introducing to the fishery, whilst at the same time Ottawa needed provincial cooperation to achieve its goal of modernizing the industry. The province, for example, was clearly responsible for the training of fishermen, and could materially affect federal efforts to encourage vessel improvement and plant development. Thus federal encouragement as well as federal regulatory initiatives fostered creation of a separate department. By 1965 the department was in operation with responsibility for fishermen's loans; resource development and fishermen's training, though its main initial activity related to the Fishermen's Loan Board which provided assistance for vessel construction.⁴⁴

Broadly speaking this definition of departmental responsibilities has continued to this day, though emphasis has shifted somewhat. Today the department seems to place greater stress on interdepartmental and intergovernmental consultation than it did in the 1960s and it has developed a strong interest in aquaculture. Thus the 1981-82 annual report listed 77 employees working in five divisions and the Fisheries Loan Board. Training and Field Service, for example, comprises the work of the Nova Scotia School of Fisheries at Pictou, the field service itself and various extension programmes. Planning and Finance was established in 1977 to undertake a 'Fisheries Development Plan' which, as we shall see, became part of the province's response to Canada's declaration of the 200-mile limit and part as well of the constitutional debate. Today in addition to providing overall administrative support, it carries out socio-economic studies and represents the Department in intergovernmental negotiations such as those surrounding development sub-agreements; the preparation of Canada's position on the George's Bank case, and so on. In the Marine Resources Division and the Estuarine and Inland Fisheries Division the focus and expertise is on the biological side of the Department's mandate. Marine Resources, for example, represents the Department in various committees concerned with stock management and sponsors a number of scientific studies. The Estuarine and Inland Fisheries Division spearheads the Department's work in the field of aquaculture. In Industrial Development technical and

financial assistance is given to members of the industry interested in the development of fish quality, safety and operational efficiency. Expanded responsibilities, however, have not brought a larger share of provincial resources.⁴⁵ In 1977, at the beginning of the constitutional debate, departmental expenditure accounted for approximately 2.25 per cent of the provincial budget, only slightly more than its 1945 share and a little less than it received in several subsequent years.⁴⁶

Despite its mandate and its independent status the department has seldom had exclusive responsibility for fisheries issues within the provincial government. The Department of Trade and Industry and its successor has had a continuing involvement in the field. A Fisheries Division remained in Trade and Industry until 1968 when it was transferred to the Fisheries Department. In 1972 Fisheries lost its most important original unit when the Fishermen's Loan Board was taken under the administrative wing of the Resources Development Board of Trade and Industry's successor, the Department of Development. It was returned in 1977, but Development continued to be responsible for investment in processing plants, leaving the Department of Fisheries to look after subsidy programmes directed at inshore vessel construction. Similarly, Development, as the province's lead agency in the negotiation of federal-provincial development agreements, continued to have a large say in planning major investment decisions which eventually had a considerable impact on the fishing industry.⁴⁷

From its inception the department has been overshadowed by its federal counterpart. In 1964-65, the department's first budget of \$231,000 represented just under one per cent of the budget of the federal Department of Fisheries.⁴⁸ This relationship has persisted, as Table 3.2 indicates.

TABLE 3.2

FEDERAL AND NOVA SCOTIA EXPENDITURES THROUGH THE
FISHERIES PORTFOLIO (1975-80)

	<i>Federal Department of Fisheries Total Expenditures</i>	<i>Nova Scotia Department of Fisheries Total Expenditures</i>
1975	\$ 192 626 600	\$ 928 735
1976	249 000 000	907 430
1977	269 925 000	2 349 271
1978	296 283 000	3 149 130
1979	327 189 000	3 643 080
1980	314 400 000	3 976 593

SOURCES: Data from Annual Reports and Public Accounts and reported in Allen Fownes, "(1965-1980) Changes in Federal and Provincial Fisheries Departments. Part II" Dalhousie University. Student paper, 1980, pp. 8, 10.

The vast difference in the scale of the two agencies' activities were not the only factors that cast the provincial department's efforts into the shade. "For the most part the activities of the Department of Fisheries seemed prescribed by the Government of Canada through financial assistance programmes administered by the Department of Fisheries of Canada."⁴⁹ During its first year of operations federal contributions to the new provincial department amounted to \$93,000, bringing the total fisheries related expenditure processed by the department to \$324,000.⁵⁰ Fifteen years later, in 1980, the federal government was still underwriting a significant portion of the provincial department's activities. In that year, for example, the fishermen's training programme cost \$1,081,000 of which Nova Scotia provided \$439,000.⁵¹

The experience of New Brunswick and Prince Edward Island has been very similar to that of Nova Scotia. Commercial fishing is one of New Brunswick's most important industries, employing over 6,000 fishermen in 1976 (compared with just under 5,000 in 1973) and nearly 3,000 workers in fish processing plants. The market value rose in the four years between 1973 and 1977 from \$101 million to \$161 million, some 80 per cent of which was exported to the U.S.⁵² The New Brunswick Department of Fisheries, created in 1965, plays a role in resource assessment and development, fisheries training, and financial assistance to the industry. The Fish Inspection and Marketing branch administers the provincial Fish Inspection Act in arrangement with federal fisheries inspectors. The

Research and Development branch seeks to modernize the industry, and experiments with new equipment and boats. Work in the development of new or under exploited areas has resulted in the establishment of snow crab, shrimp, Irish moss, tuna, sea urchin and eel fisheries. The province operates a School of Fisheries at Caraquet where some 300 fishermen receive training annually. The school is located in the French-speaking part of the province and appears to be modeled on the Quebec centre at Grande Rivière.⁵³ Finally, we should note that New Brunswick's sport fishing contributes substantially to the economy of the province. Anglers, both locals and tourists, catch as many as 50,000 salmon a year in the Miramichi system alone.

As in Nova Scotia, however, the influence of the federal authorities is apparent everywhere. During the early 1950s, for example, the province concerned itself almost exclusively with two policies high amongst Ottawa's priorities: the licensing of canneries and the introduction of European techniques and technology. Through the New Brunswick Fisheries Loan Board fishermen were encouraged to build draggers on a "pay-as-you-earn" basis and this joint programme was directly responsible for the modernization of the industry. Between the inception of the Fisheries Loan Board and 1976, it granted over 3,000 loans to New Brunswick fishermen for a total of nearly \$50 million.⁵⁴ This constituted, however, the greatest part of "provincial" expenditure in the field. The provincial *Public Accounts* show that for most years since 1945, the province devoted less than one per cent of its total budget to supporting the fishery.

Similarly, fisheries in Prince Edward Island did not loom large in provincial spending. Nearly fifteen years after World War II, the administrative costs of the department were \$32,525 and the staff numbered one deputy minister, one inspector, one investigator, one accountant and two secretaries. In that same year, 1959, although the department, through the Fisheries Loan Board, had made loans of \$51,282 to fishermen and loans of \$84,460 for draggers (a total of \$108,318) the net cost to the Board was \$8352. To put this in perspective we should note that in 1971 the gross farm income in P.E.I. was \$43.5 million; the gross fishermen's income was \$10.4 million.⁵⁵

The Fishermen's Loan Board had been created under the Re-establishment Assistance Act.⁵⁶ The second governing statute was the Fisheries (Provincial) Act which provided that the Minister of Industry and Natural Resources was to license canneries and fish plants, such licenses to have an annual fee of not more than \$10.⁵⁷ As was the case with the similar Nova Scotian legislation, s.9 of the Act provided for the application to the province of certain statutes of the Parliament of Canada dealing with meat and canned foods.

The Department of Fisheries was established in 1958 and its Annual Report three years later carries a statement of the role of the department:

The provincial Department of Fisheries supplements Federal activity and is most active in those fields not covered by the federal government. The provincial department devotes special attention to the development and improvement of fishing, and production methods, technical assistance, demonstration experiments and education and training programmes in cooperation with the Department of Education and the Federal Department of Labour.⁵⁸

The loans made to fishermen and companies for the purchase of boats and engines were originally devised to aid needy fishermen and were not intended to displace normal banking operations. The Annual Reports note that experiments in gear and boats were undertaken with the cooperation of the Industrial Development Branch of the Federal Department of Fisheries and this help took the form of "direct financial assistance and valuable advisory assistance". In other respects, too, the department supplements the activities of the federal Department of Fisheries and Oceans and is responsible for the administration of programmes, chiefly aimed at agriculture and the broadening of the resource base. Other divisions of the department are responsible for port development programmes designed to improve fish handling, processing and holding techniques, all aimed at improved fish quality. The P.E.I. Fish Inspection Act enforces quality standards. Loans are made to fishermen and the fishing industry through the Prince Edward Island Lending Authority, a Crown corporation established in 1969.

Thus, as Nova Scotia and the other Maritime provinces entered the period of Canadian management of the East Coast fishery, they brought with them a tradition of dependence on federal direction of the field, and, unlike Newfoundland and Quebec held only limited independent views on policy options. While the Nova Scotia government was not always satisfied with federal efforts, its dissatisfaction did not extend to developing an administrative infrastructure capable of challenging federal policy initiatives. In this respect Nova Scotia and the other Maritime provinces differed markedly from Newfoundland.

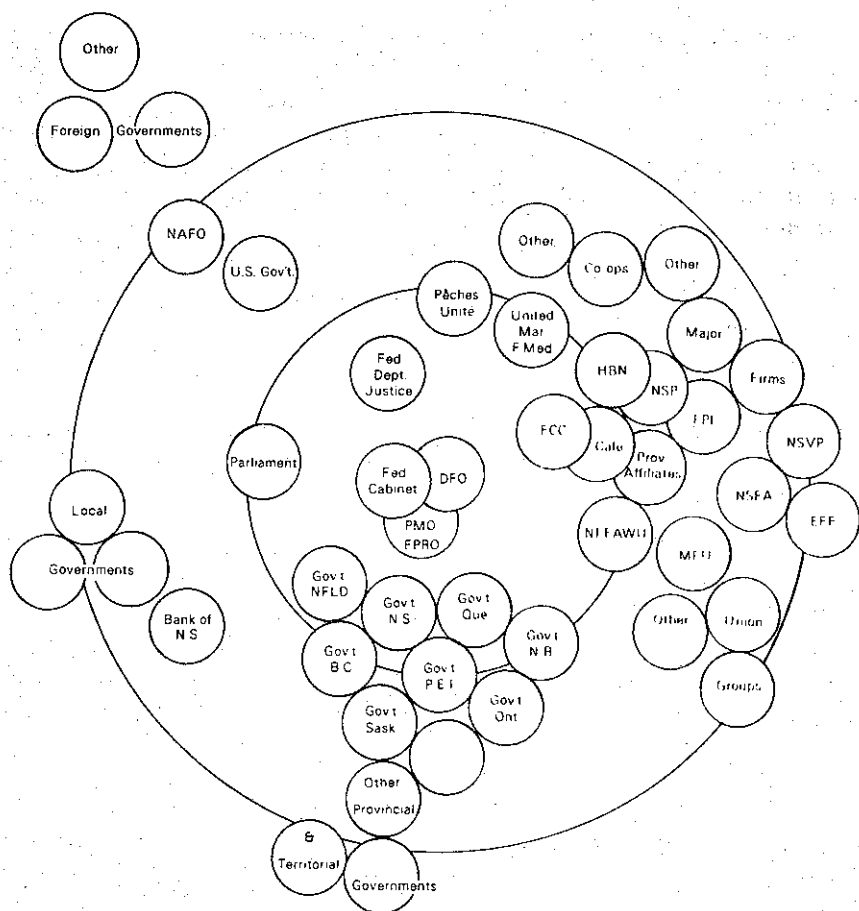
In sum, the provincial departments of fisheries in the region are dwarfed by the federal agency. As we have seen, only Newfoundland and Quebec have made long-standing and concerted efforts to develop significant capability in this field, and even their efforts when expressed in terms of budgetary expenditures seem miniscule when compared with those of the federal government. In 1978, for example, the five east coast

provinces spent \$26,376,000 on general expenditures in their fisheries portfolios. The federal government in contrast spent \$178,813,000; nearly seven times as much.⁵⁹ To understand something of what such disproportionate spending capacity implies for the power relationships of those concerned with the fishery, we need to examine the relative role of these various governmental agencies in the fisheries policy community. To that we now turn.

The Fisheries Policy Community

It is not our intention to present a full model of the fisheries policy community here. However, a brief description of its principal Atlantic Coast actors and some indications of its dynamics is in order. An idea of who these actors are and of their place in the community can be obtained from Diagram 3.1, which presents an impressionistic statement of the structure and population of the community at the time of our case study.

Diagram 3.1 THE FISHERIES POLICY COMMUNITY:
Its configuration during the constitutional debate



As we have shown, the federal agency possesses both the jurisdictional authority and the spending power to win it general recognition as the lead agency in the community. The Department of Fisheries and Oceans is, of course, responsible to the federal cabinet and must frequently work through the policy bureaucracy which surrounds the cabinet. As well, it is often required to work with, or at least consult, other federal agencies - like the Ministry of Transport, External Affairs and successive development agencies - which have significant related mandates. On the whole, however, the department is the agency which has the most to do with initiating, reviewing and analyzing fisheries policies; with regulating the industry and with delivering programmes. Consequently, it is the focal point for nearly all other actors in the policy community.

Who are these other actors? First, as the diagram we presented in Chapter One would indicate, they include other governments, domestic and foreign. Thus, the department, in conjunction with External Affairs and International Trade, has a great deal to do with major fishing nations exploiting the East Coast grounds and with the nations to which Canadians export fish. Working bilaterally, or through organizations such as the North Atlantic Fisheries Organization (NAFO) the successor to ICNAF, these actors often have a significant impact on Canadian fisheries policy. The Americans, for example, have often curtailed federal efforts to provide financial assistance to the industry simply by threatening to raise tariffs against the products of firms receiving government grants.⁶⁰

As far as domestic governments are concerned, we have already noted that the east coast provinces have, in varying degrees, developed some capacity to participate in the policy community. However, the disparity in mandate between the federal and provincial departments of fisheries and their disproportionate spending authority make it hardly surprising that the provincial agencies have a limited role in the policy community, even though they participate in the Atlantic Council of Fisheries Ministers and the Federal-Provincial Atlantic Fisheries Committee, its deputy-ministerial equivalent. Indeed, it is sometimes suggested that the provincial departments are little more than pressure groups for local interests. While we do not subscribe to this view, we do suggest that in general they probably play a less active role in day-to-day fisheries policy discussions than do the major industry interest groups, particularly the Fisheries Council of Canada and its close affiliates, the provincial fish packers associations.

At the same time, the fact that the provinces hold a recognized position in the policy community and the fact that provincial power can be used to challenge - or augment - federal policies ensures that

provincial fisheries agencies often attract clusters of interest who wish either to balance off their federal level representations, or who feel that they possess more influence provincially. As can be seen from the following discussion, while at first glance the East Coast fisheries policy community conveys the impression of a powerful lead agency surrounded by concentric circles of lesser actors, a closer look reveals a series of minor constellations whose members frequently intersect and interact, forming shifting alliances and exercising different degrees of power as issues come and go from the policy agenda. The provincial fisheries departments are often at the centre of these minor constellations within the larger system. As we shall see, during the period of the constitutional debate, the Nova Scotia government not only worked to foster the development of a particular fishermen's associations, it maintained regular contacts with the Seafood Producers Association of Nova Scotia (SPANS), the major processor group, and, through regional seminars and its own field officers, worked to keep abreast of the views of individual fishermen, plant owners and organized interests. Through the Fisheries Sector Committee of the Voluntary Planning Board, a provincially sponsored consultative mechanism, the government maintained regular contact with organized labour – notably the Maritime Fishermen's Union, the Canadian Seafood and Allied Workers Union, the Canadian Brotherhood of Railway, Transport and General Workers – with the Nova Scotia Fishermen's Association; the United Maritime Fishermen, a co-operative organization; the Saltfish Packers Association; Inter-Ocean Limited, a forward-planning, think-tank linking H.B. Nickerson and National Sea Products; several smaller companies; some individuals, and even representatives of the federal government.⁶¹ As well, though the provincial deputy minister of fisheries and another fisheries official sat on the sector committee, the Nova Scotia Department of Fisheries maintained its own advisory council which was headed by the president of a local firm producing high-tech marine equipment. As a result of this participation in such bodies, with their constant review and assessment of developments in the fishery, Nova Scotia authorities felt they had some claim to feel they were in touch with the industry.

Newfoundland does not have a consultative mechanism like the Voluntary Planning Board, but it too has a constellation of groups and interests whose activities focus on the provincial as well as the federal fisheries department. These include the Newfoundland Fishermen, Food and Allied Workers Union; the Fisheries Association, representing large processors; the various independent processors; co-op organizations; the Newfoundland Boat Builders Association; the Salt Fish Processors Association; the Joint Council of Mayors of Burin Peninsula; the Bank

of Nova Scotia, the banker for the industry; and various individuals, particularly academics connected with Memorial University. As well various federal and provincial government departments were perhaps more active in the provincial fisheries community than they were in Nova Scotia. The Canadian Development Corporation, the major shareholder in the Fisheries Products; the Canadian Saltfish Corporation, and the Fisheries Prices Support Board were all active in Newfoundland, whilst the provincial government's central policy groups seem to have been more active in fisheries affairs than their Nova Scotia counterparts.

This last point draws attention to the fact that provincial influence on the policy community is not limited to the representations of their fisheries departments. Because the industry is vital to large areas of the Atlantic provinces and Quebec, premiers are apt to be conscious of its problems and needs and to represent its concerns at the first ministers' level. Similarly, because of its broad geographic base, the industry exerts an influence on many MLAs and MPs from the region, who consequently lobby ministers, the caucus and officials on behalf of their constituents. In this way provincial and federal political parties continue to play something of their traditional role in fisheries policy formulation and a good deal of the ombudsman role often ascribed to modern Canadian legislators. Over time their efforts have contributed to the mosaic - some would say "hodge-podge" - quality of Canadian fisheries regulation. Regulations differ remarkably from one management area to another and political interventions to modify regulations in the interests of one group or another are accepted as a matter of course by most participants in the industry.

Taken together, these interventions, and very often those of industry groups as well, have created an amorphous, ever changing regulatory regime whose basic trend is hard to discern, and indeed tends to vary according to the philosophical leanings of the minister of the day and of the senior departmental officials. Nevertheless, there are forces at work within and outside the Department of Fisheries and Oceans which from time to time force the policy community to consider the state of the fishery as a whole and to attempt to give some shape and direction to policy. The decision to extend jurisdiction had such an effect, and produced, amongst other things the 1976 policy statement on Canada's commercial fisheries, the Levelton study of licensing and so on. Subsequent developments have shaped other broad policy responses such as sector management, enterprise allocations and the report of the Task Force on the Atlantic Fisheries.⁶²

These attempts to define broad policy make demands on the policy community that are quite different from those that produce the piecemeal modification of policy we have just described. The latter creates policy

by indirection; through the cumulative impress of countless discrete decisions. It demands a capacity to react to initiatives taken by others or at most, the capacity to exert pressure to obtain a specific benefit or service. The former demands of the policy community, policy capacity. That is, an ability to generate and analyze data and to sustain long-term involvement in the policy process. Elsewhere we have called interest associations that have these qualities institutionalized groups and we have noted that their proliferation is a concomitant of the emergence of highly industrialized states with their attendant interventionist governments.⁶³ The period we are discussing saw both a considerable accession of government involvement in fisheries management, and a growth in the numbers of institutionalized groups associated with the fishery. In some cases growth was encouraged by government as it sought to expand its management role. Government encouragement was most remarked in the case of fishermen's organizations, but it was also felt on the processors' side where, for example, the Canadian Association of Fish Exporters was established as an affiliate of the Fisheries Council of Canada, partly in recognition of the need to respond to market conditions in other countries but also in response to government demands that Canadian fish exporters should concert their approaches to foreign and to Canadian trade officials.

Traditionally East Coast fisheries representation in Ottawa has been associated with the Fisheries Council of Canada. Established in 1945 it is a federation of provincial associations of sea-food producers. Though the Association and its affiliates have at times attempted to speak for the industry as a whole, they are generally considered to be spokesmen for the processors. With offices in Ottawa and the provincial capitals the Council and its affiliates have for some years acted as institutionalized groups, maintaining regular contact with federal and provincial bureaucrats and politicians. As well the large corporate members of the FCC were capable of maintaining their own direct links with government at both political and bureaucratic levels, partially in order to supplement the FCC's own efforts, but also as a way of ensuring that in the cut-throat competition of the fishery, they would have an alternative route to decision makers. H.B. Nickerson and Sons and National Sea in particular, through their joint company, Inter-Ocean Limited, established a group of highly trained economists, corporate planners, industry experts and communication specialists to carry out advance planning and to present the companies' views to government and, if necessary, the public at large.

It is generally thought that the FCC and its major corporate members have a great deal of influence with government. In the mid-seventies, they were often considered to be by far the most influential interest group in

the policy community. R.D.S. Macdonald illustrates this perception in his description of industry reaction to the stock depletion of the early 1970s. In his view, the effect of depletion was felt first in the inshore fishery, but migration from that fishery to jobs in central Canada siphoned off discontent. As a result, "the reaction to foreign overfishing was largely left to federal and provincial governments influenced and advised mainly by the more articulate offshore-processor interests. This is not to deny the fact that fishermen wielded immense political power, especially in Newfoundland However, this power was exercised through a brokerage system, which was more effective in exerting leverage on the subsidy and social security system, and the surges of public spending (especially on construction of roads, wharves, community stages, etc.) just prior to elections, rather than on positive fishery policy formation."⁶⁴ The processor interests, acting through the FCC, worked to influence fisheries policy, whilst the fishermen themselves, though equally affected by that policy, sought amelioration of adverse economic and industry conditions through political influence on social policy.

For some years the Council may have been the only significant interest organization in the community, since the dispersion of the industry, coupled with the tradition, to which we have just referred, of using party intervention to help fishermen adjust to the impact of broad policy, inhibited the formation of fishermen's organizations and unionization. Where it did occur, fisherman's organization tended to take place first in the most highly capitalized sections of the industry, on the one hand, and in the most depressed parts of the inshore fishery, on the other. Participants in the more affluent segments of the inshore fishery cherished their individualism and independence with a vigour that still has an impact on the fisheries policy community.

Attempts at organization date back to the 1920s and have taken three distinct forms: the co-operative movement, unionization, and simple association. We sketch the history of each of these briefly, but will concentrate on the period of the 1970s, where we will argue that a considerable increase in organizational effort took place in response to three distinct developments: corporate concentration; a growth in government's need for better communication with the policy community, and a related factor, government efforts to decentralize fisheries management.

The co-op movement has had its greatest impact in predominantly Roman Catholic fishing communities, notably Quebec, northeastern New Brunswick and northeastern Nova Scotia. At the time of our study between 70 per cent and 75 per cent of Quebec's 4700 fishermen were organized into a single co-operative organization, the Pêches Unité

which, with the provincial government, was part owner of six of the largest vessels engaged in the Quebec fishery. The dominant private sector actor in the provincial fishery, the Pêches Unité was its price leader and principal influence on the provincial government. In the Maritimes, the co-op movement was spearheaded by Father Moses Coady of St. Francis-Xavier University during the late 1920s and the 1930s. By the late 1970s its chief organization in the fishery was the 4000 member United Maritime Fishermen, a federation of 29 local cooperatives located across the Maritimes, the Magdalen Islands, and Newfoundland. Head-quartered in Moncton, the UMF in 1977 had sales of \$34,000,000.⁶⁵

It is difficult to assess the influence of the UMF during the constitutional debate. It appears not to have played a very active part, though it did voice its concerns at several critical turns in the discussion. Appearances may deceive, however. With a membership composed of in-shore fishermen and plant workers dependent on them, the UMF was, outside of Newfoundland, the single most highly organized element in the constituency with which Romeo LeBlanc identified himself. Furthermore, the UMF was based in Moncton, close to the Minister's own riding. It is quite possible, therefore, that the UMF had a quiet but decisive influence on federal policy.

Unionization was an important ancillary issue in the constitutional debate. Of all forms of organization, unionization has been – and in many cases, still is – the most bitterly resisted in the industry.⁶⁶ The sometimes bloody confrontations that accompanied attempts to introduce collective bargaining are stored tenaciously in the folk memory of many coastal communities, influencing attitudes to unionization to this day. Relatively speaking, unionization was accomplished most easily on shore, and in the more capital intensive segments of the industry. Amongst plant workers four unions have been most active in the Maritimes, though only one of them has been associated strictly with the region and with seafood production. This is the Canadian Seafood and Allied Workers Union which, in 1978, claimed some 2,000 to 3,000 members during the summer season at plants in Louisbourg, North Sydney, Pictou, Halifax, Lunenburg, and Lockport. The other three unions – the Canadian Food and Allied Workers Union (CFAWU), the Canadian Brotherhood of Railway, Transport and General Workers (CBRT and GW) and the Retail, Wholesale, Department Store Union (RWDSU) – counted fewer plant workers as members and were not concerned exclusively with the fishing industry, a factor that has sometimes been thought to diminish their concern for the industry, but which did make available to their members national and international resources.⁶⁷ There is no evidence to suggest that these resources were applied to policy issues during the

constitutional debate, even though the union movement as a whole appears to have felt that extension of the management zone was precipitating major changes in the industry and that as a result they should extend their memberships.⁶⁸

Unionization was also widespread in the capital intensive, offshore segments. The CBRT & GW claimed 85 per cent of Nova Scotia's trawlermen in 1978 and had locals in Riverport, Lunenburg, Halifax, Canso and North Sydney. However, the union had no industry members outside Nova Scotia and even there some membership discontent was evident. With some 40,000 members in a variety of occupations it was often accused of paying little attention to the fishery.⁶⁹ The same kind of charge was also directed at the CFAWU which represented trawlermen at Alder Point, Isle Madame, and Petit de Grat in Nova Scotia and at Souris in Prince Edward Island.⁷⁰

In the period we are discussing unionization had been accepted in the groundfish fleets. Debate still raged, however, over two issues: the unionization of in-shore fishermen, and the formation of an industry-wide union. To some extent, both issues impinged on the constitutional debate. Their resolution in Newfoundland and the failure to resolve them in the Maritimes certainly affected patterns of influence in the policy community.

To understand why this was so, we must describe the rapid progress of unionization in Newfoundland. There two events of significance to the entire Atlantic region took place at the beginning of the 1970s. The first was the founding in 1970 of the Newfoundland Fish, Food and Allied Workers Union (NFFAWU), a single union which by the end of the decade had come to represent virtually all parts of the workforce: plant workers and inshore as well as off-shore fishermen. The second event was the passage, in 1971, of the Fishing Industry (Collective Bargaining) Act by the Newfoundland legislature.⁷¹ This Act defined a "fisherman" as "a self-employed commercial fisherman, including a sharesman or person agreeing to accept in payment for his services a share or portion of the proceeds or profits of a fishing venture." It had the effect of permitting "associations" of fishermen to enter into province-wide collective agreements with "operators" organizations under conditions similar to those established by the province's general labour relations legislation. It represented a major break with Atlantic Canada's traditional approach to relations between fishermen and vessel owners, since it abandoned the long-established convention that a fisherman as a co-adventurer with the owner of his vessel shares in the owner's good or bad fortune and is not an employee in the generally accepted sense of the term.

These two steps were the culmination of many years of effort on the part of union organizers and sympathizers and they were achieved only through a bitter struggle. Prior to the 1971 legislation, the provisions of the Labour Relations Act applied to the industrial side of the industry – that is, to plant workers – but not to fishermen. Even the former, however, were poorly organized since it was extremely difficult to establish locals in an industry fragmented into a large number of small, often geographically remote plants, most of which operated only part of the year. As for the harvesting side of the industry, its very structure seemed to prohibit centralized collective bargaining, for the inshore fishery was even more dispersed and victimized by monopsony power in small port markets while the provincial Labour Relations Board insisted that trawlermen in the off-shore fleet were co-adventurers and could not be treated as employees. Throughout the 1950s the Board declined to recognize potential representatives of the fishermen as associations of employees within the meaning of the Labour Relations Act.

In 1969 a Roman Catholic priest, Father Desmond McGrath, formed the Northern Fishermen's Union (NFU). Trained at the Coady Institute, Father McGrath conceived of the Union as a rural, self-help movement which would stress the value and dignity of fishing as an occupation. By August 1970 the NFU had an estimated 1800 members in 15 branches. During the following winter McGrath joined forces with St. John's lawyer and politician, Richard Cashin. Also a graduate of St. Francis-Xavier University, a member of a prominent Newfoundland family and a former Liberal MP with many Ottawa connections, Cashin had acted, in 1968-69 on behalf of a group of Placentia Bay fishermen affected by industrial pollution. Together McGrath and Cashin allied the NFU with the Canadian Food and Allied Workers Union to form the Newfoundland Fishermen, Food and Allied Workers Union. It was an alliance that would profoundly affect the entire East Coast fishery.

Initially the NFFAWU concentrated on organizing plant workers and by the end of 1971 had a membership estimated at between 7000 and 8000. A bitter and prolonged strike in that year achieved passage of the collective bargaining act to which were have referred. Described as a "model of imprecision"⁷² the act gave ample opportunity for challenging the union's certification applications. Of 16 applications which the NFFAWU submitted to the Labour Relations Board in 1971-1973, 13 were rejected on technicalities before they could be brought to a certification vote by the fishermen involved. Nevertheless, the Union steadily gained support and by 1974 felt strong enough to assert its claim to represent the province's trawler crews as well as inshore fishermen and plant workers. The Burgeo strike of 1974-75 sustained its claim and a period of standardization and stabilization in contractual relations followed as the

union exerted its influence across the province. By 1980-81 membership came to approximately 23,200. All of the province's 1200 trawlermen were unionized, while another 11,000 members comprised nearly all of the bona fide professional inshore fishermen. All major fish plants in the province were unionized and the industrial section of the union had approximately 11,000 members, most of them fish plant workers. Overall this single union represented about 75 per cent of those employed in the commercial fishery.

The rise of the NFFAWU radically changed the structure of power in the Newfoundland fishing industry and had a considerable impact on the Canadian fisheries policy community in general. It not only put an end to the days when plant owners in small, rural communities could rule without impediment, it challenged the major fish companies and for the first time gave Newfoundland fishermen a concerted voice in the fisheries policy community.

Its size and the fact that it was indeed representative of fishermen and plant workers across the province gave it an undeniable legitimacy in the eyes of federal officials. Legitimacy was reinforced by policy capacity. A federal observer writing in the late seventies noted that fishermen in Newfoundland were "planning their future in much the same manner as the processors", and that in contrast to fishermen's organizations in the Maritimes, the NFFAWU was putting forward sophisticated statements on fishery policy, including a major statement in December 1977, that called for establishing an effective management regime; equitable access to the resource; the optimal combination of public and private investment; the management of Northern Cod in the interests of the inshore fishery; the establishment of a regional fisheries management council and the development of a licensing policy.⁷³ As the sole truly representative fishermen's organization in the four Atlantic provinces, and one with a genuine policy capacity, the NFFAWU exerted considerable influence in Ottawa. It was an influence that was not diminished by the fact that Richard Cashin possessed a network of connections in the capital, nor by the fact that on many issues the NFFAWU and Romeo LeBlanc saw eye to eye. By 1977 the NFFAWU was clearly an influential member of the sub-government.

No comparable organization existed in the Maritimes. Historical, geographic and technological factors militated against it. The industry itself is highly diversified, tending to break into clusters of interests defined by the species they fish and the technology they use. All too often different technologies are incompatible with one another, so that "gear conflicts" are frequent and foster tension between different sectors of the industry. Geographically the industry varies immensely, generally in accordance with the richness of the fishing grounds exploited, their

proximity and the physical conditions in which the fishermen have to work. Nature, technology and economic circumstances reinforce cultural distinctions created by the earliest patterns of settlement, so that the participants in the several distinct fisheries of the region distinguish themselves from one another not only by the species they fish, the gear they use and the economic conditions of their fishery, they also self-consciously subscribe to different ideologies, holding fiercely to their own particular philosophies of independence or collective action. A final divisive force is the fact that while organization has come haltingly to the Maritimes, it has come to some parts of the fishery at different times and in different forms. Thus, as we have seen, the co-op movement commands a strong following around the Gulf of St. Lawrence while plant workers and trawlermen working for the larger firms have adopted unionization, but have diluted their collective voice by affiliating with several distinct unions, most of them large national or international bodies with, apparently, no major commitment to the fishery.

Throughout the 1970s the fragmentation of fishing interests in the Maritimes was a source of concern to government, the federal government in particular. There were several reasons for this, most of them having to do with the changed conditions imposed by declaration of the 200-mile zone. Prior to that event federal authorities did little to consult unorganized interests in the fisheries policy community, or to encourage them to organize for consultation. By the mid-1970s this indifference had become the focus of considerable criticism. As well, the fact that Canada was now to manage the resource on her own compelled fisheries officials to find a new source of legitimation. Regulations could no longer be justified by the exigencies of participation in ICNAF: they would have to be made acceptable to the local interests most affected by them, presumably through consultation. Hence, in the 1976 policy document, the government committed itself to ensuring "the fullest possible involvement of all the people concerned, that is, fishermen, plant workers, businessmen and members of the interested public, in the decision-making process associated with fishery management and development."⁷⁴

For the reasons we have described, involvement was not at all easy to bring about. The processors groups were readily identified and already a part of the policy community, as were the Quebec and Maritime co-op groups, the major fish companies and the NFFAWU. But the inshore and near-shore fishermen of the Maritimes, a large, diverse and politically significant group, eluded government efforts to focus and channel their demands. Ottawa used a variety of stratagems to draw them into the pattern of consultation that prevailed in the policy community: exhortation, positional politics, regulation and even

financial assistance. Certain aspects of management were decentralized to six area managers in the Maritimes and to four others in Newfoundland. Community Service Officers, responsible for identifying fishermen's problems and assisting them to relate to the federal agency, were placed in seventeen Maritime fishing communities. It was hoped that decentralization would create "a more responsive approach to fishermen at the grass roots and so provide a counterweight to advice coming from the more organized and centrally located processors."⁷⁵ Decentralization was also applied to stock management. A series of management advisory committees was evolved to advise on the application of regulations, the divvying up of quotas and the general condition of specific fisheries.⁷⁶ Although called advisory committees, these groups acquired considerable influence and thus provided federal authorities with one of their most effective means of cajoling inshore fishermen to engage in collective action. When provincial representatives, major fish companies and their organizations held positions on such bodies and so were able to influence the drafting of fishing plans, it was hard for inshore interests to ignore the advantages of formal association.

Nor were positional policies the sole vehicles used to foster organization. As we shall see, both the federal government and the Province of Nova Scotia, though for different reasons, provided financial incentives for organization, while officials at all levels repeatedly urged inshore fishermen to speak with a single voice. From the outset Romeo LeBlanc exhorted independent fishermen to seek a greater voice in policy-making:

... most groups or professions have some means to influence events. But in my first speech as Minister I had to urge fishermen to organize, not just to deal with processors, but so we in government could begin to hear their voices.⁷⁷

For him, survival of the inshore fishery depended on ensuring that this fragmented segment of the industry achieved a hitherto unheard of level of organization. Organization, cooperation, he argued, would permit independent fishermen to bargain effectively with the major processors and to exercise greater influence in public policy determination. To this end he introduced the decentralizing measures we have already discussed.

The results, however, fell far short of his hopes. As recently as 1981 the Department of Fisheries and Oceans was still pointing out that:

Fishermen must continue the movement away from their historical pattern of individual voices to make their views known more

effectively as a group. Greater unity has to come before fishermen can talk with any confidence about the future ... Fishermen need better organization in order to participate more effectively in the management of Canada's fisheries.⁷⁸

Some progress had been made, but deep fissures remained, particularly in Nova Scotia. There the divisions that we have already discussed proved so intense that the debate over forms of organization assumed ideological proportions. In southwest Nova Scotia where the rich, diverse inshore fishery bred strident individualism, resistance to any form of collective action was intense. Even fishermen's associations, which attempted simply to represent fishermen's interests in discussions with government and eschewed collective bargaining, aroused suspicion and found it difficult to survive.

For some time both the federal and provincial governments seem to have hoped that the Nova Scotia Fishermen's Association (NSFA) would win broad support. The NSFA had evolved from the Atlantic Fishermen's Association (AFA), an association whose broad aspirations out-reached its support and which ultimately dissolved into a series of sub-regional and sectoral groups.⁷⁹ As the largest of these, the NSFA had some potential for representing inshore fishing interests, a potential both levels of government sought to reinforce through financial assistance and positional policies. In 1977 the Nova Scotia government provided a \$50,000 grant to assist it to organize fishermen throughout the province, while the federal government invited it to participate in regional, national, and international conferences and negotiations.⁸⁰

These strategems failed. Nova Scotia's grant aroused the bitter antagonism of rival groups (whilst contributing to their own sense of solidarity) and unsettled the NSFA's core supporters, the fishermen of southwest Nova Scotia who, already dubious about the value of collective action, were made doubly suspicious by the suggestion that the association might be in the pocket of government.⁸¹ Ottawa's efforts to provide the organization with a strong functional base proved nearly as difficult for the NSFA to manage. The membership could not easily assimilate, develop a consensus on, and respond to the diverse issues suddenly put before it. Equally, the association's small professional staff and executive were overwhelmed by the representational demands made upon them. Nor was the membership sympathetic to the idea of supporting an organization capable of exerting influence as an actor in the increasingly bureaucratic setting of policy making. An attempt to model the NSFA on agricultural interest groups failed in the face of "the strong individualism of the fisherman and his insistence on the solution of problems that he considers relevant."⁸² Instead of manoeuvring the

NSFA into a position of influence as the constitutional debate reached full spate, the effort precipitated membership desertions, reorganization and staff resignations. Ultimately these helped pave the way for the creation of a more effective organization, the Eastern Fishermen's Federation, but at the time they undermined the ability of Nova Scotia's independent fishermen to participate in a debate that vitally affected their interests.⁸³

We should not assume that organizational disarray left the NSFA's actual and potential members resourceless and without influence in either the policy community or the constitutional debate. On the contrary, their approach - in particular their ideology of independence - carried a great deal of weight with the Nova Scotia government which tends, regardless of its party coloration, to define the provincial fishery in terms of either the capital-intensive off-shore sector or the vigorous and productive inshore and near-shore fishery of southwestern Nova Scotia. Consequently, though independent fishermen failed to build an organization capable of intervening at the more bureaucratic levels of policy formation, the very fact that they conceived of the fishery in terms that were traditional to Nova Scotia, together with the fact that provincial party organizations in southwest Nova Scotia are extremely sensitive to fishery concerns, meant that their ideological approach was influential at the political level. In short, though their organizational problems rendered them ineffective on the bureaucratic side of fisheries policy formation, their political influence continued to make them a force to be reckoned with in the policy community. Their position did have disadvantages, however. Their distrust of organization inhibited their ability to respond collectively to the policy initiatives of others, and their dependence on traditional political channels of communication, though it served them well provincially, was less useful in the more bureaucratic, politically broader milieu of Ottawa.

Nothing demonstrates the political salience of the NSFA's approach to the fishery more effectively than the fact that its views on collective bargaining in the industry were, and at the time of writing, still are, shared by the provincial government. For both the independent fishermen's associations and the Nova Scotia government, unionization of the inshore fishery is anathema. Collective bargaining, they believe, denies fishermen their right to operate as small businessmen working in a spirit of free enterprise. In its most extreme form this argument suggests that it is the spirit of enterprise and the capacity to operate as small businesses that brings prosperity to southwest Nova Scotia, and not its rich fishing grounds and proximity to the United States market. Not all inshore fishermen agree. As one commentator puts it, "in central Nova Scotia and Cape Breton fishermen tend to be less independent."⁸⁴

provinces other than those on the East Coast to have participated vigorously in the discussion. However, as the case study will demonstrate, they appear not to have done so. While apparently ready to support Nova Scotia and Newfoundland when they presented a joint claim for a larger jurisdiction, they seem to have been content to let those two provinces carry the burden of argument, not even putting forward claims of their own when Nova Scotia disassociated herself from the joint position and the issue began to recede from the constitutional agenda.

It should be clear from our earlier discussion that the only agency we can consider to be the lead agency in the fisheries policy community is the Department of Fisheries and Oceans. It is clear from our discussion of the constitutional authority of the federal government and of the expenditure capacity of the department as compared to that of the provincial departments, that Fisheries and Oceans is by far the most powerful public sector actor in the fisheries field; the provincial departments by comparison are policy "takers", not policy makers. Indeed, some might argue that the federal agency's power is greater than that of any other actor in the community, be it government, private corporation or interest group. Though under certain circumstance we might except the Department of External Affairs, which has often been able to impose foreign policy priorities on fisheries priorities, we would be inclined to agree. Within its mandate, the Department of Fisheries and Oceans, during the period under discussion, displayed a considerable ability to resist the co-ordinative aspirations of other federal agencies.⁹⁰ In short, federal government power in the fisheries field far outweighed the power of any other actor, and the Department of Fisheries and Oceans was left to wield that power virtually without challenge as far as other federal agencies were concerned.

Within the sub-government several provincial agencies and a few key interests are the major actors. Certainly all the coastal provinces interact frequently enough with the federal government to be considered continuing members of the fisheries sub-government, even though their powers are limited. They are, for example, nearly always included on key advisory committees and in major federally sponsored conferences, and they participate in the Atlantic Council of Fisheries Ministers, as well as on various sub-ministerial committees and working groups.

We would also have to include the Fisheries Council of Canada in the sub-government. As the major institutionalized pressure group in the community, the Council seems to have had an influential role at the federal level and, through its affiliates, at the provincial. Some, at least, of its members seem to have exerted independent influence both federally and provincially, though it is difficult to say whether they did so frequently enough and effectively enough to be considered regular

members of the sub-government. We would include the representatives of the "Big Five" - National Sea Products, H.B. Nickerson and Sons, B.C. Packers (owners of Connors Brothers), Fisheries Products and the Lake Group - in this category, attributing to them regular and easy access to the minister and senior officials of all the departments of fisheries under discussion. Just how much influence these private sector actors would be able to wield in the community is unclear. At one point during the constitutional debate their reported efforts to unseat the federal minister seem to have left the Prime Minister unmoved, and certainly did not attain their objective. On the other hand, their support of federal jurisdiction had a major influence on at least one of the provinces and may have had a decisive effect on the constitutional debate. As in most assessments of power and influence, we have to conclude that the influence of this group doubtless varies from issue to issue, depending on such factors as the vigour it brings to its statement of claim and position, the skill with which it deploys its resources, the legitimacy accorded its claim, the conjunction of its interest with those of others, and so on. In general, however, we can suggest that during the late 1970s the Fisheries Council of Canada was by far the most influential private sector actor and might easily have outweighed any individual province.

As we have seen, during the constitutional debate a second private sector group, the NFFAWU, became influential. As a labour union associated with a single province, the NFFAWU might not in normal circumstances have been considered a part of the sub-government. However, in a period when the lead agency was anxious to establish better links with a scattered and virtually unorganized constituency, the NFFAWU simply by virtue of the fact that it was organized and could speak as a representative not only of inshore fishermen, but of plant workers and trawlermen as well, won the acceptance of the federal minister and his department and therefore has to be considered a part of the sub-government. By the same token, the other unions and fishermen's associations probably have to be treated simply as members of the attentive public. Their representative base, despite the encouragement of the federal and provincial governments, was too narrow and inconstant to admit them to the sub-government, though they might occasionally be influential.

Two other parties deserve mention in the context of the sub-government: the co-ops, and members of Parliament. The former, particularly the UMF, doubtless exercised influence on a regular basis. Partly because in Quebec and the Maritime they were significant corporate actors, but also because they represented a sector of the industry and stood for a philosophy with which Romeo LeBlanc identified himself. Conversely, Parliamentarians seem not to have had

significant influence in the sub-government. Assiduous in the ombudsman role, we seldom find them influential at the policy level. Throughout the constitutional debate they acted as members of the attentive public.

Other members of the attentive public included the few east coast academics interested in fisheries issues and a corresponding number of journalists, as well as the cluster of smaller fishermen's groups and labour organizations to which we have referred. As far as we can tell, none of these participated significantly in the constitutional debate, though from time to time they were brought on stage as "extras" in the crowd scenes demanded from time to time by the leading actors. Thus the DFO occasionally organized policy consultations with fishermen or academics⁹¹ - though seldom the two together - and the provincial agencies organized regional seminars of fishermen and small plant operators.⁹² As far as the present writers can tell - and they were occasionally involved - none of these exercises materially affected what either side said to the other.

Summary: A Community in Flux

The policy community evolved during the mid- and late 1970s as it adapted to the new conditions brought about by the extension of the economic management zone. We have referred to some of the changes: the shift in professional emphasis and the enhancement of field influence within the federal agency, for example; the lessened role of External Affairs; the trend toward corporate concentration; the rising assertiveness of the Newfoundland government and the growing organization of the labour force. In terms of the internal dynamics of the policy community, the latter may have been the most important development. It introduced an uncertainty, almost a volatility, that was otherwise lacking in the community. The inshore fishery clearly facing major changes found it difficult to define precisely what those changes were, what they portended for the inshore sector, what government might legitimately do to ameliorate them and, above all, what the fishermen should do to respond to them. Finding traditional patterns of political communication ineffectual, inshore interests looked to various types of organization to defend them in the policy community. Others turned for protection to a minister who was clearly on their side, forgetting that ministers seldom stay more than a few years in any one portfolio and even at the height of power cannot singlehandedly overcome departmental inclinations and reverse the long-term thrust of public policy. Others persisted in a traditional attachment to independent values and trusted in political communication networks whose policy role was

increasingly limited. At the same time, the bureaucratic policy structures, anxious to secure the legitimating support of broadly representative groups fostered a host of organizations designed to draw the previously unrepresented into the communications patterns of the policy community. Well meant though their efforts were, they probably added as much to the volatility and discord within the community as they contributed to its capacity to articulate and aggregate interest.

Fragmentation is characteristic not only of the fisheries labour force in the Maritime provinces but of the industry as a whole. A few large concerns are conspicuous and tend to capture the bulk of media attention. There are, however, a great many other concerns in the industry, many of them having a good deal of local power and therefore possessing some role in the development of fisheries policy.

Thus the fisheries policy community presents an interesting blend of modern sectoral politics and more traditional, area-based sources of power and communication. There are three distinct private sector elements: first, the highly institutionalized groups, such as the NFFAWU and the Fisheries Council of Canada; second, a host of smaller organizations representing industry segments and groups of fishermen, and third, numerous pockets of interest made up of both fishermen and processors who eschew organizational politics and adhere to the more traditional politics of local power. Superficially, the more highly organized interests are the more powerful. They certainly capture the attention of the media more surely than the others and they are often credited with dictating provincial positions on fisheries issues. They are also attuned to the sectoral politics of the federal bureaucracy and thus in past have often seemed to carry more weight with officials than other elements of the policy community. On the other hand, the dispersed nature of the fishing industry and the fact that it dominates a number of East Coast ridings means that local groups can still challenge the politics of sectoralism through the more traditional party politics of localism and regionalism.

The policy community experienced a period of development during the mid- and late 1970s that paralleled and reflected changes in the fisheries management regime. In broad terms we can say that the period saw a proliferation of interest groups associated with the fishery. Fishermen and smaller processors, traditionally reliant on politicians and parties to represent them in the policy process, began to supplement that channel of communication by affiliating themselves with organized interest groups and labour unions. The trend was encouraged by government, anxious to establish better communications with a dispersed, but politically significant industry. The new organizations soon sought positions in the sub-government where they began to challenge

views of the processors' groups, previously the paramount non-governmental influence at that level. At the same time, because the whole ethos and structure of modern communication networks are inimicable to the traditional independence and culture of many in the fishing industry, attempts to establish organizational bases for communication frequently collapsed in recrimination and heightened distrust, thus adding to the volatility and uncertainty pervading an industry in the throes of major change.

4 RAISING THE LEVEL OF CONFLICT: FISHERIES POLICY AND THE CONSTITUTIONAL DEBATE

Turbulence in the Policy Community

The 1976 *Policy for Canada's Commercial Fisheries* signalled Ottawa's determination to manage the fisheries "from the water to the table." It was not a welcome message for the rest of the policy community. The larger firms, despite their influence with Ottawa, distrusted the minister's social objectives and his officials' managerial self-confidence. The inshore fishery, unfriendly to bureaucracy, not entirely convinced that Romeo LeBlanc was on their side, yet needing the federal policeman as a protection against "the Big Boys", looked askance at the prospect of even more "interference." Inevitably, given the conditions of Canadian federalism, they made the provincial governments their champions. A period of unprecedented friction over lesser issues built to a point at which fundamental jurisdictional questions were at stake, and a debate over the future of the fishery became part of the debate over the future of the country.

The industry could be forgiven for finding the 1976 policy paper threatening. Its tone suggests that Ottawa had very little idea of what precisely would be either the social impact or the effect on individual firms of "restructuring the industry", or at best a naive confidence in the ability of the federal government to control events. This impression is reinforced by the public comments of officials in the 1975-76 period. Ken Lucas, then head of the Fisheries and Marine Service, for example, in a speech to a conference organized by the Canadian Labour Congress stated that from "trawler decks to marketing offices, the industry needs a major overhaul or at least a good tune-up and the job will have to be done by industry and government working together with an unprecedented measure of cooperation."¹ Lucas went on to list the major steps the government was initiating to bring about restructuring: limited entry; allocation of resources to various fleets; controls on the number of vessels in the fishery, and "encouragement to cut down on ...

awkward location of plants, many of which are neither located conveniently nor close enough to landing points to ensure an economical operation." All policies having merit, but as we shall see, only superficially were the "obvious" solutions those which Lucas suggested.² Whether intentionally or not, federal officials created the impression that they had a clear view of the future and believed themselves competent to shape it.

The private sector's concern with this approach was repeatedly expressed. The Fisheries Council of Canada, for example, in a 1977 brief to a cabinet committee on food strategy expressed fear that increased federal control over processing and marketing of fish would undermine an "efficient free enterprise system."³ Jerry Nickerson, chairman of H.B. Nickerson and Sons warned that "while government has a proper and necessary function in the Canadian fishery its role should not encompass all aspects of the fishery. There are many things that government cannot do well and are better left to the private sector."⁴ Such statements were easily dismissed as part of the traditional slanging match between the private and public sectors. The fact that the processors were engaged in a public dispute with Romeo LeBlanc, the "Minister of Fishermen," over vertical integration in the industry, joint ventures, fleet expansion and a number of other issues exacerbated their communication problem. A jaundiced public and a frustrated bureaucracy could too easily see these as the pleadings of special interest and ignore the essential point that was being made: that the federal government by extending the zone, had changed the resource scene in a fundamental way and had unleashed forces of economic change so powerful that no amount of engine tuning and consultative program tinkering could contain it.

That the federal government was visited by some of the same intimations worrying the industry is indicated by the ambiguity of many statements in the 1976 policy document and by the occasional prescient comment, such as the 1973 assertion by Dr. Michael Shepard of the Fishery and Marine Service's Resource Management Branch, that:

... we must carefully weigh the consequences of economic efficiency against the non-economic contribution of fisheries to our society. Here we must decide the extent to which we want to maintain small coastal communities as opposed to developing a few large fishing ports, the extent to which we want to allow part-time fishermen (such as old-age pensioners) to participate in the fisheries, the extent to which we want to subsidize fishing operations which may not be totally economic but which meet the needs of sections of our community lacking other means of income ...⁵

It is important, however, to consider Ottawa's actions in perspective. On the whole Ottawa was as well informed as any actor in the fisheries policy community. In some respects – for example, in its appreciation of international aspects of extended jurisdiction – it was better informed, in others the industry and some students of resource development⁶ may have had a better sense of the future, but no one seems to have had much more than a general appreciation of trends and a vague idea of the general shape of the future. Furthermore, despite the rhetoric of the policy paper and of the extended jurisdiction, the government of Canada was not in any significant way controlling events and possibly not even influencing them. The central event of the decade, extension of the limit, was dictated by depletion of the resource, the growing weakness of the East Coast industry and mounting public dissatisfaction with an inadequate policy. That the extension was effected in 1977 rather than later can be attributed to the fact that a zealous minister had finally won the fisheries portfolio and that the 1974-75 industry crisis had revealed the seriousness of the situation. In view of these factors we should not be too critical of the federal government's failure to fully anticipate the events precipitated by extension of the zone. We should, however, be critical of the hubris which led Ottawa to take a more assertive, more confident position than was in fact warranted. That stance had a great deal to do with raising the level of conflict over fisheries policy to a point at which it spilled over into the constitutional arena.

There is little doubt that Ottawa was taken aback by the first major consequence of extended jurisdiction, the take-over in March 1977 of National Sea Products by the smaller processor, H.B. Nickerson and Sons. In Halifax, at least, officials were clearly upset by the move and in Ottawa there were references to the Combines Investigation Act which slowly dissipated when investigators at the federal Bureau of Competition Policy reported that the 25 per cent of the market controlled by "Nick/Nat" "was not enough to make them believe the take-over would have a detrimental impact on fish processors, fish product distributors, retailers or consumers."⁷ The take-over probably exacerbated the already strained relations between the processing sector and Mr. LeBlanc so that by November 1977, he was prepared to suggest "that in future we separate the fishing fleet from the processing companies in Atlantic Canada."⁸ It was a suggestion that was to be put forward several times in 1977-78, a symbol of the tension within the fisheries policy community.

Though the take-over came as a surprise it was a logical consequence of the policy of extended jurisdiction. By creating the management zone the government of Canada gave the fishing industry what it had never before had: access to a secure, though temporarily depleted source of supply. Though the resource was still common property it was now

primarily Canadian common property, not international common property and therefore the industry could respond to investment in a way that had not previously been possible. Furthermore, to take the most advantage of the new conditions created by the Canadian move, that investment had to be on a large scale and of a type that would consolidate the industry. The reasons for this are implied in one of the concluding comments of the 1976 policy statement:

The engine of growth for the fisheries is market demand for fish. This demand tends to be "inelastic" as to price, i.e., changes upward or downward in price do not result in proportionate changes in consumption.

Growth of the Canadian groundfish industry has depended on the U.S. market. Per capita consumption of fish in that market has remained stationary for many years, and the consumption of other food products shows a similar constancy. The evidence does not suggest that any great change in these habits can be effected by promotion except for relatively brief periods. The fish trade may have to exert much greater efforts in this direction simply to hold its position relative to competing products. This does not mean that markets cannot be expanded. Expansion can be fueled from two sources: (a) population growth in areas of traditional sale; (b) the development of more sales outlets elsewhere.

Apart from cured groundfish products ... the outlook for market diversification is uncertain. Throughout the northern hemisphere, and in some parts of the southern hemisphere, the yield from the major fishery resources has reached a peak or is declining. This does not necessarily increase Canada's opportunity to sell Canadian fish. Such an increase would depend on the presence of large numbers of people with the inclination and the ability to purchase Canadian fish. The significance of a "hungry world", like of the "200-mile limit" as a simple answer for the problems of Canada's fisheries, has been greatly exaggerated.⁹

In other words, despite extended jurisdiction and the growing Canadian presence within it, real expansion could only occur if the East Coast industry could break into the European markets which had previously been served by the fleets we were ejecting from the zone. These were difficult markets to enter. Eastern European sales had for a long time been subsidized by the state and it was doubtful whether Canadian producers could enter the market except through a process similar to that

used in grain sales. This implied extensive government involvement and the establishment of quality controls. The West European market could be entered through the private sector but because the Europeans demand a very high quality product there was general agreement that Canada's entry would depend on both quality controls and considerable upgrading of catching, processing and handling methods. This would involve major investment. In 1976-77 it was not clear where that investment was to come from. One possibility was that government itself might play a very large role, providing incentive programs to upgrade handling and processing, supervising port markets, and entering into one-desk selling procedures with other countries. This would permit continued decentralization of the industrial structure, though not necessarily the degree of fragmentation existing before 1977. A second possibility, and probably the one most expected by the federal government, would involve a gradual consolidation considerably assisted by government programmes. The third, least expected, possibility was the very rapid consolidation which appeared to be taking place, and which promised another method of acquiring the capital needed for improving the product and obtaining greater power in the European market place. In Donald Sobey's view this should have disposed Romeo LeBlanc to take a favourable view of the take-over:

The fishing industry is on its heels right now. Although we are hopeful for the future, there still are an awful lot of problems in this business. One of the main advantages of a shareholder going into a partnership with Nickerson in the stock, is the cooperation we feel we can get with National in the foreign markets.

This is where the expansion should come in the fishing industry, not only in Nova Scotia but in the whole Atlantic region. If we broaden markets not only in the United States but in Europe and Japan, we can solve a lot of our present problems. And I think you will see more cooperation in that field.

This is something that federal Fisheries Minister Romeo LeBlanc has been preaching and what we think is right.¹⁰

Mr. LeBlanc and his officials took a different view, however. They saw the take-over as a body blow to the policies Mr. LeBlanc had pursued since assuming office. As we have seen, the self-styled "Minister of Fishermen" was working to create a policy framework that would give independent fishermen a greater influence in public policy determination. To this end LeBlanc introduced a new body of field officials into fisheries

administration, the Community Service Officers;¹¹ actively promoted the formation of fishermen's organizations;¹² established stock management advisory committees which require the participation of independent fishermen and encouraged his officials to initiate new regulatory regimes, like the Bay of Fundy herring co-op scheme, which forced fishermen to both organize and regulate themselves.¹³ However, the success of his policies depended on the federal government continuing to play a very active role in fisheries management. To some extent this role was threatened by the National Sea take-over since a single, very powerful voice in the industry could dominate private sector and provincial influence in the policy community.

The take-over also portended serious social disruption. It is significant that Mr. LeBlanc, in the same Yarmouth speech in which he attacked vertical integration of the industry, also stated his belief that the industry "could have a prosperous future ... without using the guillotine of so-called 'rationalization'; without wholesale abandonment of smaller ports and smaller fishing enterprises."¹⁴ Here the Minister touched upon an issue that has smoldered below the surface of the fisheries debate: the fear that rationalization of the industry will precipitate the final decline of the coastal communities of Atlantic Canada. This fear was rooted in the market situation to which we alluded earlier. Exploitation of the West European market would involve major changes, and considerable investment, in handling and processing. If a high technology, capital intensive approach was taken to those changes it was most likely that not only would the industry be dominated by a small number of very large processors, but their activities would be centred in a few communities. Communities out of commuting range of these fishing centres would gradually decline.¹⁵ The spectre of rural depopulation was thus added to the catalogue of disruption facing the industry. Sensitivity to this problem was demonstrated by east coast politicians of all persuasions during the 1977-1980 period, but is perhaps best expressed in Don Jamieson's statement that "the key role of the fishery is the very basis and foundation of the social structure (of coastal communities) ... It is the activity around which (a) way of life is concentrated and centred."¹⁶ Unfortunately, though there was general recognition of the problem posed by industry rationalization there was very little agreement about governmental response to it, with provincial officials inclined to see LeBlanc's social concern as simply another manifestation of federal intervention into provincial jurisdiction.¹⁷

Corporate concentration was the first major consequence of extended jurisdiction. Others soon became apparent. The federal fisheries bureaucracy experienced the shifts in influence and power that we have already described. With the focal point of the policy field shifting from

the centre to the periphery, it was not long before the original architects of change began to feel that power itself was becoming diffused and that it was not only Ottawa's own field service that was anxious to take on new responsibilities, and new authority. Both the industry and the provinces wanted further decentralization, preferably into their own hands.

Ottawa responded with structural and policy initiatives and with a determined defence of its mandate. On the structural level the agency responded with the administrative reorganizations we have already described. With the regional directors-general given increased co-ordinative authority and a role in major policy formation, and with assistant deputy ministers made responsible for specific regions, it was hoped that the fisheries bureaucracy would be more responsive to regional concerns and that the field services would be drawn more effectively into the operations of the department. More important was the resuscitation of the independent department, a move which restored to the industry a more direct route to the policy centre. At the policy level, the federal agency paid increased attention to the problems of marketing and the problems of the industrial structure associated with the industry. These efforts were accompanied by a campaign to persuade a previously captive constituency that its best interests lay with supporting the federal government and its approach to management. It is in this light, as well as in the light of Romeo LeBlanc's genuine concern for the inshore fishery, that we must assess the encouragement the Department of Fisheries and Oceans now gave to fishermen's organizations. Finally, Mr. LeBlanc himself aggressively defended Ottawa's jurisdictional prerogatives.

In this chapter and its predecessors thus far we have identified three background factors which made possible the constitutional debate over jurisdictional responsibility for fisheries management. One of these, industry-wide dissatisfaction with federal management during the ICNAF period, was of long standing, but the others – structural changes in the industry which portended major social dislocation and a shift in the power structure of the policy community – were precipitated by Canada's decision to extend her jurisdiction over the 200-mile limit and by the concomitant improvement in the industry's economic prospects. In the following paragraphs we shall attempt to show how these background factors interplayed with day-to-day policy disputes to exacerbate tension and to raise the level of conflict to the point at which the provinces opted for constitutional change. Throughout the debate the leading protagonist on the provincial side was Newfoundland.

Newfoundland's Fishery Development Plan

We have already seen that the effect of Confederation with Canada was to destroy Newfoundland's painfully established policy thrust in the fishery. The loss of the Newfoundland Fisheries Board, which though basically a marketing company buying directly from fishermen, was believed to have given the colony a regulatory base and organization "far superior to anything available to Canada's east coast industry,"¹⁸ was bitterly resented. Even when led by the dynamic Smallwood, the province could not interest federal officials in an effective fisheries policy. To both Newfoundland and Prince Edward Island the federal government replied that the greatest economic benefits lay off-shore, and their recommendations were allowed to die in the face of Ottawa's preference for a U.S.-oriented frozen fish industry.¹⁹

In the end, however, the results were disappointing. Newfoundlanders watched the death of the traditional salt fish trade and experienced the resettlement programme but saw few of the promised benefits. The high rate of unemployment in Atlantic Canada cut down the "mobility" of the inshore fisherman. His levels of education and training were low, and "occupational adaptability" limited and in any case alternative job opportunities were scarce (or nonexistent) in Atlantic Canada.²⁰ As we have seen, the provincial government reaped the political consequences. Frank Moores came to power on a platform which stressed the rural development of Newfoundland, and the province began gathering together the political and bureaucratic resources to engage in "province-building".

At the industry level, the founding in 1970 of the Newfoundland Fish, Food and Allied Workers Union (NFFAW) created a union which could represent virtually all parts of the workforce and unleashed a new and very powerful pressure group in the policy community. Ultimately, the NFFAWU came to strengthen the policy orientation of the federal Minister, Romeo LeBlanc, who shared with NFFAWU president Richard Cashin a desire to preserve the rural way of life and to strengthen the economic independence of the inshore fishermen. When the Moores government came to office, however, the NFFAWU was one of the forces in the province ranged against federal fisheries policy and the province's involvement in it.

Once Ottawa determined to extend Canadian authority over the 200-mile zone, the government of Newfoundland began assessing the economic benefits which extended jurisdiction could bestow. The province began to publish a spate of policy papers which culminated late in 1978 with a 1000 page, five volume report entitled *Setting A Course*. It was an impressive testimony to the importance of the fishery to the

province and the growing competence of the bureaucracy. No other of the Atlantic provinces has produced such evidence of planning and policy making.

In November 1978 the province produced a *White Paper on Strategies and Programs for Fisheries Development to 1985*. Embedded in the proposal was Newfoundland's concept of a "Primary Landing and Distribution Centre." The idea was to increase effort by entering into joint ventures with foreign freezer trawlers. The product would be landed at a newly designed port facility for distribution to inshore-based plants, which were operating only on a seasonal basis. The aim was to extend the operating season of those plants and provided added plant employment. The price tag for the port facilities was estimated in 1979 to be almost \$40 million.

In the minds of Newfoundland's decision makers, these proposals did not run counter to the political commitment to the inshore fishery. Moores, the son of a prominent fish merchant, saw this as a way to bring new blood and new skills into an industry dominated by family-owned businesses using government subsidies to stay alive. Joint ventures would bring solid competition into the local scene and sharpen up both processing and marketing. At the same time the prolonged supply of product to the seasonal plants could turn them into nearly year-round operations, thereby providing jobs to plant workers and income to fishermen. The offshore effect was not seen to take away from the inshore, rather the freezer trawlers would be using part of the quantities of fish (once the stock regenerated) which used to go to the foreigners.

Setting a Course, although dated August 1978, was released in January 1979. No attempt here will be made to summarize 1,000 pages of argument and statistics. But two points can be made. First, although groundfish stocks off Newfoundland (ICNAF zones 2J + 3KL) had been the most heavily overfished in the 1960s, the scientific evidence suggested that by 1985 the stocks would have regenerated to something like their pre-war abundance, i.e., some 750,000-800,000 metric tons. There was something there worth fighting over. TACs at this level could at a maximum mean an additional 13,000-14,000 man years employment within Newfoundland. Moreover, nearly the entire increase in the stocks was to be accounted for by cod, thus the issue of the inshore versus the offshore was raised again. Secondly, in recommending an option which called for the development of a mix of the two fisheries *Setting A Course* took two positions which had policy implications for Ottawa. First, the entire offshore catch should be processed in Newfoundland (thus cutting off a new sort of "foreigner," i.e., a Nova Scotian); and second, that licensing arrangements should be introduced which would limit the trap fleet, and restrict licences to bona fide fishermen. This was acknowledged to be a

radical proposal²¹ but it was also an intrusion into what had been hitherto an exclusive prerogative of the federal government.

Nova Scotia's initial reaction to Newfoundland's aggressive posture was unexpectedly supportive. With an industry highly dependent on an offshore fleet and with access to nearby grounds limited by stock-recovery policies, the province might have been expected to rally behind LeBlanc's stand that "there are no provincial fish - there are Canadian fish." That the province did not side with the federal government reflected the strength of local antipathy to previous federal management and growing antagonism to the thrust of Romeo LeBlanc's policies. To a lesser extent Nova Scotia's shifting position reflected the 1978 change of government in the province and a response to the subtle but important change in Newfoundland's approach after Brian Peckford succeeded Frank Moores as premier.

The province's dissatisfaction with federal policy emerged gradually and seemed to reflect tension between Mr. LeBlanc and major processors over the issue of fleet development. Even before extended jurisdiction was a reality Mr. LeBlanc had refused to authorize the expansion of the offshore fleet to include freezer trawlers or even to allow Canadian processors to enter into "joint ventures" with foreign firms. The former he argued would simply add to the pressure on already depleted stocks whilst the latter simply tempted "some Canadian companies to enter into cozy deals with foreign enterprises which offer cheap working capital in exchange for control of the supply of fish. We did not gain the fishing zone to see it eroded by such back-door dealing."²² During 1977 and 1978 the offshore sector became increasingly frustrated by LeBlanc's position, arguing repeatedly that federal policy was hindering Canada's opportunity to develop the capacity that would enable her to break into the European market. LeBlanc not only held firm, he drove his critics to even greater fury by permitting inshore fishermen to sell their catch over the side to foreign trawlers, a procedure intended to break the monopsonic condition of the industry.²³

The summer of 1977 saw the Nova Scotia Department of Fisheries enter the dispute on the side of the processors. By October the press was reporting that Romeo LeBlanc and the provincial minister, Dan Reid, were "barely civil to each other."²⁴ The province was advocating expansion of the offshore fleet and the approval of joint ventures. Furthermore, it had entered into a joint planning program with Newfoundland which was intended to produce a fleet development plan behind which all the Atlantic provinces could rally. By December three of the four provinces - Newfoundland, Prince Edward Island and Nova Scotia - had reached agreement on a document and had presented it to Ottawa.

The proposal emphasized the points which had been at issue between Ottawa, the processors and the provincial governments: fleet development and joint ventures. Both inshore and offshore fleets required major investment. The former because "most vessels were of wooden construction and had to be replaced in order to maintain the primary economic base for the continued existence and future prospects of most small coastal communities in the Atlantic provinces."²⁵ The latter because "unless a fleet replacement program's begun immediately, a large proportion of our fleet will be obsolete or unserviceable within 10 years."²⁶ The position paper alluded to the fact that replacement of the wetfish fleets would not provide for harvesting the northern cod and some non-traditional species. It did not, however, specifically call on Ottawa to permit Canadian companies to add freezer trawlers to their fleets. Presumably the documents' careful wording on this point reflected the rival concerns of the two chief signatories. The proposal did, however, reinforce the processor's claim that joint ventures with foreign concerns should be encouraged where they provided increased volume to processing plants; access to new markets, and technical expertise. In total the proposal envisaged investment of some \$900 million in fleet replacement.

Although the federal government made no immediate response to the proposal the federal and provincial ministers had engaged in a war of headlines for several months prior to its release,²⁷ so that it was generally known that Mr. LeBlanc considered the plan an example of the short-sighted, profit-hungry, exploitation favoured by the provincial governments. His Yarmouth speech advocating an end to vertical integration was considered by some to be the federal reply. Speculating that the speech was intended to "cut the ground from under" Reid and Walter Carter, Newfoundland's Minister of Fisheries, the *Montreal Star* went on to quote LeBlanc saying that he could not justify "doubling a fleet that operates on half capacity right now."²⁸ Whether or not that was LeBlanc's intention, the furor over the Yarmouth speech robbed the provincial proposal of much of its impact. Reaction from the processors was predictable and was fanned by a similar speech at Marystown.²⁹ By 7 December the Fisheries Council of Canada had expressed its concern to a cabinet committee consisting of LeBlanc, Eugene Whelan and Warren Allmand. The Council, which claimed to be working a voluntary marketing plan, was "alarmed" at the drift of federal policy, particularly the trend to federal intervention in processing and marketing and the proposal to end vertical integration. LeBlanc was intransigent. Separation of the fleet from the processors, he said, would give fishermen a stronger voice in the industry.³⁰

As the New Year began the provincial interests nudged Ottawa for a response to the development plan. Nova Scotia's Dan Reid pointed out the province was not "talking about expansion, but co-ordinated replacement."³¹ Ottawa, he felt, was "overly pessimistic". The Halifax Chronicle-Herald, concerned that P.E.I. Fisheries Minister, George Henderson was tilting toward Ottawa when he called for a "cautious approach" to fleet expansion, editorialized that Canada should follow the United States in upgrading its fleet.³² However, neither jingoism nor goading from Labour officials elicited a response from Ottawa.

As the February 1978 First Ministers' Conference on the Economy approached, Newfoundland widened the base of the debate. In a series of speeches and interviews Carter and Premier Frank Moores linked fisheries development to the province's place in Confederation. Fish, they said, is to Newfoundland what oil is to Alberta and wheat to the Prairies. Money and entrepreneurial skill were all that was needed to lift Newfoundland from the status of a "have-not" province and to make St. John's the fishing capital of the world.³³ The conference suggested a tactic. The tactic became a strategy.

Moving Towards the Constitutional Arena

Despite their growing impatience, the Atlantic premiers were not yet ready to talk of constitutional change. A meeting of fisheries ministers ten days before the Ottawa conference sounded a conciliatory note. Reid and Carter professed to be pleased with the discussions and indicated that a consensus had been reached on the direction and potential of the industry: the need for fleet replacement and for consideration of joint ventures. Although differences remained, there was some meeting of minds on a cooperative and consultative approach to management. Mr. LeBlanc was careful to emphasize that discussion centred on fleet replacement, not development and Reid was persuaded that acceptance of the fleet development proposal was "within the range of possibility."³⁴ A few days later, at a *Financial Post* conference, Premiers Moores, Hatfield and Regan sang a tune of federal-provincial cooperation, though Regan pointed out that the lack of a long-range federal plan for the fishery fostered uncertainty and called upon Ottawa to establish the rules of the game for the future, particularly with regard to replacement of aging vessels, investment in cold storage facilities and new equipment to replace foreign effort.³⁵

Regan struck the same note at the First Ministers' Conference, making it clear that while he had reservations about Ottawa's handling of fisheries policy, he still accepted without question the legitimacy of the

federal government's paramountcy in the field.³⁶ Premier Moores hinted at future arguments:

It is generally accepted that ownership of resources is the tool provided by the Canadian constitution for the survival of the provinces as viable members of the Canadian confederation. In the case of fisheries, we as a Province have neither ownership nor control of a resource which is of vital importance, socially and economically We find that the present *de facto* control of the fishery by the central government is totally unacceptable.³⁷

For the first time the possibility of constitutional change was put on the first ministers' table, though Moores was careful to state that he was "not asking for a constitutional transfer of jurisdiction in fisheries." Rather, Newfoundland sought a delegation of administrative authority and routine decision-making process, including "meaningful" control over setting and allocating quotas and responsibility for issuing licenses. Moores urged the conference to recognize the principle that control of licensing policy should be delegated to Newfoundland for five years with Ottawa recognizing the province's right to participate in setting and allocating quotas.³⁸

This the conference did not do. The federal position was reiterated by Romeo LeBlanc:

Those who might urge a balkanizing of management into regional or provincial units should recognize that, while lines on maps may provide solutions where resources are geographically fixed. They do not readily contribute to solving the problems associated with managing migratory fisheries.³⁹

As far as the federal government was concerned the capacity of the Canadian fleet was already adequate to meet the market demand available to her. More urgent problems, such as meeting the needs of the inshore fishermen, had to be dealt with first. The conference concluded that:

. . . all governments must move quickly to maximize Canada's economic potential arising from the implementation of the 200-mile limit and their greater provincial involvement in policy development should be facilitated. For example, initiatives should be launched concerning fleet development, onshore production facilities, harbour and wharf improvements, marketing development and training of personnel.⁴⁰

The modicum of harmony achieved at the economic conference soon evaporated. Three days later the Halifax Chronicle-Herald concluded from subsequent provincial statements that hopes for agreement on fisheries issues had been misplaced.⁴¹ For the next eight months LeBlanc stuck to his position while industry spokesmen and provincial officials, particularly representatives of Newfoundland and Nova Scotia, barraged Ottawa with criticism. By the end of the summer Nova Scotia's Dan Reid had pushed the issue into the constitutional arena and lowered the debate to the level of name-calling.

The period was not totally lacking in accord. In May LeBlanc was able to tell processors that agreement had been reached with other nations on the use of the resource outside the 200-mile limit.⁴² Trade missions, particularly to Europe, were encouraged,⁴³ whilst the formation of the Canadian Association of Fish Exporters prompted self congratulations in both public and private sector.⁴⁴ Similarly Canadian efforts in Georges Banks negotiations and a new agreement with the European Economic Community were generally approved of.⁴⁵ The stock and the value of landings continued to improve. Nova Scotia's mid-year economic review reported a 45 per cent improvement in January-May landings along with a 56.9 per cent increase in landed value.⁴⁶ Nor were Newfoundlanders unhappy. Landings there had risen 14.5 per cent since 1976 whilst a six-fold rise in the price of cod stirred an official of the NFFAWU to comment on the "new spirit of optimism" abroad in an industry that had been regarded as a work place of last resort.⁴⁷

But it was the promise of the industry, not its 1978 performance that excited the investment community, drew special attention from the financial press,⁴⁸ and incited LeBlanc's critics. As industry leaders intoned the exciting prospects - "Canada has potential to be no. 1 exporter - value may rise ... to \$2 billion in 1985"⁴⁹ - provincial officials worried that LeBlanc's policies were preventing Canadians from entering the European markets. Friction between Canada and the U.S. over the Georges Bank issue fanned the dispute. As American officials questioned the level of Canadian imports into the U.S. and spoke of countervailing duties, the need to enter the European market became more obvious. Unhappily, according to Dan Reid, as long as Ottawa refused to license any freezer trawlers, a foreign fleet would continue to fish in Canadian waters. To break into European markets Canadians would need to take non-traditional species and to fish from freezer trawlers.⁵⁰ To such pleas LeBlanc's refrain was the same. "Don't be greedy," he told the annual meeting of the Fisheries Council of Canada.⁵¹ "The wealth of the oceans cannot match the greed of man," he informed MPs, adding that "holus bolus" expansion of the East Coast fishing fleet would be disastrous for stocks that are rebuilding.⁵²

"Expansion must match the resource" was the theme sung by LeBlanc and his officials throughout the summer.⁵³ In Newfoundland the German Nordsee Company provided a test case as it sought approval for the takeover of Ocean Harvesters Ltd. Backed by Richard Cashin and his NFFAWU, LeBlanc successfully opposed the move.⁵⁴ Similarly, fleet development proposals were repeatedly rejected. "No applications have qualified," LeBlanc maintained, but they would qualify if someone submitted a "reasonable" application to fish only, capelin, grenadier, silver hake and squid, while proving that processing jobs would be created and pressure on traditional species avoided.⁵⁵

LeBlanc's intransigence on the fleet development issue aroused antagonism enough; equally provoking were the various policies he adopted to improve the lot of the inshore fishermen.⁵⁶ In various ways he had encouraged independent fishermen to organize themselves. As a result a number of groups had sprung up, several of them in the trade union mold, others presenting themselves as organizations of independent entrepreneurs. The government of Nova Scotia, for reasons which it never made clear, chose to support one of these, the Nova Scotia Fishermen's Association, a group ideologically opposed to a collective bargaining posture. With \$50,000 in provincial grants, this group was expected to organize the province's independent fishermen. While ultimately unsuccessful⁵⁷ the venture excited rancor and contributed to the climate of dissension within the industry. Stronger emotions were aroused on the issue of over-the-side sales. These were an outgrowth of LeBlanc's decision to permit Fundy area herring fishermen to regulate their quota in a manner designed to channel the catch away from fish meal processing and into the more lucrative food market. The strategy depended on the cooperation of the processors themselves, a cooperation that was ensured by putting in place representatives of foreign fleets who were permitted to compete with the processors for the catch. Thus, by selling over the side to foreign trawlers, the inshore fisherman was assured some relief from the monopsonic condition which had always plagued his efforts.⁵⁸ Processors, however, were appalled, both in the Bay of Fundy and in Newfoundland where the NFFAWU was permitted to sell mackerel and squid to the Bulgarians.⁵⁹ The strategy did keep up the price of fish, but it also prompted Dan Reid to charge that LeBlanc had "ignored" the offshore fishery whilst overly promoting the inshore.⁶⁰

Thus tempers mounted in Ottawa, St. John's and Halifax as the impact of federal policies affected the industry and excited political expression. In April 1978 Reid had moved beyond criticism of Ottawa's slowness and had begun to speak of "a new delineation of federal-provincial responsibilities."⁶¹ The feds, he argued, should be

involved primarily in the management of fish in the water. That is, they should have charge of stock management, research, quota setting, surveillance, enforcement and international aspects of the fishery. The provinces should have responsibility for the fish from the moment it is caught, and so should have jurisdiction over boats, gear, plants, infrastructure, financing, labour relations, training and so on. Reid's position was supported by Premier Regan⁶² and by the *Halifax Chronicle-Herald*.⁶³ No sooner had Nova Scotia raised the issue to the constitutional level than Quebec entered the fray. Speaking to the Fisheries Council of Canada, Rodrique Tremblay, Minister of Industry and Commerce, announced the decentralization of Quebec's fisheries agency to the Gaspé and otherwise bolstered Quebec's interests as a Maritime nation.⁶⁴ LeBlanc lost no time rejecting provincial pretensions. "If we hand those provinces five knives," he told the Fisheries Council, "I'm afraid the knives might end up in each other."⁶⁵

So the debate continued. In late June, J.B. Morrow of National Sea Products drew on recent U.S. experience to advocate the creation of an Atlantic management council composed of fishermen, processors and officials from the five eastern provincial governments. The council, he argued, would return management to "where the action is," though the federal government would retain jurisdiction and have the final say over policy.⁶⁶ The idea was soon endorsed by Reid who felt the council should be advisory, with both federal and provincial governments ratifying council decisions.⁶⁷ Reid was followed by Newfoundland's Cabot Martin who felt the councils should have a high degree of autonomous control. In Martin's view, the central government's role would be co-ordination and international negotiation.⁶⁸ The proposal was ignored by LeBlanc who was nevertheless rumoured to have asked Allan MacEachen if he couldn't "keep his boys" in line. By the summer, Newfoundland was threatening to go to court over fisheries jurisdiction⁶⁹ whilst Nova Scotia's Reid was asking rhetorically how that province could get greater control of its industry from the Ottawa bureaucrats. At the same time Reid was maintaining that "the biggest single factor preventing overdue development and expansion" was Romeo LeBlanc. LeBlanc, by "being cozy with the Communists" was acting against the interests of Nova Scotia fishermen.⁷⁰ Shortly after this outburst Reid left office, a victim of the 1978 Tory victory.

The new administration spoke out of both sides of its mouth. Fisheries Minister Donald Cameron vowed that good federal-provincial relations would be a priority and eschewed "battling in the press" with LeBlanc.⁷¹ Premier Buchanan, himself a former fisheries minister, took the opposite tack. He found the federal government's follow-up on extended jurisdiction "pathetic". Ottawa had been unresponsive and

neglectful; refusing to support provincial requests for DREE assistance for fishery development and forcing the province to make up for federal shortcomings. Thus Nova Scotia had had to expand the inshore fishery; encourage the growth of locally-owned processing plants, help provide freezer storage facilities and harbour construction. Nor had Ottawa responded to the December 1977 fleet development proposal, a proposal that could have increased jobs in the industry by 50 per cent by 1985. The whole situation, the premier concluded, was one that demanded greater federal-provincial cooperation.⁷² A prey to these somewhat conflicting tendencies the new government of Nova Scotia entered the October 1978 constitutional conference and the November First Minister's Conference on the Economy. (In the interests of brevity the following discussion treats these two conferences as though they were one. There appears to have been no major shift of position in the 28 days that divided them and a fuller perspective is attained by treating some of the repeated presentations as a single argument.)

At the November conference the gradual spiral of confrontation edged upward. Again the chief protagonists were Ottawa, St. John's and Halifax. New Brunswick was not active on the issue and Prince Edward Island, caught between the federal government and the larger ambitions of her neighbours, adopted a mediatory role.⁷³ LeBlanc held to his position, citing the steady improvement in the condition of the fishery and unabashedly rejecting provincial arguments that the federal government should not meddle in the landward aspects of management. It was on land that the most important decisions were taken concerning the fishery. "Value comes largely from what is done on shore, where the provinces have much of the responsibility." "These," he added with the stinging comment that had so often goaded his opponents, "are where the greatest gains are to be made, and there is where the least attention is being paid."⁷⁴

Nova Scotia adopted the aggressive tone of Premier Buchanan's first speech on the issue, and put very much the same points. Proposals for development had been ignored. Ottawa was frittering away the province's opportunity to break away from the cycle of dependence:

Without immediate commitment to its development, much of the potential economic benefits from our extended 200-mile zone will be needlessly deferred or irretrievably lost to Canada. Only a dramatic reversal of present policy will prevent foreign fishing fleets and processors from continuing to reap the major rewards from our resources.⁷⁵

Fleet development was still the central issue as far as Nova Scotia was concerned. That, and excessive federal interference in the operation of the industry. Interference had bred uncertainty. Once governments get rid of uncertainty and reduce their involvement, then "the initiative and enterprise of our people will do the rest."

Buchanan had decided not to follow up his predecessor's drift toward constitutional reform, but Premier Moores of Newfoundland was convinced that the fishery and the Newfoundland economy could not be redeemed without it. The division of powers, he argued, is the most important issue in constitutional reform, especially powers related to control over natural resources:

Under the British North America Act, the provinces own the natural resources and it is the ownership of these and the exploitation of them which is the cornerstone of provincial rights and viability. Unlike most of the other provinces, however, Newfoundland is constrained in this regard in two vital areas - the fisheries and offshore rights.⁷⁶

The situation was analogous to Alberta having no say on energy matters. The federal government should recognize the legitimacy of provincial involvement in these fields. A healthy political system depends upon the accountability of government to the people, yet the people of Newfoundland - a province whose very existence is due to the fishery - were frustrated because they have little access to the federal officials who manage the fishery:

My government is and should be held largely accountable for the condition of the fishery and we require the tools within the construction to execute these responsibilities A more efficient democratic system would place more responsibility and consequently more accountability in the hands of the more accessible authority.⁷⁷

It is "unhealthy" he maintained, to exclude Newfoundland from fishery decisions:

We believe strongly that any changes in our constitution must include provision for a real and meaningful input by the Province into the management of our fishing resources and we are prepared to accept the costs proportionate to our involvement, as well as any revenues involved. Serious consideration should be given to

attaining concurrent jurisdiction in this sector with provincial paramountcy.⁷⁸

Newfoundland had now enunciated its fundamental position on fisheries jurisdiction: concurrency with provincial paramountcy. In the months ahead the Moores-Peckford government would have some success in persuading the other provinces to back this position. For the moment, however, Nova Scotia was still hovering between pushing for constitutional change and merely seeking more provincial influence over fishery decisions. Prince Edward Island was even less convinced that it should abandon the status quo. The first ministers reached a conclusion that was little different from the one they had enunciated eight months earlier. They recognized:

- the important economic and social benefits which Canada is realizing and which will increase as a result of the establishment of the 200-mile economic zone;
- the need for sound management practices matching marketing, processing and harvesting to the resource base available;
- the need for a prudent approach to ensure development is at a rate in harmony with the resource potential;
- the need to enhance where economically feasible this resource base for the benefit of all Canadians; and
- the need for governments to work in a spirit of cooperation to achieve the above objectives.⁷⁹

Several developments that impinged in a minor way on the constitutional debate occurred in the last few weeks of 1978. The first was a reflection of industry dissatisfaction with the federal minister: rumours circulated that the Fisheries Council of Canada had urged Prime Minister Trudeau to dismiss LeBlanc. The fisheries policy community was not entirely convinced when a Council spokesman denied the report, claiming that a letter of complaint to Trudeau had simply recited the processors' dissatisfaction.⁸⁰ Whether or not the Council had urged his dismissal, Mr. LeBlanc showed no signs of being on the brink of retirement.

A more significant step was a decision to place a six-month freeze on licensing for the inshore ground fishery pending the submission of a report by C.R. Levelton on licensing regulations.⁸¹ Although appearing to be draconian in nature, the freeze was in fact limited. It did not apply

to longliners or trap boats. There was to be a partial relaxation of the freeze in mid-1979. The results were predictable. In Newfoundland between 1976 and 1979 the number of licensed fishermen rose from 15,351 to 32,352. The 1978 decision was said to be the product of a closed-door conference of fisheries ministers; but, in fact, several provinces expressed concern. Newfoundland's Walter Carter publicly disagreed with the policy, saying it should have been placed on foreign vessels. Leonce Chenard, Deputy Minister of Fisheries for New Brunswick found it perplexing, particularly in view of the fact that the 1978 fishing season had ended.

We can assume, however, that LeBlanc's decision to impose the 1978 six-month freeze reflected an attempt to prevent the improvements of the previous two years from being washed away by the rising tide of unemployment that has afflicted the country and region in recent years. One of the effects of the freeze, however, was to create yet another note of discord in the concatenation that now overwhelmed the fisheries policy community.

The Constitutional Debate

The major developments in the months following the November conferences was Newfoundland's success in promoting her views on paramouncy and concurrency. These had been expressed more specifically in a position paper presented to the Federal-Provincial Continuing Committee of Ministers on the Constitution at a meeting in Mont-Ste-Marie, 23-25 November 1978. The paper called for an amendment to section 91(12) of the British North America Act which would give the federal government paramouncy in:

- standards for and implementation of scientific and other forms of research;
- the setting of TAC's (Total Allowable Catches);
- issuing quotas to foreign countries and licensing foreign vessels;
- all aspects of inspection;
- any other matters incidental to these powers.

The provincial governments would have paramouncy in licensing domestic vessels and in setting quotas within the TACs both for provincial use and for allocation by the federal government to foreign

countries.⁸² Since the Mont-Ste-Marie meeting was closed to the press it is difficult to determine how Newfoundland's proposal was received. The outcome of the subsequent First Minister's Conference suggests that the other nine provinces rejected it, though Newfoundland officials felt that they were gaining ground. Alberta, Quebec and Ontario, they felt, supported the province. British Columbia wanted exclusive jurisdiction over inland fisheries. New Brunswick and Prince Edward Island were "tending toward concurrency with federal paramountcy," but at this point at any rate, Nova Scotia was not willing to go as far as Newfoundland and proposed an alternative:⁸³ The establishment of a federal-provincial agency to which administrative authority would be delegated for matters of fishery management and development. Newfoundland later rejected this alternative.⁸⁴

At a similar meeting in December, Newfoundland proposed a more specific list, assigning to federal paramountcy:

- international negotiations
- surveillance
- international enforcement
- basic research
- applied research (to help set global quotas)
- quality standards and inspection for export
- licensing of foreign vessels (based on residual quotas)

Provincial paramountcy would prevail in:

- determination of quotas after global quotas had been set
- division of quotas
- harvesting plans
- licensing of local boats and those of other provinces.⁸⁵

Frustrated at the conference table Newfoundland determined to build a united provincial front which would force Ottawa to take a more accommodative stand. The key to this strategy was Nova Scotia's support. Jointly the two major east coast fishing provinces could persuade the other eight that provincial jurisdiction was essential. At the

very least, since the vital interests of the other provinces were not seriously affected, they might count on the others to trade support on this issue for Newfoundland and Nova Scotia's support elsewhere.

Between November 1978 and February 1979 a succession of meetings took place between Newfoundland and Nova Scotia officials.⁸⁶ We do not know precisely what was said or agreed to, but we understand that in general Nova Scotia, conscious of the vulnerability of the offshore fleet, was opposed to the idea of paramountcy. However, the Buchanan government, the premier in particular was convinced that some form of constitutional change was essential and therefore was willing to support the concept of concurrency. Eventually it was agreed that the principle should be entrenched in the constitution.⁸⁷ Accordingly at the February First Ministers' Conference, Premier Buchanan, confident that he had unanimous provincial support, reminded the premiers that the Pepin-Roberts task force had a similar proposal and put the view that:

Unlike all other natural resources, the fishery is managed by federal authority. Since it is not possible, certainly not practical, to realistically pursue fisheries development separately from fisheries management, the province cannot develop its fishing industry.

We are convinced ... that it is necessary at this time for Canada to accept concurrency in the fisheries as a constitutional fact of life.⁸⁸

The argument failed. Skillfully the federal spokesmen exploited the underlying tension in the east coast alliance, playing on the fears of Prince Edward Island's Campbell and Hatfield of New Brunswick, neither of whom had been deeply involved in the Newfoundland-Nova Scotia discussions,⁸⁹ that the proposal threatened their provinces' traditional claims to specific grounds and quotas.⁹⁰ They had found, Marc Lalonde declared, that some provinces were more committed to constitutional change than others. Some provinces felt that changes should begin at the administrative rather than the constitutional level. While appreciating the need to involve the provinces more directly in decision-making, the federal government was opposed to further study of the constitutional issue at the "second tier" level. Nevertheless, something could be done to involve the provinces in general administration and fisheries policy and to that end Romeo LeBlanc would be prepared to set up a regional council of fisheries ministers. Formal sessions could be held three times a year to "deliberate" on all aspects of stock management, harvesting, processing and marketing.⁹¹

Affronted, Premier Moores rebutted that a council of ministers already existed, and was currently meeting more than three times a year.⁹² While the Newfoundland-Nova Scotia position was "not etched in stone," neither province was interested in discussing administrative arrangements.⁹³ Both provinces wanted agreement on the principle of concurrency.⁹⁴ Ottawa was unyielding. LeBlanc would not countenance fragmented management and had not yet seen a "workable" proposal.⁹⁵ He was not slow to point out that the provinces had not carried with them the approval of either the industry nor the unions. He had had public representations from fishermen's organizations in New Brunswick and Nova Scotia asking that federal authorities move "very, very cautiously" and, in fact, supporting final federal jurisdiction. The Prime Minister closed the discussion: the federal government was "just not willing" to change the constitution on the fisheries:

This is one (subject) where I take the advice of the man who represents the fisheries and the fishermen just as much as some of you.⁹⁶

Bruised by this encounter, Buchanan determined to lobby privately with P.E.I. and New Brunswick.⁹⁷ He and Moores had come to the conference convinced, on the basis of prior meetings with officials, that the other two Atlantic provinces supported their proposals. With that backing they had secured unanimous provincial agreement that the principle of concurrency should be entrenched in the constitution.⁹⁸ Some Nova Scotia officials felt that the united front had broken because Premier Hatfield especially had been "miffed" at not being more fully briefed.⁹⁹ Whatever the specific reasons for the demarche, the fact remained that the East Coast Alliance had temporarily papered over clashing fundamental interests. As future events were to show, as long as the alliance made no provision for accommodating and reconciling those interests, joint action would be frustrated.

The eastern provinces, Romeo LeBlanc frequently maintained, could not manage the fishery without dispute, and within days of the Nova Scotia-Newfoundland failure there was fresh evidence to support his point. Gathered in Halifax to discuss the federal government's regional council proposal, the provincial representatives were soon at odds over allocation of northern cod stocks.

Some 12,000 tons of cod would be available in the next few months. Newfoundland's Walter Carter felt that all of it should go to Newfoundland companies. "Any allocations to regions which have not had a traditional participation in the northern cod fishery would create undue expectations and aspirations" in the future, he argued.¹⁰⁰ The

other provinces understandably felt differently and after some discussion left the meeting under the impression that Newfoundland and the Maritimes were each to receive 5,000 tons whilst Quebec was to be allowed to catch 2,000 tonnes. They were dismayed to discover that in a post-meeting discussion with the Newfoundland delegation, LeBlanc has revised the allocation to give Newfoundland 9,500 tonnes, the Maritimes 2,500 tonnes, Quebec 500.¹⁰¹ Donald Tansley, Deputy Minister of Fisheries and Environment, disingenuously told the Commons Committee on Fisheries and Forestry that no one objected to Newfoundland's demands for more, so LeBlanc reduced the amounts intended for the Maritimes and Quebec.¹⁰² Their subsequent objections were bitter enough. The episode might have been designed to prove LeBlanc's point and it did much to fracture the tenuous alliance between Newfoundland and Nova Scotia.

The message was not lost on the fishing industry. In the weeks that followed other fishermen's organizations proclaimed their support for continued federal jurisdiction in the fishery. The United Maritimes Fishermen's Co-op; the Maritime Fishermen's Union, the Northwest New Brunswick Fishermen's Association and the Miramichi Fishermen's Association let it be known that "the idea of five provincial jurisdictions in Atlantic waters is clearly unacceptable."¹⁰³ Even the provincially subsidized Nova Scotia Fishermen's Association supported the federal position.¹⁰⁴ As for the processors, despite Donald Cameron's brave claim that the views of the Nova Scotia Fish Packers' Association were the same as the provincial government's, R.C. Stirling, executive director of the association, unequivocally rejected provincial aspirations to paramouncy over quota division, harvesting and licensing.¹⁰⁵ As for the Fisheries Council of Canada, the processor's chief pressure group and long at odds with LeBlanc; it was of the opinion that:

... if the federal authorities would concentrate their efforts on the management of stocks and provide for real consultation with the provinces and the industry on management of the fishery, the need for a confrontation on constitutional powers would disappear.¹⁰⁶

Even Jerry Nickerson let it be known that he was "quite unequivocal in his belief that the federal government should retain paramount authority in most areas of marine fisheries jurisdiction."¹⁰⁷

Deserted by the constituency it had sought to defend, the Buchanan government persisted in its quest for concurrency. On 5 March, Fisheries Minister Donald Cameron, seconded by Development Minister, Roland Thornhill, moved Resolution 87:

Whereas the fishing industry plays a very important role in the economic life of the province, and

Whereas the provincial government has no jurisdiction in this very important industry, and

Whereas this may affect the development of this industry in the future:

Therefore be it resolved that this legislature support Nova Scotia's position of concurrent jurisdiction.¹⁰⁸

The Opposition was scathing. Despite Cameron's pleas that "there has been a lot of misunderstanding" of the government's position, his attempt to define concurrency as "law exercised equally over the same area" did little to damp claims that the government's policy would create a Canadian ICNAF. The government was reminded of the debate at the constitutional conference, and warned that the other provinces could not be counted on to share the fishing areas.¹⁰⁹ Unhappy though Opposition members professed to be over Ottawa's treatment of provincial interests, they were still more leery of the alliance with Newfoundland. According to Gerald Regan, Nova Scotia had been "sucked in" by Newfoundland,¹¹⁰ which was "leading the premier by the nose, to the disadvantage of Nova Scotia."¹¹¹

... I think the minister has to be awful careful of his Conservative colleagues in Newfoundland, because they may be more Newfoundlanders than they are Conservatives ... (We) don't want to be a branch plant of Newfoundland ...¹¹²

By June 1979 both the federal and provincial players had changed. In March, Peckford took over from Moores and confirmed his position in a provincial election in a 33 to 19 seat victory in May. Earlier that same month Canada got a change of government and James McGrath became the new Minister of Fisheries. One might have thought that two Newfoundlanders (and two Conservatives) might have been able to resolve the disputes between their two levels of government, but it was not to be. And as it turned out, bitter words in November 1979 (the so-called "Northern cod war") came back to haunt Newfoundland in September 1980.

The Northern Cod Dispute

The new Minister of Fisheries, as part of his view of policy, called a Seminar on the Northern Cod to take place in Corner Brook, August 28-30, 1979. The federal government limited provincial representation from the five Atlantic provinces and Newfoundland's Premier went on record as protesting the "relegation" of his government to that of one pressure group amongst forty; a position "inferior" to that accorded the Union and the trade.¹¹³ Newfoundland's position was that the Northern Cod was to be reserved for her own inshore and middle distance effort and that where an offshore surplus could be shown to exist, it should be reserved to off-shore landing into Newfoundland ports.

No federal minister of fisheries could accede to that demand. At the Seminar, Newfoundland had argued that 85 per cent of the northern cod should be reserved for the province. At the same time, McGrath was pointing out on local and national television that for the years 1974 through 1978 between 86 per cent and 92 per cent of the total Canadian landings had been landed in Newfoundland. His government had recently announced that the existing freezer trawler fleet would be replaced, not added to, and that if the policy resulted in significant change to the balance of landings, he was prepared to alter the policy. Given projected rises in fuel and labour costs, the Minister found it difficult to imagine that trawlers based in other provinces (i.e., Nova Scotia) could ever play more than a minor role in this fishery.

Peckford seemed unconvinced. In December 1979 the Premier put all "mainland" fish companies operating in Newfoundland on notice that if they accepted (directly or indirectly) Newfoundland cod caught by freezer trawlers and landed on the mainland, the Government would "reserve the right to consider them ineligible for any provincial assistance programme or to apply for any further processing licenses." In addition, all licenses currently held by such companies might be reviewed to determine whether additional terms and conditions should be attached to the same or indeed whether they should be renewed at all.¹¹⁴ Events overtook these statements. Before the Progressive Conservative government in Ottawa could respond to them, Parliament had been dissolved and Canada was in the midst of a winter general election campaign.

Ottawa did not respond. But Nova Scotia did. The Northern Cod dispute brought home to the Government of Nova Scotia the realization that a federal umpire might be no bad thing. Controlling one's provincial economy is one thing; declaring a rich resource exclusively Newfoundland's to the detriment of other provinces (which could make some historical claim to fishing there) is quite another. It was now clear that Newfoundland and Nova Scotia had made common cause from very

different motives, and that those motives were fundamentally in conflict with one another. As one Newfoundland official saw it:

Nova Scotia's economic and constitutional position was based on a desire to have the autonomy to build a capital-intensive industry, free from federal constraints (but with federal money), and free from federal tendencies to support the inshore. Newfoundland's economic and constitutional position was based on the need to ensure that the inshore is protected from offshore growth, and to dovetail the critical resource management decisions with provincial economic and social policy generally.¹¹⁵

Though exaggerating both positions, the comment does point up the fundamental differences separating the two provinces. Those differences were now apparent to the Nova Scotia government, and in the months preceding the September constitutional conference, it quietly disengaged itself from the alliance with Newfoundland. Donald Cameron commemorated the Liberal return to power with the unfortunate suggestion that Romeo LeBlanc not be re-appointed to the fisheries portfolio.¹¹⁶ Shortly after Mr. Trudeau did just that, and Nova Scotia again found that DREE could not move on its fisheries development proposals, Mr. Cameron himself resigned.¹¹⁷ His successor Edmund Morris on taking over the combined portfolio of Fisheries and Intergovernmental Affairs, lost little time in casting off the trappings of earlier policy. Nova Scotia, he said:

... is not prepared to "renounce two centuries of tradition" by supporting concurrent jurisdiction of the fishery ... concurrent jurisdiction as they propose it is not a concept we are prepared to support In truth, concurrency means divided authority, not concurrency or togetherness.¹¹⁸

Two days later Morris attacked Newfoundland explicitly, saying that Newfoundland's claim to almost all the northern cod had been "a warning as to how they could conduct themselves if the provinces got together to decide allocation of various species."¹¹⁹

Newfoundland's demands, when they haven't had the authority to make demands ... has been a great instructor as to what they would demand if they had the authority.

At the September 1980 constitutional conference, while Romeo LeBlanc recited the familiar federal claim to jurisdiction, the former provincial

allies "collided head-on". The Newfoundland plan, said Morris, was "unworkable".

It could only result in duplication of programs, controversy among provinces, increased costs and more bureaucracy and regulation "for an industry which is already over-regulated".¹²⁰

Nova Scotia thus abandoned its aspirations to provincial management of one of its major industries.¹²¹ At the same time, it ended the first ministers' consideration of a change in fisheries jurisdiction, for however much other provinces might sympathize with Newfoundland's aspirations, they were apparently not prepared to side with that province in the face of outspoken opposition from Nova Scotia and disagreement on the part of New Brunswick and Prince Edward Island. Although Newfoundland continued to assert her claim, and does so still,¹²² as far as the other provinces were concerned, the matter was no longer on the constitutional agenda.

5 ANALYSIS: CONSTITUTION-MAKING AS POLICY PROCESS

The intrusion of the fisheries policy issue into the constitutional debate presents a number of opportunities for analysis. The chief of those are concerned with the impact of changing economic conditions on political discourse and on the kinds of interactions that take place in a policy process that is influenced by the presence of a constitutional debate. In the following paragraphs we shall approach these analytical concerns under the following headings:

- the political economy of the fisheries issue
- the province-building syndrome
- the role of personality in public policy formation
- federal-provincial diplomacy

The Political Economy of the Fisheries Issue

When it declared its jurisdiction over the 200-mile zone, the Government of Canada changed the structure of the fisheries resource base. For the first time something approach supply management became possible. Security of supply encouraged a type of investment that had not previously been significant in the east coast fishery but which has shaped most other aspects of the economy. With that investment came a major threat to a traditional way of life. Consequently politics and economics, never far apart in the fisheries sector, came together to an extent never before experienced.

The declaration of extended jurisdiction showed clearly to members of the attentive public the responsive relationship between the fishing industry and government. In the first phase of optimism after 1977 some members of the industry grew in size and later in attitude and management style in such a way as to disturb the whole policy community

both for the change itself and for what it portended. At the same time a growing visibility revealed the interlocking of economic and political policies at both the micro and macro levels. Various studies revealed the contradictory policy outcomes of governments as they pursued both economic and social goals.

Observers have been bemused by the National Sea takeover. A great deal of journalistic time has been wasted speculating on "who was behind it all?" What was overlooked were the implications of the evolution of Nick/Nat for the political economy of the region. In our view the significance of the merger lies in the fact that it took these firms (and possibly the others of the Big Five, Fishery Products, Connors Brothers and the Lake Group) out of what Galbraith has called "the market economy" and into the "planning system."¹ [Though in 1983-84 all of these companies but Connors (a subsidiary of B.C. Packers) experienced severe financial difficulty and ultimately restructuring into a large Newfoundland firm (Fisheries Products International) and a larger Nova Scotia firm (National Sea Products) we would contend that the following assessment holds. In fact, the Fishery Products restructuring, in particular, might be taken to confirm the argument.] This transformation has immense implications for the industry and, if the hypothesis we have presented is accurate, for politics. This is because the "Big Boys" have not simply become bigger, they have reached a new level of management. They have built, to call on Galbraith again, a "technostructure," a level of expertise concerned with long-term corporate planning, research and development, relations with government, and a host of related issues. This level of management is seldom available to small concerns - they cannot afford it - but it is essential to any modern large-scale corporation and it is particularly essential because such corporations depend on their relations with government in order to survive. Government's involvement with resource management, its involvement in the supply of labour and raw materials, its role in managing the economy, and its increasing capacity to ease entry into the market place all dictate that the modern large corporation must be close to government. Furthermore, the corporation must be close to the administrative arm of government as such as to the political arm. A series of Nick/Nat recruitment raids on the federal bureaucracy and the creation of its research and management oriented subsidiary, Inter-Ocean symbolized recognition of this point. Nick/Nat's subsequent friendlier attitude to the federal government suggests not only the attitudes of its new recruits, but a heightened appreciation of the benefits to be derived from federal administration. In particular, these included:

- (a) the fact that the federal government (in the early 1980s spending \$75 million annually on fisheries management) could maintain a much higher level of management than could the government of Nova Scotia (spending \$6 million)
- (b) the federal government's internal administration resources
- (c) agreement with the federal government's conservation measures
- (d) agreement on quality control
- (e) the federal government's link to the international market place.

In other words, the evolution of the corporate capacity of this influential group of companies has dictated a move away from the traditional association of the processing sector with the provincial government. It used to be said that the provincial department of fisheries was an important intermediary between the companies and the federal government. We would guess that to some extent that is still true, but these particular companies are now capable of "interfacing" with the federal government on their own. To say this is to suggest that the traditional politically oriented nature of the relationship is giving way to a complex, continuing and technocratic one.

It would be foolish to claim that this transformation was solely responsible for the events we have discussed here. Even before the National Sea takeover the Nova Scotia industry was more likely to be adversely affected by jurisdictional fragmentation than that of any other province. In the long run, therefore, it is likely that the province would not have persisted with the Newfoundland alliance. Consequently we would argue that Nick/Nat's management transformation contributed to the evolution of the issue in several less direct but still significant ways.

First, it disrupted the policy community. Established roles, particularly those of the Nova Scotia government became less significant whilst new relationship of the sort we have described evolved with federal agencies. In the process of evolving these new relationships, personnel, processes and above all, attitudes changed so that provincial officials, particularly the politicians, found themselves confused, uncertain and inexplicably clinging to positions that no longer made sense to the industry.

Second, and in the short run far more important, the merger affected the issue because of what it portended. On several fronts it was distinctly threatening, but notably:

- it promised inexorable concentration in the industry;
- with concentration would come, equally inevitably, changes in the work place;

- the transformation of the work place would entail decline of a traditional coastal way of life.

The threat of industrial concentration was foremost in politician's minds in the weeks immediately following the National Sea takeover. A particularly striking summary of the situation appeared in the *St. John's Evening Telegram* on 16 July 1979. Noting that in 1977 Nickerson's interests in Newfoundland "probably extended further than the two plants operated by Arctic Fisheries Ltd.," the article claimed that the company had since acquired shares in 26 plants in the province, and was involved in building 11 others at a cost of some \$15 million. The Independent Fish Producers felt themselves most threatened. According to their secretary:

Nickerson's move into the province "was planned meticulously - rather better than D-Day." "He's going to control the Newfoundland fish business."

Government assistance offered to fish plant operators, he said, accomplishes little because it is so expensive to apply for. As an example, he said an application for assistance from the Newfoundland and Labrador Development Corporation must be accompanied by a three-year cash flow projection in which costs between \$3,000 and \$6,000 to produce. At the same time, only two of the last 17 applications from fish plant operators have been approved.

In order to resist the incursions of larger companies into their field, the Independent Fish Producers Association has discussed a joint venture marketing arrangement with the federal government for the export trade, although there is a reluctance to invite any government to participate in marketing.

Something must be done, Story said, to prevent large producers from using their size to smash smaller ones through dumping products or similar tactics.

Most people not connected with the business are not at all concerned, he said, but, "I just don't think Nickerson is going to make us any more prosperous."

The issue presented above is not simply one of small producers fearing competition from larger producers. It is a question too of where the profit centre of an "economic" fishery should be. Should it be with the

integrated processors (represented by the new Nick-Nat organization); with the unintegrated processors (Story's point of view); or with the new group of owner-captains (the "independent" fishermen supported by LeBlanc)? Each "side" had its spokesmen, although obviously particularly in the case of governments, no preference was exclusive. Cashin of the NFFAWU in the article quoted above is said to believe that "the development of Nickersons is an example of the lack of ingenuity, creativeness and inventiveness in the Newfoundland companies." He and his union and the MFU might prefer a "profit centre" at the level of the independent longliner fleet, but for the NFFAWU the prime objective was a "well-run, well-managed industry and an end to its subsidization by fishermen or plant workers."

Likewise, the government of Newfoundland, although it might in general support the independent fish processors, seeing them as providing an essential economic base for smaller outport communities, had in 1979, as we have already noted, spend a lot of time and money developing a plan for a "Primary Landing and Distribution Centre" which meant freezer trawlers and joint ventures with foreign capital. This plan which strengthened the large integrated firms, also strengthened the smaller seasonal plants and, had the advantage of bringing new entrepreneurial skills into a local scene too long dominated by family-owned businesses.

The federal authorities, as lead agency in the policy community had to keep its options open, although with LeBlanc as minister, there was a balance in favour of an "economic" fishery which in this case was defined as the well-being of the independent fisherman, owing his own boat, and licensed to draw on a certain quota or allocation of fish for his own enterprise.

Each of these constellations of interests was interested in an "economic" fishery. Thus we distrust the dichotomy of a "social" vs. a "economic" fishery. The question at issue might better be, where was the profit centre of such a fishery to be? The NFFAWU is to our mind an example of an element in the system that has shifted; crossed the divide, from the market economy to planning system; from the marginal work world to the central work world. A great deal of the industry, however, is still in the market economy and is more likely to share the apprehensions of the Independent Fish Producers Association. They prefer a profit centre which is a modern version of the traditional Newfoundland fish merchants, small firms with loose economic ties to various marketing agents. Such a fishing industry, like many resources industries, can take advantage of the spatial distribution of political influence - in other words it has clout - and those apprehensions have

probably found expression in the aggressive posture of the Newfoundland government.

Corporate concentration generally transforms the workplace. Dispersed, fragmented operations give way sooner or later to the consolidated, efficient establishments that are made possible by access to capital markets. Government regulation – for example, health requirements, quality standards – hasten this process since they frequently require capital investment that cash-starved small businesses cannot sustain. Thus the smaller entrepreneur, and often his employees as well, fears corporate concentration as much for its workplace side-effects as for its competitive edge and cannibalistic appetite. As for the fisherman himself, concentration may bring consolidation, and thus possibly dislocation, and perhaps the substitution of larger for smaller vessels. In terms of workplace transformation, exchanging a longliner or Cape Islander for the deck of a trawler may or may not be unwelcome, but a loss of even the mirage of independence may be extremely difficult to accept. Overall, the transformation of the workplace imposes changes in the pattern of work, the organization of work relationships and attitudes to work that many of those engaged in the fishery fear and resist. Since the National Sea takeover brought the possibility of workplace transformation forcefully to the attention of the fisheries policy community, we contend that in this respect as well the takeover had a powerful indirect effect on the constitutional issue.

Finally, just as corporate concentration leads to workplace transformation, so that transformation brings about the disruption of traditional ways of life. Scattered, inaccessible communities and consolidated processing operations are incompatible with one another. Hence, unless an extremely efficient transportation infrastructure is put in place it is likely that many coastal communities will die. As we have noted in the case presentation, many east coast politicians have been acutely aware of this problem. Yet their efforts may have promoted rather than held back ultimate absorption into the new industrial state. Certainly the fishing industry, to a much higher degree than most resource industries – perhaps because of the common property nature of the resource – is dependent on government. Much of the growth which has occurred since 1977 has been financed by one or other level of government through grants and loan guarantees from the Departments of Fisheries and Oceans and Regional Economic Expansion, ARDA or Canada Works. In a number of cases this expansion was reasonable but as the Kirby Report has recently pointed out, in the province of Newfoundland and Labrador, of 34 applications for assistance turned down by federal authorities, 22 plants were nevertheless built with provincial or bank support.² Other studies have pointed out that in both

the inshore and offshore sectors, gear and boats have been highly subsidized. There have been price subsidies in the form of groundfish deficiency payments, in the purchase of fuel and equipment and in making licensed boat owners exempt from provincial sales taxes.³ Plants, boats and men have all been drawn into the industry in response to government subsidies of one sort or another, subsidies aimed, as often as not, at the social goals of employment and community survival at the expense of economic efficiency and viability. We cannot comment at length on the most recent developments in the industry as they lie outside the period covered by this study. However, they do suggest that the federal government has capitalized on the dependence induced by subsidization to promote a level of concentration and public management even greater than that foreshadowed by the National Sea takeover.

The most recent problems experienced by the industry illustrate the extent to which this nexus between industry and government is evident and necessary. The industry wide "crises" of 1974-1975 and 1980-1981 have both times been met by short-term infusions of cash, as governments acted to prevent business failures when many jobs would be lost or markets for fishermen seriously disrupted. The 1974 crisis was linked to shortage of raw supply, the 1981 crisis appeared linked to price and marketing. The latter crisis sharply delimited the degree to which the price of fish is dependent on: (1) the price of other protein sources (demand substitution); (2) the international value of the Canadian dollar; and (3) competition from other suppliers of fish on the world market.⁴ As far as the federal government appears to be concerned, the lesson to be learned from these experiences is that both government and industry must achieve even closer ties if product demand and price structure are to be "managed", if not controlled.

We can also see in LeBlanc's handling of the constitutional issue an even more fundamental aspect of the political economy of the fishery: the federal government is not only the manager of the fishery, it is the allocator of the resource. In the highly politicized world of the fishing industry this point is fully appreciated. For those who had not appreciated it, Romeo LeBlanc made it abundantly clear through his approach to the allocation of cod stocks. He delivered a double-barrelled message. On the one hand, he drove home the point that under provincial management, fish stocks would be subject to parochial influences to an even greater extent than they are under federal direction. Some months later Premier Peckford, in the stand he took at the Northern Cod Seminar, made the point for him again, even more forcefully. Secondly, LeBlanc reminded the industry that while it might be nice to toy with the idea of provincial management, the federal government still had responsibility for resource allocation, and that as long as it did so, it

could make life extremely difficult for those who opposed it. It is quite possible that after the February 1979 cod dispute this latter consideration, as much as the former, had a great deal to do with the cooling of industry interest in the Newfoundland-Nova Scotia proposals.

In summary, the constitutional debate came at a crucial point in the evolution of the industry. A point at which government's role is supply and demand management (supply management in particular) was at last being clearly defined, and being defined in terms which made possible the evaluation of the complex, "planning system", corporate actor familiar in other industries. The conjunction of this evaluation with the constitutional debate was accidental, caused by the timing of the decision to extend Canadian jurisdiction over the 200-mile management zone. Nevertheless, since this evolution did coincide with the constitutional debate, it was probably inevitable that the problems of adjustment which resulted would seek resolution in the constitutional arena. That, in effect, conflict could not be contained in the policy community and would rise to the highest and broadest level available. Which, in the context of Canadian policy-making in the late 1970s, meant the constitutional arena. Equally inevitably, once the new planning system actors came to appreciate the nature of their new dependence on government, as resource manager, they gave their support to the claims of the government whose managerial capacity and jurisdictional competence most nearly matched their own capacity and range of interests. In fact, if our case study of the fishery is any guide, one might hypothesize that the likelihood of sector support for the extension of central government's powers is likely to vary directly with the prevalence of planning system firms in the sector.

The Province-Building Syndrome

Commentators on the phenomenon of "province-building" in Canada often consider the Atlantic provinces as one group, implicitly lumping together Newfoundland and Nova Scotia.⁵ Certainly, in terms of the issues raised in this study, there are significant consequences which flow from the different rates of "province-building" initiatives undertaken by Newfoundland and Nova Scotia. In the former province, policy growth is evident over a wide range of activities. In 1974 for instance in both forestry and mineral revenues two comprehensive studies preceded new legislation which sought to end the concessions of earlier years.⁶ The aim was a new philosophy of provincial management and the capture of economic benefits. In structural terms the Department of Forests and Agriculture became a model of highly decentralized and effective organization. Municipal Government was the subject of a Royal

Commission's *Report* in 1974⁷ and here too the government has gradually amended legislation and introduced programmes that have brought administrative and financial reform into a very sensitive field without too much disruption or political fallout. A Newfoundland Public Service Commission Act in 1973 strengthened the independence and widened the staffing responsibilities of a newly reorganized Commission. Either on its own initiative, or in imitation of statutes in other provinces or responding to federal incentives of one sort or another, Newfoundland has acted over a wide range of issues (e.g. Occupational Health and Safety, Matrimonial Property, Labour Relations and Liquor licensing). Internal management has been improved in the areas of public tendering and conflict of interest prohibitions for both ministers and public servants. In symbolic terms the province has legislated its own national anthem and in 1980 adopted a distinctive new flag.

Two policy areas however stand out: oil and fish. In the case of the former, as early as 1977 Newfoundland was articulating policy concerns at a time when the federal government had in place a very lax regime of regulation and control of offshore development.⁸ In 1977 the province set up a Petroleum Directorate to insure that maximum economic rents should be captured for the public sector, that there should be public control over the fate of development, maximum use of local labour, goods, and services and maximized local processing of the resource and participation and involvement of residents of the province in planning offshore development.⁹ In subsequent documents the province has continued to produce position papers arguing that it must control the pacing of development so that the supporting industrial structures could be expanded in an orderly fashion.¹⁰ It was not until October 1980 that the federal government announced its National Energy Program (NEP) and the supporting legislation of the Canada Oil and Gas Act which in March 1982 established the federal government's regulatory agency COGLA. In the meantime, running parallel to these developments the issue of the ownership of the Hibernia field was referred to the courts and very considerable administrative and legal resources was engaged, by a relatively small Department of Justice, in the preparation and argument of the province's case before the Newfoundland Court of Appeal and the Supreme Court of Canada.

The province has been equally or even more concerned about the impact of offshore development on its other long established natural resource, the fishery. Many questions arise, such as well skilled individuals be attracted out of the fishery and into high-paying jobs on oil rigs? What are the likely environmental implications, especially as the Grand Banks seem to be the geographical location of both oil and fish? The province has been concerned to plan the pace of oil development so

as to minimize the negative impacts on the fishing industry.¹¹ Pre-dating the documents just cited there was and continues to be a spate of official documents which show evidence of a sophisticated approach to policy making about the fishery.¹² *Setting a Course* for example is a five-volume study, produced "in-house" by the provincial Department of Fisheries and the Intergovernmental Affairs Secretariat of the Executive Council. This study was in response to Canada's declaration of extended fisheries jurisdiction to 200 miles in 1977 and was offered as a plan for fisheries development with a balanced approach to the various sectors of the industry, aimed at economic viability and a fair return to fishermen for their labour and investment. It is really not hard to account for these developments. Voyer sums it up this way:

Newfoundland has always been an economy based on the exploitation of a resource staple. Fish was and is preeminent, but Newfoundland has other resource wealth: minerals, wood and hydro power. Yet these resources have never made Newfoundland or most Newfoundlanders rich. The province well knows that exploitation of yet another natural resources (oil) does not inevitably lead to prosperity and a more diversified economy. The historical experience is reflected in the provincial government's philosophy - "never again."¹³

Even in the heyday of the rapprochement with the federal government, the Smallwood regime had put its political and administrative resources into trying to carve out special treatment for its fisheries. By the Moores/Peckford era these early attempts had been developed into major undertakings offering a genuine challenge to Ottawa and sufficient to convince Newfoundland's leaders that they could and should wrest a measure of jurisdictional authority away from the federal government. For Newfoundland, then, the province-building syndrome appears to have been a significant factor encouraging the province to take the constitutional route to resolving problems in the fishing industry.

Quite apart from the fact that Halifax ultimately determined that a change in jurisdiction was not in the province's best interest, we can find little evidence that Nova Scotia has engaged in province-building, at least as far as the fishery is concerned. Though the provincial civil service is increasingly expert and increasingly conscious of the invidious aspects of external economic dominance, the provincial political system, the political culture, still seems to be firmly opposed to the level of bureaucratic activism implied by the concept of province-building. The petit bourgeois orientation of the market economy still predominates, lending to Nova Scotia a surprisingly strong, private sector oriented "free

enterprise" ideology. Consequently, unlike Newfoundland, the province has made little attempt to assert its capacity to manage "its" natural resources (in or under the sea) in its own interests. Interesting though this point may be, we should not push it too far. After all, if our interpretation of the political economy of the fisheries issue is correct, it was not in the province's best interests to promote a province-building approach. On the fisheries issue, Nova Scotia, despite a period of confusion, has behaved toward the rest of the Atlantic region as Ontario – surely a province engaged in province-building – has behaved toward the rest of Canada vis-à-vis such issues as economic powers.

The Role of Personality in Public Policy Formation

Like most political scientists we are inclined to argue that whilst individuals often affect events and decisions, they seldom change the course of public policy. Yet Romeo LeBlanc, who held the position of Minister of Fisheries from 1974 to June 1979 and from February 1980 to September 1982 appeared to do that. He towered over the fisheries policy community influencing events far beyond his jurisdiction. We can briefly review the reasons for this. First, he was a man with a mission. He had a clear idea of what he wanted to achieve, though his early difficulties with his department and his antagonistic relations with industry and provincial leaders suggest that he did not always choose the most effective way to achieve his goals. As a missionary he mastered his portfolio and his department in a way that few Canadian politicians ever do. It is probably true to say that he revitalized, as well as reorganized, the fisheries agency. Second, he persisted. The strength of bureaucracy, it is said, lies in its continuity. But LeBlanc outlasted many of his officials and certainly his counterparts in the other provinces. Because he persisted he could be relentless. Because he was relentless many opponents conceded before they started. Finally, he had great political strength. He understood the parish pump politics of the rural east coast at the same time that he manipulated the complex regulatory politics of the technostructure. His formidable political ability gave him authority in the cabinet and apparently the support of the Prime Minister. Both of these reinforced his power in the field.

LeBlanc's policy accomplishment is impressive. His fundamental policy ran counter to virtually every other fundamental policy of the Liberal government. Where his colleagues promoted rationalization, centralization and technocracy, LeBlanc promoted the interests of the independent, inshore fisherman. He created a curious ambivalence in federal policy.

Nevertheless, he had to contend with forces that were far more compelling than those generated in Ottawa. We must remind ourselves that the problem of change is at the heart of all political conflict. In fact, political systems exist primarily to ameliorate the dislocations which occur when changes within our economies and/or our social systems impinge too drastically on one another. The degree of conflict that has surrounded federal and provincial approaches to fisheries development for the last two decades is a measure of the change which is taking place in the fishery. We can see in the LeBlanc policies a masterly attempt to bring about a relatively painless adaptation to these changes. By organizing the fishermen, limiting entry, experimenting with local regulation of quota systems LeBlanc attempted to help independent fishermen to adjust to the intrusion of the planning, corporate system into what has been a market economy. Whether his efforts were sufficient is doubtful, just as it is doubtful whether this segment of the industry can adjust in time. Nevertheless, his attempts to give his constituency a capacity to influence events achieved some success and may have a lasting influence. Basically he was working against trends that have engulfed communities everywhere. At some point in time these will engulf the Canadian east coast. The fact that they will do so later rather than sooner will be to LeBlanc's credit. A great deal will have been achieved indeed and will have rendered worthwhile the acrimony, the frustrations, and the time-consuming delays of the constitutional debate.

Federal-Provincial Diplomacy

It is depressing to review the Canadian constitutional debate, particularly on this issue. Nowhere, for example, is the ignominious role of the peripheral community brought out more clearly than in the exchange between Moores and Buchanan and LaLonde and LeBlanc over concurrency. The pettiness, the bickering and the personal abuse which characterizes so many of the exchanges we have referred to, consort ill with the lofty aims and dignified language we associate with constitutions. Nevertheless, every stately constitutional phrase enfolds a grim reality and we cannot be too critical if the business of conflict resolution casts an unflattering light on some of the political actors.

In any event, the issue did reach the constitutional table. We think it did so as a result of ad hoc decision-making. As we have said, the imminence of the February 1978 first ministers' talks may have suggested a tactic to a Newfoundland government frustrated by lack of response to what it felt was a urgent priority - the joint fleet development plan. The tactic struck a responsive chord in Newfoundland's political consciousness and the tactic became a strategy. Similarly Nova Scotia did

not raise the constitutional issue until it became clear that Ottawa was unresponsive to its priorities. Premier Buchanan's approach, for example, has repeatedly stressed the fact that much of his dissatisfaction with Ottawa stems not from LeBlanc's attitude to fleet development, per se, but from the success LeBlanc had in stalling proposals before DREE for onshore fisheries-related development.

In other words, for a brief period the constitutional debate had become a part of the Canadian policy process. Two members of the policy community sufficiently frustrated and sufficiently influential to do so elevated the fisheries issue to a new forum.

To say this is to subtly change the context in which we generally discuss the debate which transfixed Canadian politics for the best part of a decade. In a sense it reduces the status of that debate. It becomes a means to an end, rather than an end in itself. The shaping of the constitution is far less significant, for some actors at least, than the form and thrust of sector policy. We shall return to this point.

Earlier we quoted Ken Campbell of the Fisheries Council of Canada saying that:

(If) the federal authorities would concentrate their efforts on the management of stocks and provide for real consultation with the provinces and the industry on management of the fishery, the need for a confrontation on constitutional powers would disappear.

There is a lot of truth in that statement. This was an issue that may have unnecessarily expanded beyond the bounds of the policy community in which it would normally have been resolved and made its way to the larger, national scene. This is not to say that the problems of conflict resolution in the fishery were minor. Some of them were very large and, as we have argued, went far beyond the industry itself. Even so, the policy community might have coped with them if the presence of the constitutional form had not suggested an alternative to traditional communication patterns.

Circumstances may have suggested that the policy community seek some resolution of its internal conflicts through the constitutional debate. As well, however, the policy community itself had experienced great upheaval. As we have noted, the extension of the 200-mile limit changed power relations in the administrative structure. The unexpectedly swift transformation of the key corporate actors, the efforts to give an effective voice to independent fishermen; these, too, shattered well-established consultative mechanisms that might otherwise have coped with the major policy issues raised by the changing nature of the industry. The fact that

those communication patterns were dislocated by the changes we have talked about made it easier to talk in constitutional terms.

In saying this, we make two points. First, that the normal methods of conflict resolution within the policy community had broken down. A condition precipitated by fundamental changes in the environment of the sector, which in turn altered the power relations, and thus the communications role, of those in the sector policy community. Second, we are pointing out that these changes had engendered a level of conflict too intense to be contained within the policy community as it existed at the end of the decade. Whether conflict within the sector would have been resolved if the policy community had not been disrupted is a moot point – the two are probably interdependent anyway – and not really relevant to this discussion. What is relevant is the fact that the fisheries policy dispute leaped the chasm from the sector, or policy community, level, to the constitutional talks.

Having extended the issue on to the constitutional agenda, Nova Scotia and Newfoundland saw the internal weaknesses of their position exposed. They obviously did not speak for all processors nor did they have the support of fishermen, particularly the NFFAW. Besides, as they frequently pointed out, they faced a masterly performance in stone-walling. LeBlanc said he would give nothing away and he did not. It was not a pretty performance; it often smacked more of war than diplomacy. But, in the short run at least, it was effective. To meet it the Atlantic provinces orchestrated a campaign that, for all its shortcomings, demonstrated a remarkable ability to persuade their fellow Premiers that Atlantic issues deserved a place on the constitutional agenda.

At the constitutional level, however, the issue failed to mature. It was only briefly a subject for debate and it led to no significant modification of the constitutional package. It probably failed for four reasons. First, it was too ambitious. Paramountcy implied competence and resource beyond what the public in general and the policy community in particular knew was, or could be, available to the provinces. Concurrency – in the form of institutionalized consultation and some sharing of functions – might have been politically feasible, but concurrency with paramountcy was a non-starter.

Second, the provinces were not able to demonstrate to one another or to the industry that they were capable of statesmanlike management of the resources. In this their downfall was accelerated by the third factor undermining the whole campaign, LeBlanc's skill in dividing the forces ranged against him. It is tempting to picture him a modern Circe casting scraps before our transmogrified provincial leaders.

Finally the talks fell victim to the forces which can be seen at play in the constitutional talk at large. Once the dimensions of the so-called

"powers package" had been put together and become an agenda item to be negotiated during the summer of 1980, it remained a question as to how and why the federal government successfully resisted the combination of powerful Western provinces and Quebec, together with a more aggressive regional pressure coming from Atlantic Canada. In a recent book on the politics of the new Canadian constitution, David Milne suggests two things happened.¹⁴ The building of an interprovincial common front was a vital first step in the process because it prevented any "divide and rule" tactic by the federal negotiators. Eventually however, this insistence on consensus, which was in fact defined for the group by the "lead" province (Newfoundland on offshore jurisdiction, Saskatchewan on natural resources, Alberta on the amending formula, British Columbia on the Senate, and Manitoba on the Charter of Rights) in the end simply resulted in intransigence and an "all or nothing" attitude and prevented multilateral negotiations between the provinces in order to bridge the very real differences of interest and ideology which divided them.¹⁵ Once negotiations failed, during the autumn of 1981 and the federal government embarked on its option of unilateral action, the question of the transfer of powers to the provinces, except for the provisions of Part IV of the new Act, were lost in the struggles between patriation and the entrenchment of a Charter of Rights.

Masterly though LeBlanc's performance was, we are still left with the question: Was his intransigence necessary? Could consultation have worked as Ken Campbell claims? To answer that question one would have to be much closer to the industry and the policy community than we are. We suspect that Campbell is right, but we are aware that the forces in conflict were, and are, extremely powerful and we consequently cannot answer the question. We do believe, however, that the Minister's conduct of federal-provincial diplomacy needlessly exacerbated otherwise reasonable men and so prolonged the agony of policy resolution in the fishery.

Despite the collapse of the fisheries issue at the constitutional level, its brief intrusion at that level raises some interesting points about the constitutional debate and about federal-diplomacy.

In the first place, as we have already suggested, the case suggests that the constitutional debate had been on the political scene for so long that it had in itself become a part of the policy process. A step above the customary levels at which Canadians achieve the resolutive conflicts which can not be contained within established policy communities. This interpretation is consistent with the recurrent suggestion that the first minister's conference has become Canada's policy crucible, an institution which, because federal and provincial responsibilities are so extensively intertwined, has superseded the decision-making capacity of any one

government and its legislative apparatus. Viewed from this perspective, the constitutional talks became simply an extension of a developing policy-making system, one that has to be used because no individual government has the capacity to exercise the authoritative allocation of value in any given policy sector.

There is, however, a serious disadvantage to elevating issues to this level: there is only a very limited possibility that the first ministers can achieve a resolution of sector policy conflict. Time is probably the most important factor precluding resolution. There is simply not enough time for the first ministers to attend to the diverse and numerous issues which can find their way to them. Also important, however, is the presence, or lack, of consensus. In the unsettled and contention-ridden politics of contemporary Canada consensus is extremely hard to achieve. It is probably true to say that in many respects fundamental consensus is lacking in this country today. It is consequently very difficult for the first ministers to provide a framework within which individual ministers and their subordinates can effectively resolve policy disputes at the "technical level". Hence policy communities which find themselves unable to deal with, or contain, high levels of conflict receive scant assistance from the "policy crucible".

This is certainly true of the fisheries policy debate. Briefly Newfoundland and Nova Scotia forged an alliance which had as its goal the changing of constitutional arrangements regarding the fishery. That alliance, given the lack of opposition from other fishing provinces, secured the support of the other provinces for putting the issue on the constitutional agenda. Throughout, however, the fisheries issue seems to have been treated by the other provinces as a regional issue. Once the regional alliance faltered, the issue died as an item on the agenda.

Finally, we return to the question we began with: Why did the fisheries issue live so briefly in the constitutional arena? Briefly, in Schattschneider's terms, because it was organized out. In other words, our case study confirms Schattschneider's view of the policy process-making. Policy communities exist because society as a whole cannot concern itself with the full gamut of issues that may concern those who participate in a specific industry or social activity. Within policy communities sub-governments dominate because not all members of the community have sufficient interest in the community's affairs to take an active part in the discussion and resolution of a large number of issues; or they may simply lack the resources to do so. Within the sub-government itself some are more influential than others for similar reasons. At each level of the policy process, specialization is a necessary feature of decision-making.

Of course, some decisions are seen to have consequences so broad and so compelling that society determines not to leave them in the hands of a narrowly focussed group, and it sees to it that they are dealt with by bodies whose own specialization is to be broad. Normally these tend to be cabinets and legislatures, but in this particular instance – because it had become part of the policy process – the constitutional arena served the purpose. There is naturally, always a great deal of competition to take issues to the most senior arena. After all, the arena is small and the number of cases it can deal with are limited, whilst the number of disputes that range within policy communities at any one time are bound to be enormous. Again, then, the discipline of specialization comes into play and the great majority of issues are forced back into the policy community which must deal with them as best it can.

This is what happened to the fisheries issue. It was a late arrival on the constitutional scene and had to compete for attention with a considerable number of other issues. We suspect that the provincial first ministers were prepared to give the issue an airing partly because very few items on the agenda had originated in Atlantic Canada and partly because at least one of the Atlantic provinces felt strongly about it. Throughout the debate, however, the provinces west of Quebec seem to have adopted a fairly passive role. Even British Columbia is reported not to have been very anxious to assume responsibility for fisheries management and it was clearly not of great concern to the others. It seems that they were content to accept the verdict of the region. If Atlantic Canada wished to make an issue of fisheries jurisdiction, they were prepared to support Atlantic Canada; otherwise, they had their own priorities on the agenda and would be happy to discuss them.

It became clear, however, that Atlantic Canada was not united on the issue, and in particular, that the policy community – the issue of constituency – was not generally in favour of provincial jurisdiction. True, the upheaval consequent upon declaration of the 200-mile limit had created tensions and changed relationships within the community to a point at which it seemed necessary to look to another arena to resolve conflict. Nevertheless, cool appraisal led key players in the community to conclude that they preferred dealing with one resource manager, rather than five, and it persuaded the province of Nova Scotia that federal jurisdiction was in its own best interests. Given the passive role played by the other provinces, a collapse in the accord reached by the Atlantic group spelled the end of serious discussion of the issue, and the constitutional debate passed on to other matters.

It did not die as an issue. The Atlantic region still wrestles with the problems posed by the changes brought about in the fishing industry during the 1970s. The euphoria of 1977 has given way to despondency as

hard times have driven some of the industry's major participants to bankruptcy. Yet today's concerns are fundamentally the same as those of 1979 and 1980. They relate to the structure of the industry and to whether "society is going to be shaped to fit the industry or whether the industry is going to be shaped to fit the society", as Richard Cashin puts it. Failure to resolve these difficulties however, has made them more acute and doubtless will make their eventual solution extremely painful for some segments of the industry. Today's difficulties point up the inadequacies of the system of federal-provincial diplomacy which evolved in the 1970s and the urgent need for a system which can bring about the kind of consensus that in the fisheries sector can be used as a framework for their more specialized endeavours. Patriation of the constitution may have made it possible to develop a new system. At least, for the moment, it has cleared a major item off the public agenda. Unless a better system is developed, however, particularly one which can build a new consensus about the nature of the country, the difficulties we have described in the fisheries policy community will be experienced repeatedly across the policy spectrum.

The East Coast Fisheries Debate
Summary of Major Events
January 1977 - September 1980

1977

- January Canada extends her jurisdiction over the 200-mile zone.
- April H.B. Nickerson and Sons combine with Empire Holdings to acquire control of National Sea Products.
- Summer Differences between Ottawa; the provinces and processors over fleet development catch media attention.
- November In Yarmouth speech LeBlanc attacks industry rationalization, talks of breaking vertical integration of companies.
- December Nfld., P.E.I., N.S. jointly propose fleet development plan. Ottawa ignores proposal.

1978

- February First Ministers' Conference on the Economy. Moores hints at constitutional change but does not call for it. Conference does call for development initiatives.
- Nordsee attempt to take over Ocean Harvesters tests fleet development policy.
- April Dan Reid (N.S.) speaks of need for "New Delineation of Responsibilities."
- May Quebec questions division of powers in fisheries field.
- Summer Some Federal-Provincial agreement on:
- trade missions
 - founding of Can. Assoc. of Fish Exporters
 - Georges Bank issue
 - economic and stock recovery in fishery
- Strong disagreement over:
- fleet development
 - organization of inshore fishermen

- Fundy Herring Co-op
- over-the-side sales

LeBlanc strongly opposes increased provincial role.

Joint council idea mooted by J.B. Morrow (National Sea) and is taken by Reid, and Cabot Martin (Nfld.)

Oct-Nov and Nov-Dec First Ministers' Constitutional Conference and Conference on the Economy. Newfoundland presses case for constitutional change. Wants concurrency with provincial paramountcy. Nova Scotia urges fleet development.

Newfoundland proposes major port development at Harbor Grace.

December Fisheries Council of Canada rumoured to have urged Trudeau to dismiss LeBlanc. FCC denies rumours. Trudeau makes no move to discipline LeBlanc.

LeBlanc appoints Levelton inquiry; moves to limit entry into the inshore fishery.

1979

January Newfoundland presses the paramountcy/concurrency case on the provincial premiers; engages in series of special meetings with Nova Scotia.

Nova Scotia agrees to promote concept of concurrency at February First Ministers' Conference. Other provinces appear to give unanimous support.

February Newfoundland-Nova Scotia position is presented at First Ministers' Conference. Federal spokesmen successfully divide the provinces and propose a regional ministerial council.

March Dispute over Northern Cod stocks demonstrates problems of provincial jurisdiction. Industry makes known its support for federal jurisdiction.

Government of Nova Scotia secures legislative resolution supporting concurrency in Provincial House of Assembly, but is seriously criticized.

May Federal election see James McGrath appointed minister. Feds soften approach to fleet development but do not radically change policy.

Summer and Fall Newfoundland asserts claims to Northern Cod and, with New Brunswick and Prince Edward Island, urges continued offshore fleet's exclusion from gulf.

Nova Scotia quietly retreats from alliance with Newfoundland.

December Federal election. Peckford-Clark disagree over federal commitment to constitutional change concerning the fishery. Trudeau returns to power; re-appoints LeBlanc who re-asserts earlier policies.

1980

Summer Constitutional talks. Nova Scotia's changed position becomes clear by end of summer when new Minister of Fisheries, Edmund Morris rejects Newfoundland alliance.

September Nova Scotia, New Brunswick side with the federal government to reject the Newfoundland position, which is supported by the other provinces. The federal government announces that it is prepared to pass over responsibility for inland and estuarine waters; aquaculture and sedentary species to the provinces.

NOTES

CHAPTER 1

1. Matthew A. Crenson, "Nonissues in City Politics: The Case of Air Pollution" in Marvin Surkin and Alan Wolfe, *An End to Political Science* (N.Y.: Basic Books, 1970).
2. E.E. Schattschneider, *The Semi-Sovereign People* (N.Y.: Holt-Rinehart, 1960).
3. Pross has developed this point more fully in "Space, Function and Interest: The Problem of Legitimacy in the Canadian State" in O.P. Dwivedi (ed.) *The Administrative State in Canada* (Toronto: University of Toronto Press, 1982).
4. "Pressure Groups: Talking Chameleons" in M. Whittington and G. Williams, *Canada in the 1980s* (Toronto: Methuen, 1980), pp. 221-241. For the American literature on the subject see, in addition to Schattschneider, Randall B. Ripley and Grace A. Fran, *Congress, The Bureaucracy and Public Policy* (Homewood, Ill.: The Dorsey Press, 1976).
5. Charles O. Jones, *An Introduction to the Study of Public Policy* (Duxbury, 1977), ch. 3, *passim*.
6. Edwin R. Black and Alan C. Cairns, "A Different Perspective on Canadian Federalism", *Canadian Public Administration*, Vol. IX, No. 1, (March, 1966), pp. 27-45. John Richards and Larry Pratt, *Prairie Capitalism: Power and Influence in the New West* (Toronto: McClelland and Stewart, 1979).
7. Marsha A. Chandler and William M. Chandler, *Public Policy and Provincial Politics*, (McGraw-Hill Ryerson Limited, 1979.) Chapter 1. See also J.E. Hodgetts and O.P. Dwivedi, *Provincial Governments as Employers*, (McGill-Queen's University Press, 1974); and Richard M. Bird et. al., *The Growth of Public Employment in Canada*, (Institute for Research on Public Policy study, 1979.)
8. Donald J. Savoie, *Federal-Provincial Collaboration: The Canada-New Brunswick General Development Agreement*.

CHAPTER 2

1. A point made particularly strongly in Anthony Scott and Philip A. Neher (eds.) *The Public Regulation of Commercial Fisheries in Canada* (Ottawa: Economic Council of Canada, 1981).
2. The common property background to contemporary fisheries policy is a major theme in the literature. For a recent summary see Task Force on Atlantic Fisheries, *Navigating Troubled Waters: A New Policy for the Atlantic Fisheries*, (Ottawa: Supply and Services Canada, 1983), pp. 211-213. Henceforth the Task Force Report will be referred to as the *Kirby Report*.
3. Finkle, Peter Z.R., "The International Commission for the Northwest Atlantic Fisheries: An Experiment in Conservation," *Dalhousie Law Journal* 1(1974)3; D.H. Cushing, "The Atlantic Fisheries Commissions", *Marine Policy* (July, 1977), 230-238 and D.,H. Cushing, "A History of Some of the International Fisheries Commissions", *Proceedings of the Royal Society of Endinburgh (B)* (1971-72), pp. 361-390.

ICNAF's mandate was identified as "the investigation, protection and conservation of the fisheries of the Northwest Atlantic Ocean, in order to make possible the maintenance of a maximum sustained catch." [International Commission for the Northwest Atlantic Fisheries, *Report of the First Annual Meeting*(Washington, 1951), p. 13.] However, the Commission was confined to an investigatory role. It possessed no independent regulatory powers to enforce protection and conservation measures; the Convention limited ICNAF to recommending that certain regulatory measures, justified governments in parts of the Convention area. [*Ibid.*, p. 15] The Convention restricted ICNAF to recommending that only certain conservation measures be adopted by member countries. These consisted of minimum mesh sizes, landed size limits, open and closed seasons and annual catch quotas. It was argued that because the sea fisheries were common property, the Commission should not be empowered to control the level of fishing effort. The Commission was limited to protecting the fish stocks and at most could only restrict the amounts of fish available for harvesting.

Mesh regulation was first adopted for the George's Bank haddock stocks in 1959. By the late 1960s minimum mesh sizes were applied to all species in the Convention area and annual catch quotas were introduced in 1970 and by 1975 were applied to twelve species in a

last-ditch effort to prevent stock depletion. However, the level of fishing effort was unaffected by this measure.

4. Canada. Department of the Environment. Fisheries and Marine Service, *Policy for Canada's Commercial Fisheries* (Ottawa: The Department, 1976), Appendix II, Table 17.
5. Nova Scotia. Royal Commission on Provincial Development and Rehabilitation. *Report*, (Halifax, 1944) Ch. IX. (*Dawson Report*).
6. For many years the "trawler controversy" was considered an archetypical example of this attitude. It was a feature of East Coast politics during the first four decades of this century when the more efficient trawlers, which used multiple gear for harvesting fish, were introduced to the fisheries of Western Europe and North America. However, opposition to these vessels mounted because fishermen and processors feared the effects of the increased supply advantage available to competitors through trawling. The government was eventually forced to curtail severely the number of trawler licenses on the East Coast, so that by 1940 only three trawlers were operating in the area. Bates concluded that this controversy "strangled the spirit of experimentation" in fishing methods and retarded the development of the Atlantic fishery. For more details see *ibid*, pp. 40-42 and H. Scott Gordon, "The Trawler Question in the United Kingdom and Canada," *The Dalhousie Review*, 31 (1951) 2, pp. 117-127.
7. *Dawson Report*, Ch. IX, p. 38, 111 *et passim*.
8. Canada. Department of Fisheries and Fisheries Research Board. *The Commercial Fisheries of Canada* (Ottawa, 1956) chapters 2-5. See also D. Pepper, *Men, Boats and Fish in the Northwest Atlantic: A Case History of Fisheries Management*, (University of Wales. Ph.D. Thesis, 1977) and David Alexander, *The Decay of Trade: An Economic History of the Newfoundland Saltfish Trade, 1935-1965* (St. John's: Memorial University of Newfoundland, Newfoundland Social and Economics Studies, No. 19, 1977).
9. See C.L. Mitchell and H.C. Frick, *Government Programs of Assistance for Fishing Craft Construction in Canada: An Economic Appraisal* (Ottawa: 1970).
10. *Ibid*.
11. *Ibid.*, p. 52.
12. Gordon R. Munro, *A Promise of Abundance: Extended Jurisdiction and the Newfoundland Economy*, (Ottawa: Economic Council of Canada, 1980), p. 19.
13. Canada. Department of Industry, Trade and Commerce and Department of Fisheries and the Environment. *The Marketing Implications of Extended Jurisdiction for the Canadian Fishing*

- Industry. Phase I – Supply and Demand Assessment, 1985* (Ottawa: Supply and Services Canada, 1977).
14. Munro, *A Promise of Abundance*, p. 69. Munro argues that joint ventures and other cooperative arrangements, with for example the European Common Market, should be used to help surmount foreign trade barriers. Provincial spokesmen, however, often argue that little or none of the total allowable catch should be shared with foreign nations and traded for market access. See, for example, the statement by the Hon. A. Brian Peckford, in the Newfoundland House of Assembly, 4 December 1979.
 15. See the *Kirby Report*, chapter 2.
 16. *Ibid.* p. 49.
 17. Canada. Department of the Environment. Fisheries and Marine Service. *Policy for Canada's Commercial Fisheries* (Ottawa: The Department, 1976), p. 8.
 18. *Kirby Report*, p. 48. Table 4.1.
 19. Parzival Copes, "Fisheries Management on Canada's Atlantic Coast: Economic Factors and Socio-Political Constraints." *The Canadian Journal of Regional Science*, VI (1983), 1, pp. 1-32.
 20. *Ibid.*
 21. Canada. Statistics Canada. *Report No. 61.202 (1978). Table 1.*
 22. Newfoundland and Labrador. *Managing All Our Resources: A Development Plan for Newfoundland and Labrador, 1980-1985* (St. John's. October, 1980), p. 5.
 23. *Policy for Canada's Commercial Fishery*, p. 7.
 24. *Kirby Report*, p. 19.
 25. See J.K. Galbraith, *The New Industrial State* (N.Y.: Mentor, 1971) and *Economics and the Public Purpose* (Boston: Houghton, Mifflin, 1973).
 26. Canada. House of Commons. *Debates*, 4 June 1976, p. 14164. On Canadian participation in the Law of the Sea Conference see Barbara Johnson and M.W. Zacher (eds.) *Canadian Foreign Policy and the Law of the Sea* (Vancouver: University of British Columbia Press, 1977) and G. Pontecorvo, D.M. Johnston and M. Wilkinson, "Conditions for effective fisheries management in the Northwest Atlantic," in L.G. Anderson (ed.) *Economic Impacts of Extended Fisheries Jurisdiction* (Ann Arbor: Ann Arbor Science, 1977).
 27. "Special Report: New Life for an Old Industry," *Financial Post*, April 29, 1978.
 28. On the economic impact of extended jurisdiction see G.R. Munro, "Canada and fisheries management with extended jurisdiction: a preliminary view," in Anderson, *Economic impacts of extended fisheries jurisdiction* and P. Copes, "The Evolution of Marine

Fisheries Policy in Canada," in *Journal of Business Administration* II (Fall 1979/Spring 1980) 1 & 2, and "Canada's Atlantic Coast Fisheries: Policy Development and the Impact of Extended Jurisdiction," *Canadian Public Policy* (Spring, 1978), pp. 155-168. The politicians' concerns were articulated again and again by Romeo LeBlanc in the speeches he gave during the period 1976-1980; a sample of opinion from other MPs from East Coast constituencies will be found in the debate on the legislation authorizing the creation of the Department of Fisheries, beginning on 23 January 1979. See especially the speeches of John Crosby, James McGrath and Fonze Faouer.

29. The classic statement of the common property problem is Garrett Hardin's "The Tragedy of the Commons", *Science*, 162: 1243-47. A discussion of the collapse of the anchovy stock will be found in C.P. Idyll, "The anchovy crisis" *Scientific American* 228:22-29.
30. H. Scott Gordon, "The Economic Theory of a Common-Property Resource: The Fishery," *Journal of Political Economy* 62 (1954), 124-142 and Anthony Scott, "The Fishery: Objectives of Sole Ownership" *Ibid.* 63 (1955) 116-124.
31. See Munro, *A Promise of Abundance*, ch.2.
32. Mitchell and Frick, *Government Programs of Assistance*, p. 21.
33. *Ibid.* and Nova Scotia. Royal Commission on Provincial Development and Rehabilitation, *Report*, ch. IX, p. 38, 111 *et passim*.
34. Canada. Department of Fisheries and Fisheries Research Board. *The Commercial Fisheries of Canada*, (Ottawa: 1956), p. 7.
35. See "The Fate of the Outport Newfoundlander: Four Views of Resettlement" in Peter Neary (ed.) *The Political Economy of Newfoundland, 1929-1972* (Toronto: Copp Clark), a selection of statements by five protagonists and commentators on the resettlement policy, Farley Mowat, Parzival Copes, Noel Iverson, D. Ralph Matthews, and Cato Wadel.
36. See Copes, "The Evolution of Marine Fisheries Policy, "and Economic Council of Canada, *Newfoundland: From Dependency to Self-Reliance* (Ottawa: Supply and Services, 1980).
37. The licensing issue is discussed at length in C.R. Levelton, *Toward an Atlantic Coast Commercial Fisheries Licensing System: A Report Prepared for the Department of Fisheries and Oceans, Government of Canada* (Ottawa: 1979) (*Levelton Report*) and the Kirby Report, ch. 10, "The Harvesting Sector".
38. D. Alexander, et. al. *Report of the committee on federal licensing policy and its implications for the Newfoundland fisheries* (St. John's: Memorial University of Newfoundland, 1974), p. 11.

39. Kirby Report, p. 8.
40. Ibid.
41. Munro, *A Promise of Abundance*, p. 92.
42. See Kirby Report, ch. 10 and Canada. Department of Fisheries and Oceans *Enterprise Allocations for the Atlantic Offshore Groundfish Fisheries* (Ottawa: The Department, 1983).
43. A brief account of these efforts is contained in Richard Gwyn, *Smallwood: The Unlikely Revolutionary* (Toronto: McClelland and Stewart, 1968). See also Alexander, *The Decay of Trade and Newfoundland*. Fisheries Development Committee, *Report* (St. John's: 1953) (Walsh Report); Government of Newfoundland. *National Fisheries Development: A Presentation to the Government of Canada* (St. John's: February, 1963); *National Fisheries Development: The Presentation to the Federal-Provincial Conference on Fisheries Development* (St. John's: 20 January 1964) and Federal-Provincial Conference on Fisheries Development, *Report by the Minister of Fisheries* (St. John's: mimeo, n.d.).
44. Alexander, *The Decay of Trade*, p. 23. The federal attitude to the salt fish trade epitomized its approach to the Newfoundland fishery. Alexander charges that the omnibus federal trade policy, which was directed toward the United States, was wrongly applied to Newfoundland's salt fish trade when, he feels, an outward trade policy of market development was needed. Alexander feels the traditional Newfoundland policy of market expansion and development was correct, given the economic structure of the island. However, he laments, that "from the federal perspective Newfoundland's saltfish trade was both an oddity and a rather distasteful relative within the glossy modernity of branch-plant Canada." (pp. vii-ix). The federal view is contained in the Atlantic Salt Fish Commission, *Report* (mimeo, n.d.), the Finn Commission, which concluded that the basic problem in the Atlantic fishery was low productivity, the result of an over-extended labour force and an inefficient scale of enterprise. (pp. viii-ix).
45. S. McCorquodale, "Newfoundland: Plus ça change, plus c'est la même chose," in M. Robin (ed.) *Canadian Provincial Politics* (Toronto: Prentice-Hall, 1978), pp. 138-171.
46. See Chapter 3 below.
47. The new note occurs repeatedly in the speeches of Romeo LeBlanc. As for example, when he told the Fisheries Council of Canada that "beyond government's obligation to the industry is another obligation to the lives of communities." "Speech to the Fisheries Council of Canada," 11 May 1976.

48. Richard Gwyn, "Best job in cabinet - LeBlanc", *Halifax Barometer*, 9 March 1978.
49. *Financial Post*, 29 April 1978, p. 38.
50. Canada. Department of Fisheries and Oceans. *Policy and Organization Manual* (Mimeo, n.d.) [Dealing with the Community Service Officers Programme]; Department of Fisheries and Environment, *Fishermen's Information: Special Bulletin 78-1E* [Reviews a variety of policies.] Romeo LeBlanc, "Speech to the Cape Breton Industrial Board of Trade," 15 November 1976 [Deals with Gulf fishery]; "Speech to the Rotary Club of Yarmouth", 28 November 1977 [Attacks vertical integration of large processors]; Cathy Munro and Jim Stewart, *Fishermen's Organizations in Nova Scotia: The Potential for Unification* (Halifax: Dalhousie School of Public Administration, 1981).
51. Ralph Surrence, "Conflict: There's name calling on both sides, but the question stands: What to do about the 200-mile limit", *Globe and Mail* 1 October 1977.
52. Canada. Department of the Environment. Fisheries and Marine Service. *Policy for Canada's Commercial Fisheries* (Ottawa: The Service, 1976), pp.55-56.

CHAPTER 3

1. See Mike LeBlanc, "Fisheries Administration in Canada: A Synopsis" in A. Hanson and C. Lamson (eds.) *Atlantic Fisheries and Coastal Communities: Fisheries Decision Making Case Studies* (Halifax: Dalhousie Institute of Resource and Environmental Studies, 1984).
2. Interview. L. Dickie, 18 July 1979. (Dunn, McCorquodale, Pross).
3. See Finkle et. al. cited *supra*, ch. 2, fn. 3.
4. See C.L. Mitchell "The 200-mile limit: New Issues, Old Problems for Canada's East Coast Fisheries" *Canadian Public Policy* IV (1978) 2, pp. 172-184, p. 179, fn. 3.
5. D.H. Cushing contends that international fisheries management commissions were ineffective in fulfilling their purpose because fisheries scientists were using their experience with these agencies to develop their science. Accordingly, their science was not sophisticated enough to recognize and combat the non-biological problems afflicting the fisheries. Cushing's theory holds that fisheries theory lags behind events and fish stocks collapsed while scientists argued about "the trivia of their discipline".

6. See D.H. Cushing, "A History of Some of the International Fisheries Commissions", *Proceedings of the Royal Society of Edinburgh (B)*(1971-72), 361-390, at p. 385.
7. We note, of course, that to some extent international arrangements are still important. For example, Canada is under some obligation to fully utilize the resource, or to make stocks excess to Canadian needs available to other countries.
8. Ernie Weeks and Leigh Mazany, *The Future of the Atlantic Fisheries* (Montreal: Institute for Research in Public Policy, 1983), p. 45.
9. Those who feel this overstates the case are referred to the vivid account of how this power has been used, and of how central it is, in John F. Kearney, *Common Tragedies: A study of resource access in the Bay of Fundy Herring Fisheries* (Halifax: Dalhousie University. Unpublished MES thesis, September 1983).
10. A point made abundantly clear in virtually every speech he gave.
11. As evidenced, for example, in F.D. McCracken and R.D.S. MacDonald, "Science for Canada's Atlantic Inshore Seas Fisheries" *Journal of the Fisheries Research Board of Canada* 33 (1976) 9, pp. 2097-2139; and R. Anderson, "The Need for Human Sciences Research in Atlantic Coast Fisheries" *Journal of the Fisheries Research Board of Canada* (1978), pp. 1031-1049.
12. Or, as a later document put it: "Historically fisheries management has focussed primarily on the biological aspects of the fisheries, concerned primarily with the protection and conservation of fish stocks. It is now clear that if fisheries are to make their fullest contribution to society social, economic, political and environmental factors must be incorporated into the management process." Canada. Fisheries and Oceans. *Policy for Canada's Atlantic Fisheries in the 1980s*. (Ottawa: The Department, 1981), p. 8.
13. Canada. Environment Canada. Fisheries and Marine Service. *Policy for Canada's Commercial Fisheries* (Ottawa: The Service, 1976), pp. 53-55.5
14. A.G. Can. vs. A.G. Quebec, 1921. 1 A.C. p. 413. (Olmsted, Vol. II, p. 174) (Quebec Fisheries Case.)
15. A.G., Can. vs. A.G.s for Ontario, Quebec and Nova Scotia (1898) Olmsted Vol. 1, p. 418. (Ontario Fisheries Case).
16. See Que. Order in Council #310, 8 April 1959 and Dept. of Fisheries and Oceans, News Release No.NR-HQ-083-046E, 11 July 1983.
17. D.L. Cooper, *Education* (St. John's: Canada Agricultural Rehabilitation and Development Administration, typescript, 1964).
18. Stewart Bates, "The Canadian Atlantic Sea Fishery", Nova Scotia. Royal Commission on Provincial Development and Rehabilitation. *Report* (Halifax: King's Printer, 1944), Vol. II, para. 113.

19. *Canada Year Book*, 1976-1977, p. 475.
20. Quebec. *Public Accounts* Year ending 31 March 1977.
21. On the French Shore question see Peter Neary, "The French and American Shore Questions as Factors in Newfoundland History" in Hiller and Neary (eds.) *Newfoundland in the Nineteenth and Twentieth Centuries* (Toronto: University of Toronto Press, 1980) and F.F. Thompson, *The French Shore Question in Newfoundland: An Imperial Study* (Toronto: 1961). The French Shore question arose from the fact that between 1713 and 1904 French fishermen, while not permitted to settle, had the right to catch fish and dry them on land along nearly 1,000 miles of coast on the west side of the island. Responsible government in Newfoundland was therefore severely handicapped from birth. Efforts by Prime Minister Bond (1900-1908) to end these treaty rights brought conflict with the British, Canadian and United States governments. It was a considerable factor in the rising national identification of Newfoundlanders. The Bait Acts were directed at the United States, but were Newfoundland's standard diplomatic sanction: the withholding of bait supplies to fishermen of a country with whom Newfoundland was in dispute. In the 1905 case the U.S. Senate, acting at the behest of New England fishing interests, had refused to ratify a reciprocal trade deal negotiated by Prime Minister Bond and the American Secretary of State, John Hay. In this particular case, before the Bait Acts could take effect, the British government withheld imperial assent and reached its own *modus vivendi* with the United States, over the strenuous protests of the colony. The disputes demonstrated that Newfoundland interests would forever be second, in so far as Britain was concerned, to the primary interests of either the United States or Canada. See S.J.R. Noel, *Politics in Newfoundland* (Toronto: University of Toronto Press, 1971).
22. Cabot Martin, "The Role of Historical Research in the Preparation of Newfoundland's Case on Offshore Minerals," Paper presented to the Newfoundland Historical Society, 30 September 1975.
23. The following account is based on departmental reports, on two studies by David Alexander, *The Decay of Trade: An Economic History of the Newfoundland Saltfish Trade, 1935-1965* (St. John's: MUN Newfoundland Social and Economic Studies, No. 19, 1977), and "The Political Economy of Fishing in Newfoundland," *Journal of Canadian Studies* XI (1976), and a summary of the 1935 Kent Commission report by Henry King entitled "Report of the Seafisheries of Newfoundland," in *Canadian Journal of Economics and Political Science* III (1938), pp. 219-222.
24. Alexander, *The Decay of Trade*, p. 37.

25. Alexander, "The Political Economy of Fishing ...", p. 33.
26. Alexander, *The Decay of Trade*, p. 145.
27. For Ottawa's approach to the Newfoundland fishery see Bates, "The Canadian Atlantic Sea Fishery," Ch. IX, p. 40. The *Report of the Newfoundland Fisheries Development Committee* (Walsh Committee) St. John's, 1953, is also helpful.
28. R.S.N. c. 134.
29. S.N. 1949, c. 45.
30. See Cooper, "Education".
31. John Proshie. *Fishing Vessel Subsidy and Loan Programme in Canada* (Ottawa. Canada Department of Fisheries and Oceans. Economic Services. March, 1967).
32. For a fuller account of the debate between St. John's and Ottawa during these years see Alexander, *The Decay of Trade* and Cynthia Lamson, "Fisheries Assessment and Government Response: The Case of the Newfoundland Inshore Fishery" in Hanson and Lamson, *Atlantic Fisheries and Coastal Communities*. Among the more important primary materials are the Walsh Committee report and the presentations to federal-provincial conferences, including: Government of Newfoundland, *National Fisheries Development: A Presentation to the Government of Canada*, February, 1963; Government of Newfoundland, *National Fisheries Development: The Presentation to the Federal-Provincial Conference on Fisheries Development*, 20 January 1964 and Federal-Provincial Conference on Fisheries Development, *Report by the Minister of Fisheries*, St. John's, mimeo. n.d.
33. *Report*, Government White Paper on the Organization of the Public Service of Newfoundland and Labrador. (St. John's, November, 1972).
34. Ross A. Johnson, "Cabinet Decision-Making Structures: Taking Issues out of Politics? The Newfoundland Case," Paper presented to the Canadian Political Science Association, June, 1976.
35. Susan McCorquodale, "The Management of a Common Property Resource: Fisheries Policy in Atlantic Canada", in Michael M. Atkinson and Marsha Chandler (eds.) *The Politics of Canadian Public Policy* (Toronto: University of Toronto Press, 1983).
36. Bates, "The Atlantic Sea Fishery", para. 179.
37. *Ibid.*, para. 184.
38. See Peter Z.R. Finkle, "The International Commission for the Northwest Atlantic Fisheries: An Experiment in Conservation", *Dalhousie Law Journal* 1 (1974) 3; D.H. Cushing, "The Atlantic Fisheries Commissions", *Marine Policy* (July, 1977), 230-238 and "A History of Some of the International Fisheries Commissions".

39. J.W. Watt, *A Brief History of the Fisheries of Nova Scotia* (Halifax: Department of Trade and Industry, 1967) and Allen Fownes, "(1965-1980) Changes in Federal and Provincial Fisheries Departments." Dalhousie University. Student Paper, 1980.
40. Cooper, *Education*.
41. Nova Scotia. *Public Accounts* Year ending 30 November 1945.
42. The Fisheries Loans Act. RSNS, 1954, c. 104. The original act was passed in 1944.
43. The Fisheries Act. RSNS, 1954, c. 102, s.9.
44. Fownes, "Changes in Federal and Provincial Fisheries Departments" and Interview. Hon. John Leefe, et. al. (Pross) 19 June 1984. See also Nova Scotia. Fisheries. AR 1965.
45. *Annual Report*. 1981-82.
46. Nova Scotia. *Public Accounts*. Relevant years.
47. Fownes, pp. 9-10.
48. I.e. 0.9 per cent; the federal Department of Fisheries spent \$25,590,000 in the same year. Fownes, pp. 3-4.
49. *Ibid.*, pp. 4-5.
50. *Ibid.* The Fishermen's Training Programme received \$50,000; Resource Development, \$43,000.
51. *Ibid.*, p. 6.
52. *Canada Year Book*, 1976-77, p. 474.
53. Cooper, *Education*.
54. *Canada Year Book*, 1976-77 and interview, Leonce Chenard, Deputy Minister of Fisheries, New Brunswick, 16 November 1979 (McCorquodale).
55. Prince Edward Island. Department of Fisheries. *Annual Report*. selected years.
56. RSPEI, 1951, c. 140.
57. RSPEI, 1960, c. 60.
58. P.E.I. Department of Fisheries. *Annual Report*. 1961.
59. Data derived from relevant *Public Accounts*.
60. American threats to review tariffs in the light of federal assistance to the companies undergoing restructuring during 1983-84 played some part in discouraging the federal government from amalgamating the financially troubled fish processors into a single company and encouraged the search for a private sector investor to take over National Sea Products. See Michael J.L. Kirby, "Restructuring the Atlantic Fishery: A Case Study in Business-Government Relations," Paper. Dalhousie University School of Business, 1 March 1984, and A. Paul Pross, "The Fishery: Ali versus Frazier" in Barbara Jamieson, *Governing Nova Scotia: Policies, Priorities and the 1984 Budget* (Halifax: Dalhousie School of Public Administration, 1984).

61. N.S. Department of Development. Voluntary Planning Board. "Fisheries Sector Committee" (Halifax. Mimeo. July, 1981).
62. Fisheries and Marine Service, *Policy for Canada's Commercial Fisheries*; C.R. Levelton, *Toward an Atlantic Coast Commercial Fisheries Licensing System: A Report Prepared for the Department of Fisheries and Oceans, Government of Canada* (Ottawa: 1979); Canada. Task Force on Atlantic Fisheries. *Navigating Troubled Waters: A New Policy for the Atlantic Fisheries* (Ottawa: Supply and Services Canada, 1983) (Kirby Report); Department of Fisheries and Oceans. *Enterprise Allocations for the Atlantic Offshore Groundfish Fisheries* (Ottawa: The Department, 22 December 1983).
63. Pross, "Pressure Groups: Adaptive Instruments of Political Communiation" in Pross, *Pressure Group Behaviour in Canadian Politics* (Toronto: McGraw-Hill, 1975), pp. 1-26; "Pressure Groups: Talking Chameleons" in Michael S. Whittington and Glen Williams, *Canadian Politics in the 1980s* (Toronto: Methuen, 1984) and *Governing Under Pressure: The Special Interest Groups* (Toronto: Institute of Public Administration of Canada. Fourteenth National Seminar, 1981).
64. R.D.S. Macdonald, "Inshore fishing interests on the Atlantic coast: Their response to extended jurisdiction by Canada." *Marine Policy* (1979), pp. 171-189.
65. B. Melanson, "A Rough Voyage: A Report for the Fishermen of Nova Scotia", Student Paper. St. Francis Xavier University, April, 1978. pp. 11-12.
66. See L. Gene Barrett "Underdevelopment and Social Movements in the Nova Scotia Fishing Industry" and Rick Williams, "Inshore Fishermen, Unionisation and the Struggle Against Underdevelopment Today" in Robert J. Brym and R. James Sacouman, *Underdevelopment and Social Movements in Atlantic Canada* (Toronto: New Hogtown Press, 1979) pp. 127-160 and 161-175 and Sue Calhoun, *The Lockeport Lockout* (Formac Publishing, 1984).
67. Melanson, "A Rough Voyage ...", *passim*.
68. *Ibid.*, p. 19 and Macdonald, "Inshore fishing interests..." p. 188.
69. Melanson, "A Rough Voyage ...", pp. 15-16.
70. *Ibid.*, p. 16.
71. Statutes of Newfoundland (1971) No. 53.
72. David A. MacDonald, *Process and Change in the Newfoundland Fishery: The Trawlermen's Strike of 1974-1975*, M.A. Thesis. Memorial University of Newfoundland, 1979, p. 88, and *Power Begins at the Cod End* (St. John's: Social & Economic Studies No.26

Institute of Social and Economic Research Memorial University of Newfoundland, 1980).

73. Macdonald, "Inshore fishing interests ..." p. 181-2.
74. Fisheries and Marine Service. *Policy for Canada's Commercial Fisheries*, p. 66.
75. Macdonald, "Inshore fishing interests ...", p. 180.
76. Canada. Department of Fisheries and Oceans. *Policy for Canada's Atlantic Fisheries in the 1980s* (Ottawa: The Department, 1981), p. 56.
77. Speech, Yarmouth, 28 November 1977. See also Macdonald, "Inshore fishing interests" and John Kearney, "The Transformation of the Bay of Fundy Herring Fisheries, 1976-1978: An Experiment in Fishermen-Government Co-Management," in Hanson and Lamson, *Atlantic Fisheries and Coastal Communities*.
78. *Policy for Canada's Atlantic Fisheries in the 1980s*, p. 59.
79. C. Munroe and J. Stewart, *Fishermen's Organizations in Nova Scotia: The Potential for Unification* (Halifax: Dalhousie School of Public Administration, 1981), p. 82.
80. *Ibid.*
81. *Ibid.*, p. 84.
82. *Ibid.*, p. 85. This problem is a serious one for most groups operating in the Canadian policy system where governments have a strong desire for legitimating participation. As a pressure group president commented at the Institute of Public Administration's seminar on "Governing Under Pressure", "pressure groups have to resist governmental pressure to participate." Pross, *Governing Under Pressure*, p. 178.
83. Jann Darlington "The Fisheries Policy Community" Dalhousie University. Student Paper, 1981, pp. 14-15.
84. Darlington, p. 21. The view is confirmed by a DFO Community Services Officer in South West Nova Scotia who commented that Cape Sable Island fishermen had not been interested in joining the NSFA because the fishery had been good. Interview. 15 December 1981 (Pross).
85. RSNS. (1954) c. 110.
86. SNS. (1970-71), c. 19.
87. John Saywell (ed.) *Canadian Annual Review of Politics and Public Affairs*, 1971 (Toronto: UTP, 1971).
88. Melanson, "A Rough Voyage ..." *passim*. See also Macdonald, "Inshore fishing interests ..."
89. *Globe and Mail*, 13 October 1979.
90. Thus, provincial officials noted that DFO was seldom seriously inconvenienced by central agency control. At the same time, they

observed that the Minister of Fisheries was able to prevent federal officials in other departments from negotiating fisheries sub-agreements under the General Development Agreements.

91. For example, in January and March 1980, the Department consulted a "fisheries policy review" with some twenty academics in Halifax and Vancouver.
92. See, for example, reports on provincially sponsored fishermen's meetings in Lunenburg and Dartmouth carried in the *Lunenburg Progress-Enterprise* 21 September and 2 November 1977.

CHAPTER 4

1. Ken Lucas, Senior Assistant Deputy Minister, Fisheries and Marine Service, Department of Fisheries and the Environment, *Remarks, Canadian Labour Congress, Conference of Unions Involved in the Fishing Industry, Ottawa, 13 January 1977.*
2. For example, limited entry, which Lucas characterized as the obvious solution to the problem of excess participation in the fishery, does not necessarily achieve either rebuilding of the stock or social development. Instead it may precipitate technological innovation which increases harvesting capacity, which in turn may necessitate further regulation in the form of quota controls, or even more limited entry, or both. This is familiar to those who have studied the experience of natural products marketing regulations but has only recently caused concern in Canadian fisheries (for example, in the case of the Bay of Fundy herring fishery) and is addressed in part in C.R. Levelton *Toward an Atlantic Coast Commercial Fisheries Licensing System* (Ottawa: Department of Fisheries and Oceans, 1979).
3. St. John's Evening Telegram, 7 December 1977.
4. Financial Post, 29 April 1978. The statement is reproduced in a brochure put out by Nickersons and National Sea Products Limited and entitled *Where Now? A Discussion of Canada's Fishery Opportunity and the Considerations Involved in Realizing It.* A glossy, bilingual attractively illustrated document the brochure paid particular attention to the roles of government and industry. Its publication was a signal departure from the usual pattern of industry government discussion and has to be seen as evidence of deep division between the major companies and the federal government, not simply between the minister and the processors.
5. Dr. M.P. Shepard, "Resource Management - the Objective" Speech, Fisheries Council of Canada, 25 April 1973.

6. For example, Raoul Andersen whose work on the sociology of the fishery is widely regarded and whose report "The Need for Human Science Research in Atlantic Coast Fisheries" *Journal of the Fisheries Research Board of Canada* (1978) pp. 1031-1049, which discusses some aspects of the restructuring problem was prepared at the beginning of this period.
7. *Financial Post*, 29 April 1978. See also *Globe and Mail*, 7 April 1977 and the *Halifax Barometer* 16 March and 23 March 1978 for feature articles on the takeover.
8. Romeo LeBlanc, Speech, Yarmouth, 28 November 1978.
9. Environment Canada. Fisheries and Marine Service. *Policy for Canada's Commercial Fisheries* (Ottawa: The Service, 1976) p. 62.
10. *Globe and Mail*, 7 April 1977.
11. See R.D.S. Macdonald, "Inshore fishing interests on the Atlantic Coast: their response to extended jurisdiction", *Marine Policy* July, 1979, pp. 171-189.
12. *Ibid.*
13. See John F. Kearney, *A Report on the Breakdown of the Marketing and Management System of the Bay of Fundy Purse - Seine Fishery in 1980* (Halifax: Dalhousie Ocean Studies Programme. CAFSAC Working Paper 81/79, 1981).
14. Hon. Romeo LeBlanc, Minister of Fisheries and Environment, Speech, Yarmouth, 28 November 1977.
15. This is one view of the effects of rationalization. It is not entirely supported by experience, however, Raymond has shown that Newfoundland communities that have become dependent on the offshore fleets have maintained their viability because they provide a more supportive milieu for the families that have been left at home. (J. Raymond, "Dynamics of the Labour Force for the Offshore Fishery" in Dalhousie) Institute for Environmental Studies, *Fisheries Management Project* (Halifax: The Institute, n.d.) vol. 2, ch XXXI. It is also worth noting that the major companies maintain elaborate shuttle systems for moving their crew members around the region. In other words, it may be that the attachment to community that such a notable feature in the region may survive even this latest incursion by technology. The fact remains, as references in the paper suggest, that in 1977-1980 politicians were alert to the implications for rural depopulation of the trend to rationalization.
16. House of Commons *Debates*, 25 January 1979. This debate, on the reorganization of the department, elicited several commentaries on the social implications of changes in the industry.
17. At the time of writing disagreement persists. The industry crisis of 1981-84 has forced a measure of rationalization that would have

- shocked participants in the constitutional debate, but the underlying question of the social impact of the fishery has not been resolved, though it was addressed by the Kirby report, which opted, basically, for rationalization, and the company restructuring of 1983-84, which saw Nova Scotia accept rationalization and Newfoundland reject it.
18. Alexander, David, *The Decay of Trade: An Economic History of the Newfoundland Saltfish Trade 1935-1965*. Newfoundland Social and Economic Studies, No. 19, Memorial University of Newfoundland, 1977, p. 23.
 19. *Ibid*, pp. 14 and 148.
 20. Copes, Parzival "The Evolution of Marine Fisheries Policy" in *Journal of Business Administration* 1979.
 21. *Setting a Course* Vol. 1A, p. 102.
 22. Romeo LeBlanc "Beyond the 200-mile limit" in Donald J. Patton, et. al. *The Future of the Offshore* (Halifax: Dalhousie Centre for Business Studies, 1978), pp. 93, 94, 95.
 23. See, for example, "Freezer Trawler challenge for LeBlanc" *Financial Post* 4 November 1978, and "Fish sale to Poland opposed" *Halifax Chronicle Herald* 25 May 1978.
 24. *Globe and Mail*, 1 October 1977.
 25. *Lunenburg Progress Enterprise*, 4 January 1978. *The Progress Enterprise* carried most of the text of the proposal.
 26. *Ibid*.
 27. See *Montreal Star* 31 August 1977; *Globe and Mail* 1 September, 1 October 1977; *Montreal Star* 2 November 1977.
 28. *The Montreal Star*, 30 November 1977.
 29. *Montreal Star*, 5 December 1977.
 30. *St. John's Evening Telegram*, 7 December 1977.
 31. *Halifax Chronicle-Herald*, 7 January 1978.
 32. "Dismal outlook for offshore fishermen" *Halifax Chronicle Herald* 10 January 1978.
 33. See *Montreal Star* 17 January 1978; *Globe and Mail* 21 January 1978; *Halifax Chronicle-Herald* 27 and 28 January 1978.
 34. *Halifax Chronicle Herald* 4 February 1978.
 35. *Halifax Chronicle Herald* 10 February 1978.
 36. Press release 14 February 1978 (Document 800-7/034).
 37. CICS Statement by Hon. Frank Moores. Premier of Newfoundland *Fisheries in the Future*, First Minister's Conference on the Economy, 13-15 February 1979.
 38. *Ibid*.
 39. CICS *Discussion points for the Hon. Romeo LeBlanc Respecting the Fisheries Sector*. Federal-Provincial Conference of first Ministers. Ottawa: 13-15 February 1978.

40. CICS. *Conclusions of the Conference* Federal-Provincial Conference of First Ministers. Ottawa: 13-15 February 1978.
41. *Halifax Chronicle Herald*, 18 February 1978.
42. *Halifax Mail Star* 4 May 1978.
43. *Financial Post* 29 April 1978, p. 37 and *Globe and Mail* 10 June 1978.
44. *Food in Canada*, June 1978, p. 32.
45. "Canada Protecting Fisheries" *Montreal Star*, 16 May 1978; "Fisheries ministers support suspension (of U.S. fisheries agreement) *Halifax Chronicle Herald*, 6 June 1978 and "Agreement could help fish exports" *Ibid.* 2 August 1978.
46. *Halifax Chronicle Herald*, 23 September 1978.
47. *Halifax Chronicle Herald*, 2 September 1978.
48. See the special report on the industry in the *Financial Post*, 29 April 1978.
49. *Halifax Chronicle Herald* 12 September 1978.
50. *Halifax Chronicle Herald* 2 September 1978.
51. *St. John's Evening Telegram* 4 May 1978.
52. *Halifax Chronicle Herald*, 12 May 1978.
53. *Halifax Chronicle Herald* 19 May 1978.
54. See *Montreal Star* 6 January 1978; *Halifax Chronicle Herald* 11, 27, 28 January; *Globe and Mail* 22 March 1978.
55. *Halifax Chronicle Herald* 1 and 16 June 1978.
56. Through exhortation, the structure of regulation (as in the case of the herring co-op) and through formal consultative mechanisms. See R.D.S. MacDonald, "Inshore Fishing Interests . . ."
57. *Halifax Chronicle Herald* 21 July and 28 October 1978.
58. See Hon. Romeo LeBlanc. *Speech to Atlantic Herring Fishermen's Marketing Co-op*, The speech was reported in *Lunenburg Progress Enterprise*, 5 April 1978. See also the *Halifax Chronicle Herald* 20, 25 May, 20 June (edit.); 4, 19, 26 July.
59. *Halifax Chronicle Herald* 2 September 1978.
60. *Halifax Chronicle Herald*, 19 July 1978.
61. *Halifax Chronicle Herald* 14 April 1978.
62. *Halifax Chronicle Herald* 19 April 1978.
63. *Halifax Chronicle Herald* 28 April 1978.
64. See *Halifax Chronicle Herald* 3, 12 May 1978.
65. *Halifax Mail Star* 4 May 1978.
66. *Halifax Chronicle Herald*, 24 July 1978.
67. *Halifax Chronicle Herald*, 29 June 1978.
68. *Halifax Chronicle Herald*, 15 July 1978. *St. John's Evening Telegram*, 11 July 1978.
69. *Ibid.*
70. *Halifax Chronicle Herald*, 2 September 1978.

71. *Halifax Mail Star*, 26 October 1978.
72. *Halifax Chronicle Herald*, 27 October 1978.
73. *CICS Opening Statement on the Fisheries Sector - Prince Edward Island*. Ottawa: 27-29 November 1978.
74. *CICS Notes for Remarks by the Hon. Romeo LeBlanc, Minister of Fisheries, at the Federal-Provincial Conference of First Ministers on the Economy* Ottawa, 27-29 November 1978.
75. *CICS Fisheries Statement - Nova Scotia Federal-Provincial Conference of First Ministers on the Economy*. Ottawa: 27-29 November 1978.
76. *CICS Opening Statement by the Honourable Frank D. Moore's Premier of Newfoundland Federal-Provincial Conference of First Ministers*. Ottawa: 30 November - 1 November 1978.
77. *CICS Notes for Remarks by the Hon. Frank D. Moore's Premier of Newfoundland on the Opening Statement Federal Provincial Conference of First Ministers*. Ottawa: 30 October - 1 November 1978. (Emphasis in original).
78. *Premier Moore's, Opening Statement ...*
79. *CICS Summary of Conclusions*. Federal-Provincial Conference of First Ministers on the Economy. Ottawa: 27-29 November 1978.
80. *The Yarmouth Sou'wester*, 1 December 1978.
81. *The St. John's Evening Telegram* 1 December 1978. See also *the Yarmouth Sou'wester*, *The St. John's Daily News*; *The Halifax Chronicle Herald*, all for 1 December 1978; *The St. John's Evening Telegram* and *the Moncton Times* for 5 December 1978; *The Evening Telegram*, 18 December.
82. Newfoundland. *Fisheries* (position paper). Federal-Provincial Continuing Committee of Ministers on the Constitution. Mont-Ste.-Marie, 23-25 November 1978.
83. Newfoundland. *Position Paper on Fisheries* (Draft for discussion purposes only). Federal-Provincial Continuing Committee of Ministers on the Constitution. Toronto. 14-16 December 1978. The Newfoundland assessment of other provinces' positions is drawn from an anonymous provincial government review of an earlier draft of this study.
84. *Ibid.*
85. *Ibid.*
86. *Ibid.*
87. See *Halifax Chronicle-Herald*, 2 November 1978; *St. John's Evening Telegram*, 30 November 1978.
88. *CICS. Comments by Premier John M. Buchanan on Fisheries and Constitutional Review* Federal-Provincial Conference of First Ministers on the Constitution. Ottawa 5-6 February 1979.

89. Confidential interview.
90. *Halifax Chronicle Herald*, 6 February 1979.
91. CICS. *Discussion on Fisheries*. First Ministers' Conference on the Constitution. Open Session, Ottawa: 6 February 1979. pp. 502-504.
92. *Ibid.*, p. 509.
93. *Ibid.*, p. 499.
94. *Ibid.*, p. 509.
95. *Ibid.*, p. 512-513.
96. *Ibid.*, p. 516.
97. *Halifax Chronicle Herald*, 6 February 1979.
98. *Halifax Chronicle Herald*, February 1979. See also *Fredericton Daily Gleaner*; *St. John's Evening Telegram*, *Halifax Chronicle Herald*; *St. John's Daily News* for 7 February 1979.
99. Confidential Interview.
100. *St. John's Evening Telegram*, 16 February 1979.
101. *Halifax Chronicle Herald*, 7 March 1979.
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107. *Halifax Chronicle Herald*, 26 May 1979.
108. Nova Scotia. House of Assembly. Debates and Proceedings 52nd Assembly 1st session, 7 March 1979. p. 741.
109. *Ibid.*, p. 751-752.
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113. Discussion Paper on Fisheries Issues, presented by Premier A. Brian Peckford to the Hon. James McGrath, Minister of Fisheries and Oceans, St. John's, 5 November 1979.
114. Statement by the Hon. A. Brian Peckford, 4 December 1979.
115. A point made in an anonymous (but useful) review of an earlier draft of this study.
116. *Globe and Mail*, 22 February 1980.
117. *Halifax Chronicle Herald*, 26 June 1980.
118. *Halifax Chronicle Herald*, 2 September 1980.
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120. *Halifax Chronicle Herald*, 10 September 1980.
121. Nova Scotia did not consider that it left the field entirely without augmented responsibilities. It accepted the federal government's offer to return responsibility for aquaculture to the province and to hand over responsibility for inland waters, estuarine fisheries and

sedentary species. While each of these fields would probably benefit from provincial, rather than federal, management, and have considerable potential, at the time they were insignificant in comparison to the fishery resource proper. Subsequently, after some months of discussion the federal government withdrew its proposal to share even this level of jurisdiction. (Interviews with officials See *ibid.*)

122. In 1983, for example, in its brief to the MacDonald Royal Commission on the Economic Union and Development Prospects, Newfoundland reiterated its position, asserting (pp. 109-110): "The Province has not been successful in achieving its goal of concurrent jurisdiction. Established administrative power and competing industrial interests in other provinces and in Ottawa do not favour our position. Regardless of this opposition, we remain committed to this goal in the long-term. It is the only certain means whereby development of the resource can be made to benefit the people and communities adjacent to the resource. Their livelihood has depended on the fisheries for centuries and it is they who are so vitally affected by management decisions. The fact that these resources are in the sea does not detract from their importance to local development. Neither should this fact be used to deny the Province control over that resource commensurate with jurisdiction exercised over other natural resources." Ironically, the federal government's own management reforms may do what the constitutional process failed to do. By creating "enterprise allocations" - that is by assigning a specific part of the quota to individual companies for defined periods of time - the federal authorities may have established a property right and so may have brought stock management within provincial jurisdiction. At the time of writing, the question has not been tested in the courts, but is the subject of speculation in the industry.

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