



Presentation to the House of Commons Standing Committee on
Aboriginal Affairs, Northern Development and
Natural Resources

First Nations Governance Act

Tanis Fiss, Director
Centre for Aboriginal Policy Change
Canadian Taxpayers Federation
Suite 604, 1207 Douglas Street
Victoria, BC V8W 2E7

250.388.3660 (T)

250.388.3680 (F)

www.taxpayer.com

February 27, 2003

TABLE OF CONTENTS

Introduction	1
Accountability and the First Nations Governance Act	2
Re-Allocation of Funding	2
Ombudsman for Aboriginal Affairs	3
Auditor General	4
Conclusion	5
Summary of Recommendations	6

Introduction

Let me start today by thanking you for the opportunity to appear before the Committee. Before I address the issues of accountability and how they relate to the *First Nations Governance Act*, I will provide the Committee with a brief explanation of the Federation and its newly created Centre for Aboriginal Policy Change.

The Canadian Taxpayers Federation (CTF) is a federally incorporated non-profit, non-partisan, voluntarily funded citizen organization. The Federation has offices in five provinces from Ontario west, in addition to a federal office in our nation's capital. The CTF was founded here in Regina, in 1990 when the Association of Saskatchewan Taxpayers and the Resolution One Association of Alberta joined forces to create a national taxpayers organization. The Federation advocates for lower taxes, less waste and accountable government.

For years the CTF has challenged conventional wisdom as it pertained to Aboriginal policy and built the case for change. Because no one was doing this work in the country, it quickly became apparent that a dedicated, issue-specific research and advocacy branch of the CTF was needed. In March of 2002 the CTF opened the Centre for Aboriginal Policy Change (the Centre) in Victoria, BC. Not only is the Centre a first for the CTF, it is the first of its kind in Canada: a full-time, permanent, and professional advocacy presence to monitor, research and provide alternatives to current Aboriginal policy.

One of the first tasks of the Centre was to develop a comprehensive position paper bringing work together the CTF has done since 1997. *The Lost Century – Moving Aboriginal Policy from the 19th Century to the 21st Century* was released November 14th. This paper shows that treating one group of Canadians differently – often with preferential treatment – is wrong both morally and intellectually.

For more than 130 years, Indians have been segregated from Canadian society by the *Indian Act*. Fortunately there are no legal or constitutional barriers to ending the exercise of federal jurisdiction over Indians. Just because the federal government has sole jurisdiction, that does not also mean that it must exercise it. Therefore, the CTF strongly recommends – both in our position paper and here today – the federal government begin the process of phasing out the *Indian Act* and the policies of segregation over the next 20 years.

On the surface, the *First Nations Governance Act* would appear to be a welcome change as it will allow band councils to move toward self-government by establishing new rules for band elections and financial accountability. However, as long as the *Indian Act* remains in place, the federal government will be attempting to build accountability and better governance on a crumbling foundation.

The Federation advocates the phasing out of the *Indian Act*; our recommendations today are in the spirit of advancing that cause. We believe it is through a review of the *First*

Nations Governance Act that will lead to the incremental gains required for the eventual elimination of the Indian Act.

Let me add an additional motive for being here today. Every office in the CTF receives calls from Natives. Many frustrated with their local council. Others frustrated with the Department of Indian Affairs. Some allege corruption; some allege incompetence; all want change and greater accountability from their governments. In other words, Native Canadians are like any other taxpayer who, on occasion, becomes frustrated with their government. We are pro-accountability.

Accountability issues are what I would like to discuss with the Committee. Specifically, I would like to speak to the following issues the *Governance Act* does not sufficiently address: the re-allocation of funding currently being transferred directly to Native Band Councils, the establishment of an Ombudsman for Aboriginal Affairs, and the expansion of the current Auditor General of Canada's mandate to include Native bands.

Accountability and the First Nations Governance Act

Currently, over 7 billion federal tax dollars are spent each year on Aboriginal affairs. Under the existing *Indian Act* there is no requirement for Native governments to reveal their financial records to their members, let alone the federal auditor general or to taxpayers. The proposed legislation will require Native governments to provide their audited financial statements to any person who requests a copy. This accountability is significantly better than what taxpayers were provided with before – nothing.

That said this level of accountability is not enough.

Re-Allocation of Funding

One possibility to improve accountability is to have Native governments collect taxes in the manner other levels of government collect taxes: through income taxes, property taxes and a multitude of other measures. This would have an immediate effect on the size of government on reserves, which is unreasonably large in comparison to non-Native communities of similar size. For example, for the year ending March 21, 2000, there was one Native politician for every 177 people. These politicians earned salaries and honoraria of approximately \$91 million tax-free. Their travel expenses were another \$29 million.

Furthermore, the entire funding structure and whether federal payments should be directed to band governments and their Chiefs or to the individual band members for whom the support is needed must be considered.

Different arrangements may be needed. For example, if the federal government withheld money from a cheque directed to an individual Native (and so noted on the cheque), that would then be transferred to the Native government in question — that alone would inject better accountability into the system than now exists. After all, it works now to a degree

for local, provincial and federal governments. As the French Finance Minister Colbert once remarked that the art of taxation consists in plucking feathers from the goose with the least amount of hissing. Reserve governments should be subject to the discipline of hissing taxpayers. This would gradually reduce the excessive size of government on reserves.

Rearranging federal transfers to individual Native Canadians will not reduce dependency. It is however, a small step forward in the provision of greater freedom of choice and personal responsibility. It will be up to the individuals to decide what types of services their local government will provide with their tax dollars. Individual Natives may wish for their band governments to improve housing or sewage rather than continuing to subsidize local businesses. The process of individuals deciding which services they wish to receive over others will provide Natives with a greater sense of responsibility.

Recommendation 1:

Merely providing public access to Native band audits, as outlined in the *Governance Act* will not adequately increase the level of accountability. In order to increase the level of accountability on reserves, the payments currently transferred to Native band councils should be re-directed to individuals. The money necessary for Native governments could then be taxed back by the local Native government.

Ombudsman for Aboriginal Affairs

As mentioned earlier, every office in the Federation receives calls from Natives on occasion, frustrated with their local council, or frustrated with the Department of Indian Affairs. Earlier this year, members of the Alexander Band of Alberta protested in their band council office alleging mismanagement and a lack of accountability. This demonstration took place after these members raised their concerns with both the local band council, and with the Department of Indian Affairs.

According to the demonstrators the band council ignored the allegations of mismanagement. Frustrated with the lack of response received from the band council, some members of the Alexander Band raised their concerns with the Department of Indian Affairs only to have the Department inform them that it was a band issue and should be taken up with the band council. Thus the concerned band members are caught in a vicious circle with little hope of redress in sight. Unfortunately, this is not an isolated incident.

An Ombudsman for Aboriginal affairs needs to be established. The ombudsman would have authority to investigate complaints and propose changes to be made in a band's administrative practices or the administrative practices of the Department of Indian Affairs. If the band or the Department fails to make those changes, a report would be brought before Parliament.

Recommendation 2:

The *Governance Act* does not sufficiently address situations similar to the one faced by the Alexander Band. To properly ensure appropriate redress for allegations of mismanagement, an Ombudsman for Aboriginal Affairs must be established.

Auditor General

The Auditor General of Canada is an independent audit office serving Parliament and Canadians, and is widely respected for the quality and impact of its work. The Auditor promotes accountable government, an ethical and effective public service, good governance, sustainable development, and the protection of Canada's legacy and heritage.

The Auditor General's office is able to achieve its goals by conducting independent audits and studies that provide objective information, advice, and assurance to Parliament, government, and Canadians by working collaboratively with legislative auditors, federal and territorial governments, and professional organizations.

Unfortunately, once the federal government transfers money (tax dollars) from the federal departments to Native bands, the Auditor General of Canada no longer has the authority to audit how and where the money is spent. No checks and balances foster inefficiencies, redundancies, corruption and even abuse.

If the ultimate goal is to eventually have all Canadians treated with the same rights and responsibilities regardless of race or ancestry, then creating another separate office of the Auditor General may not be the best route to achieve the goals or the best use of tax dollars. The expansion of the existing Auditor General's mandate to include Native bands would not require as many tax dollars to operate due to the economies of scale that could be utilized, and the standard of audits, mandates and scrutiny would remain consistent. The audits would uncover waste, mismanagement, and corruption and will provide band members and taxpayers with an indication of the efficiency, effectiveness and the quality of services being offered on reserves.

Recommendation 3:

The *Governance Act* states that Native band financial statements will be audited by an independent auditor and made public. To ensure consistency with the audits, expansion of the current Auditor General's mandate to include Native bands, is imperative for true accountability and transparency to occur. The expansion of the Auditor General's mandate will ensure Native band governments have their audits conducted in a similar fashion as the federal and provincial auditors conduct their audits of government departments and programs.

Conclusion

Before concluding my statements, I would like to encourage the Committee to press for continued amendments to the *Indian Act* that will lead to the eventual elimination of the *Indian Act*. It will only be through the elimination of the *Indian Act* that all Canadians – Native and non-Native – will be treated with the same degree of equality and enjoy the same rights and responsibilities.

It is regrettable the *Governance Act* merely props up the paternalistic *Indian Act*. As long as legislative changes result in the continuation of the *Indian Act*, and Native bands continue to receive federal government handouts; the legal straightjacket that prevents Native Canadians from assuming all the rights and responsibilities allowed other Canadian citizens, will remain firmly fastened.

Good governance, accountability and transparency are minimal requirements for Native communities to thrive. In addition, for Native communities to compete successfully within the Canadian economic mainstream, the *Indian Act* must be phased out.

In conclusion, the CTF believes Canadians – all Canadians – are fundamentally alike. Therefore, all legislation and government policy must be based on fairness and equality – not race. As former Prime Minister Trudeau once stated, “The time is now to decide whether the Indians will be a race apart in Canada or whether [they] will be Canadians of full status.” In other words, the time for equality is now.

Again, I would like to thank-you for the opportunity to speak before the Committee and I would like to invite any questions you may have.

Summary of Recommendations

Recommendation 1:

Merely providing public access to Native band audits, as outlined in the *Governance Act* will not adequately increase the level of accountability. In order to increase the level of accountability on reserves, the payments currently transferred to Native band councils should be re-directed to individuals. The money necessary for Native governments could then be taxed back by the local Native government.

Recommendation 2:

The *Governance Act* does not sufficiently address situations similar to the one faced by the Alexander Band. To properly ensure appropriate redress for allegations of mismanagement, an Ombudsman for Aboriginal Affairs must be established.

Recommendation 3:

The *Governance Act* states that Native band financial statements will be audited by an independent auditor and made public. To ensure consistency with the audits, expansion of the current Auditor General's mandate to include Native bands is imperative for true accountability and transparency to occur. The expansion of the Auditor General's mandate will ensure Native band governments have their audits conducted in a similar fashion to how the federal and provincial auditors conduct their audits of government departments and programs.