

FIRST NATIONS STRATEGIC BULLETIN!

Bulletin of the First Nations Strategic Policy Counsel

Liberals Ramming Through New Colonial Laws Over First Nations



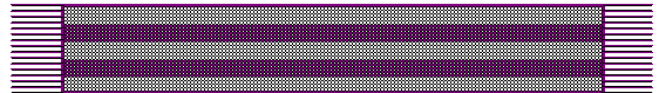
True to their word, the Chrétien Liberal government is forcing a “suite of legislation” through Parliament that is designed to impose national institutions and standards upon First Nations, which were developed unilaterally and in secret by the federal Departments of Justice and Indian Affairs. The “suite” or group of laws are being intro-

duced separately but are intended to fit together to re-package the old Indian Act approach of Ottawa’s “command and control” structure over First Nations communities and their organizations to ensure the assimilation of First Nations into the Canadian mainstream municipal, tax and property systems.

These federally developed laws are in direct violation of the inherent, treaty and aboriginal rights of First Nations, not to mention the constitutional protections, which were entrenched 20 years

ago when Canada brought its constitution back from England.

If these laws pass, First Nations will be operating under 19th century colonialism not a 21st century modern Canada of respect, accommodation and de-colonization from the Indian Act. Moreover, the ongoing delivery of programs and services to First Nations communities and citizens will be based on these new colonial laws, not because of the original Treaty and Trust responsibilities of the federal government. First Nations will be forced into the courts or political action to restore the original First Nation-Crown relationship, from the first Wampum Belt treaties to the historic treaties.



First Nation Citizens will Suffer not Benefit

These new laws will have a direct negative impact on the social and economic conditions of each and every First Nation household and community across Canada, that hasn’t already altered its Section 35 (constitutional) legal/political status

through **Comprehensive Claims settlements** or **Self-Government agreements** with the Government of Canada.

Canada is also shutting down existing negotiation tables with First Nations where Ottawa

feels there is no hope of getting a deal to accept Canada’s insignificant offers of land, cash and/or delegated authority in exchange for reducing and/or ending Canada’s ongoing responsibilities, so Ottawa is planning on using these new laws on “Indians and lands reserved for Indians” instead. Just like in the 1800’s, the new laws will use money and law enforcement (RCMP and Military) to try and force First Nations into compliance and acceptance of an ethnic municipal status, instead of recognizing Sovereignty and Nationhood.



On June 14, 2002, Minister of Indian Affairs, Robert Nault, announced FNGA introduction into Parliament, accompanied by Dwight Dory (CAP) and Pam Paul (NAWA). (Thanks to DIAND for photo)

“Imposes the exact opposite of ‘self-government’, which is continued federal domination and control”



Bill C-7: Impacts of First Nations Governance Act

- Created with improper and deceptive consultations;
- Imposes the exact opposite of “Self-Government”, which is continued federal domination and control over our lives;
- Doesn’t address the real needs of First Nations, such as health, housing, education, employment
- Terminates the existence of Indian “Bands”, “Chiefs” and “Councils” by imposing a corporate, municipal status;
- Terminates the existence of “custom” First Nations;
- Erodes and undermines collective rights by imposing the **Canadian Charter of Rights & Freedoms**;
- **FNGA** will be enforced by Canada’s police forces and/or the Canadian Army, in conjunction with Canada’s new security law, upon **all** First Nations (custom & elective systems);
- Restricts First Nations “law-making” to delegated municipal powers on Indian Act Reserves only, not traditional/treaty territories;
- Increases **not** decreases the powers of the federal Minister of Indian Affairs, federal officials and the federal Cabinet over **all** First Nations, by granting the federal government powers to develop and approve **in secret**, national regulations regarding leadership selection, and governance.

Bill C-6: Impacts of Specific Claims Resolution Act

- Narrows the definition of claims;
- Caps claims to \$7 million to go to proposed claims tribunal, despite vast majority of claims are estimated to be over the cap;
- Claims over \$ 7 million will lose access to the independent inquires and reports;
- Claims Body will not be independent or impartial, because federal government unilaterally controls the appointment of Commissioners and members of Tribunal despite a Liberal **Red Book** promise to a joint First Nation-federal appointment process;
- Will lead to more delays, not less, federal delays are authorized and rewarded;
- The federal government reneged on its commitment to the “Joint Task Force” Report and model mutually agreed upon by First Nations and the Department of Indian Affairs.

Bill C-19: AFN Rejects Fiscal & Statistical Management Act

During an AFN Special Assembly on Fiscal Relations held in Ottawa on November 19, 20, 2002, the Chiefs-in-Assembly adopted Resolution 30/2002, entitled "Rejection of the Fiscal and Statistical Management Act", which reads as follows;

WHEREAS the issue of a new First Nations Fiscal Relations arose because of First Nation concerns about the federal government unilaterally imposing new regressive funding arrangements and requirements on First Nations called "Financial Transfer Agreements, Alternative Funding Arrangements" etc. including the "DIAND Management Assessment Handbook"; and

WHEREAS the Chiefs' Committee on Fiscal Relations was directed by the Chiefs-in-Assembly to develop a "First Nations Transfer Act or Amendment" which would facilitate the transfer of financial resources from Canada to First Nations based on guiding principles and conditions, namely:

1. The proposal had to be consistent with the government-to-government relationship (Resolution 5/96 – "Canada/First Nation Fiscal Relationships"), as appended;
2. The proposal had to be consistent with the recognition of the Inherent rights of First Nations (Resolution 5/96),
3. The proposal had to be based upon the legal framework set forth by the *Delgamuukw* decision which describes the characteristics of Aboriginal title and rights including a further elaboration of the legal requirements for local consultation with First Nations (Resolution 49/98 – "National Fiscal Relations Committee"), as appended; and

WHEREAS the draft legislation (Fiscal and Statistical Management Act) assumes that federal authorization is required for First Nations to pass laws and establish institutions in relation to local financial management and revenue collection, and therefore directly infringes on the Inherent and Treaty Rights of First Nations; and

WHEREAS the legal instruments such as the Royal Proclamation 1763, the historic First Nations and Crown Treaties, International Law including recent Supreme Court decisions protect and acknowledge the Inherent Rights of First

Nations, and furthermore, section 35 of the *Constitution Act 1982* recognizes and affirms Aboriginal and Treaty Rights; and

WHEREAS the draft legislation is in violation of the AFN Declaration and Charter; and

WHEREAS the Chiefs-in-Assembly on Fiscal Relations recognize the hard work and efforts of the Chiefs' Committee on Fiscal Relations in trying to negotiate a new fiscal relationship with an uncooperative federal government whose negotiators had been given a very limited mandate,

THEREFORE BE IT RESOLVED that we, the Chiefs-in-Assembly, reject in its entirety the proposed draft legislation on Fiscal and Statistical Institutions for the following reasons but not limited to:

1. the proposed Bill is flawed and cannot be corrected by mere amendments; and
2. the proposed Bill is inconsistent with the previous mandates of the Assembly of First Nations, Resolutions 5/96 and 49/98; and does not recognize First Nation Inherent Right to self-government, and the nation-to-nation relationship; and
3. the provisions contained in the Bill violate and infringe upon Aboriginal and Treaty Rights and will worsen the status quo; and
4. the proposed Bill violates the historic Nation-to-Nation; Crown-First Nation Treaty relationship; furthermore, it violates the core essence of this relationship; and

FURTHER BE IT RESOLVED THAT we, the Chiefs-in-Assembly, acknowledge that any bi-lateral fiscal relationship and formation of financial institutions must be based upon:

1. a pro-active implementation strategy towards a bilateral fiscal relationship; a Nation-to-Nation relationship which shall maintain and protect the collective (Treaty and Aboriginal) rights of First Nations; and the AFN Resolution 5/96 and 49/98 and related recommendations of the Penner Report and Report of the Royal Commission on Aboriginal Peoples relating to fiscal relationships including lands and natural resource revenue sharing recommendations.



Algonquin People From Barriere Lake, Quebec, protest poor community living conditions while on Victoria Island near Parliament Hill, November 2001.

"the proposed Bill violates the historic Nation-to-Nation; Crown-First Nation Treaty relationship"



First Nations Protest Canada's Colonial First Nations Governance Act, May 2002.

Advancing the Right of First Nations to Information

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Russell Diabo, Contact Person for the First Nations Strategic Policy Counsel.



CANADA'S LEGISLATION TO RENEW AND STRENGTHEN COLONIAL CONTROLS OVER FIRST NATIONS!

By Michael Posluns, York University

With the opening of a new session of the Canadian Parliament, the Government has re-introduced a series of bills that First Nations leaders across the country say strengthen Canadian control over the governance of First Nations. The federal Minister of Indian Affairs and Northern Development, Robert Nault, of course denies that this is his intention. He has, however, in a statement when he first began the campaign culminating in these three bills, said that it was his job and that of his fellow ministers to create the ideal system of First Nations governance. Nault told the C.B.C. Radio Program "The House" that the fundamental difficulty with First Nations governance was the lack of the perfect institution. In the same interview he said that if the chiefs were not prepared to work with his consultation process he would find other Indians who would cooperate with him.

Now, with the introduction of these bills, Nault has taken this style of consultation several steps further. First, after promising that the Aboriginal Affairs Committee of the House of Commons would travel across the country and hold hearings he has required a report by the end of the year. Given that most First Nations communities and political organizations want to be heard, the hearings will be concluded by the end of the year only if the Government uses its majority to force the bills through on a partisan basis.

Secondly, Nault has announced that he is prepared to cancel all land claims negotiations with First Nations which do not agree to the terms that he is prepared to offer them. Just how this constitutes a negotiation remains a mystery to those who are unfamiliar with the capacity of the Indian Affairs Department to provide their Minister with whatever definitions will suit his words.

Thirdly, the First Nations Governance Act and its two companion bills dealing with land claims and fiscal accountability run contrary to the recommendations of a 1996 Royal Commission on Aboriginal Peoples, a 1983 Commons Committee on First Nations Self-Government (Penner), and a 2000 Senate Committee Report entitled Forging New Relationships. The government seems determined to move away from the recommendations for implementing self government in the three recent public inquiries. Nault's statement that it is 'his' job to design the ideal institution probably says more about his intentions than a more detailed analysis of the legislation. The more recent parliamentary discussion are available including both the current bills and parliamentary debates and the 2000 Senate Committee Report, Forging New Relationships. Anyone wanting to pursue these primary sources is welcome to contact Michael Posluns: mposluns@accglobal.net.