

### NSR Comment, by Georges Erasmus

Sally Weaver's "Indian Policy in the New Conservative Government" is an accurate, well researched, but kind description and analysis of the Progressive Conservative government's record on Indian policy over its first two years.

I agree in general with her view of the "two paradigms" which exist within Canada's policy makers when it comes to First Nations matters. My experience confirms her analysis that there are two different value systems which are at the root of widely divergent opinions on the approach to Indian policy.

However, I would like to add to her expose because I think it is important for people to know how decisions are made in government and how the "two paradigms" manifest themselves. The decisions of the federal government on First Nations policy are made in a way fundamentally the same as for most issues (with one important difference which I will explain later).

Cabinet is presented a document which, in theory, contains all the information necessary for Ministers to make an informed decision. Most issues coming to Cabinet are complex, and on any given issue the majority of Ministers are neither experts nor adequately informed. One, or two, or even half a dozen Ministers, who have more knowledge or interest in a particular matter than their colleagues, will lead the debate on an issue.

Many, if not most, issues are hotly debated because of the differences in regional representation, political ideology, and plain old jockeying for a more favorable position within Cabinet. In other words, most Cabinet Ministers decide on issues largely on the influence of persuasive arguments and deals they have made with their colleagues or deals they hope to make. They are not deciding on issues from personal, expert knowledge.

The expertise on any particular matter is vested in the bureaucracy and is represented to Cabinet through the documents and the assistance of Deputy and Assistant Deputy Ministers in

their verbal presentation. This is true of most issues considered in Cabinet but is particularly acute when dealing with Indian issues. The important difference in how Cabinet decides on Indian policy, as compared to other issues, is that the vast majority of Ministers have an almost total ignorance of the background, legal and historical rights of First Nations. Whereas issues such as Federal-Provincial transfers, employment programs, international trade or science and technology have long enjoyed regular if not massive exposure in Canada's education system and media, First Nations' issues, and the history of Canada's relations with us, have received only a superficial, distorted, ethnocentric treatment in the mainstream. It is a situation which is slowly changing as we use every opportunity at our disposal to inform people so that the majority can make informed decisions before it is too late to reverse the destruction of our cultures.

Consider the average age of Cabinet members, the quality of education they received on Indian issues at the time they were in the system, and their average level of formal education. Their average age is forty-eight years and their average level of formal education is an undergraduate University degree. During the time they would have achieved that grade level, the type of education on Indian issues was biased and considered of little importance to general Canadian development. The prevailing image of Indians at the time was gathered from the Lone Ranger television show.

The attitudes developed by most Canadians in relation to Indians and reflected in general in Cabinet, express themselves generally in a sympathetic but paternalistic manner. While most Ministers still harbor largely ethnocentric tendencies, they generally want to do well by First Nations and others they consider less fortunate than the majority or less capable of caring properly for themselves.

The uninformed majority is the battlefield in Cabinet. The few highly opinionated, hostile Ministers, backed by equally hostile bureaucrats, vie for the attention and approval of the largely ignorant, but well-meaning majority. Meanwhile, the few

imaginative allies, whom we have worked hard to educate and inform and who are willing to risk presenting a different approach, are also competing for that same majority. The system gives the bureaucrats enormous power since they are depended upon heavily for information and options. The values and ideologies of Deputy Ministers and Assistant Deputy Ministers become at least as, if not more, important than those of Ministers. Traditionally, on every issue, the bureaucrats have interpreted their prime responsibility to be maintenance of the status quo. If by chance Cabinet surprises the bureaucracy with a decision that bureaucrats think is too far reaching, they can very effectively stymie implementation of that decision.

Over the last few years of the Trudeau government, however, the tactics of the bureaucracy in relation to Cabinet necessarily were more subtle and manipulative. The advent of direct negotiation with us at the constitutional forum had the effect of applying more direct pressure than had been the case previously. It also forced the key Cabinet members to get better informed on our issues. Cabinet documents and government strategies had to deal with self-government and rights in a way to attempt to satisfy the First Nations which were exerting increasing pressure.

The Conservative takeover brought on a period of uncertainty, some Deputy Minister changes, and a general confusion and jockeying for power. Some bureaucrats, seeing their opportunity to impress what they saw as a new breed of Ministers eager to purge the Liberal ways, suggested quick action to cut programs and spending in sectors deemed to be relatively politically safe. Indians, the elderly, the poor, immigrants and ethnic groups have traditionally been first in line to be blamed for poor economic conditions, and it has become politically expedient to target them first for spending reductions and program cuts. The Tory agenda was influenced not only by a sluggish economy but also by an election campaign commitment to reduce the enormous deficit. The large electoral majority received by the Conservative government and the influx of inexperienced but self-assured MPs and their advisors all contributed to a general

atmosphere of arrogance in the new government, a government which some have likened to a benevolent dictatorship.

The leaked Nielsen Task Force Cabinet document was drafted in a style which was meant to say: "We're the bosses now. The Indians once had this country and look at what little they did with it. They must swim or sink like the rest of us."

The elderly of Canada were another minority targeted for early cuts in spending, as attempted in Finance Minister Michael Wilson's first budget. The rate of increase in old age pensions was to be cut, thereby saving the government a great deal of money. The political reaction and public outcry forced the government to back down. Programs affecting immigrants and ethnic groups were largely left alone, not because cuts in spending were not desirable, but because the political price would have been devastating.

Although the Indian First Nations were seen as a powerful lobby group, some government strategists thought we were easy marks, and that the political heat generated could easily be absorbed.

The leak of the Nielsen report, and the ensuing outcry, forced the hostile forces to regroup. Mr. Crombie's success in getting the Prime Minister to issue a press release on April 18, 1985, to try to calm fears and ease First Nation reaction by making certain progressive-sounding commitments, was only a setback, and not a victory over the hostile forces epitomized by Erik Nielsen.

The general thrust, and some of the specific recommendations of the Nielsen Report, are being implemented. Despite our call for a moratorium on the implementation of all of the Report's recommendations, government Ministers stated publicly that the Nielsen Report covered so many programs that it would not be able to govern if it agreed to the moratorium. They have also said recommendations are being viewed only as options.

In fact, the major policy, program, funding, and administrative government decisions made since September 4, 1984, directly or indirectly affecting First Nations have followed the Nielsen Report direction.

For example:

1. Non-Constitutional Self-Government or Community-Based Self-Government

In the fall of 1985, Cabinet approved a policy giving a mandate to the Minister of Indian Affairs to enter into community-based self-government negotiations. The policy is based on encouragement to Indian bands to use the by-law making power of the Indian Act to its maximum extent. The self-government policy proposes the maximum use and extent of existing policy with the possibility of opting out of the Indian Act in favour of municipal-like government under federal authority. In brief, the policy goes in the opposite direction of self-government jurisdiction recognition that we advocate. Like the Nielsen Report, it negates any confirmation of First Nation's rights.

2. Canadian Jobs Strategy (CJS)

The CJS revamped the job creation and training programs in order to exchange short term, dead-end job creation for long term employment. The CJS is also based on developing employment through further development of existing businesses.

It ignores the reality of reserve communities where the private sector is almost non-existent, or where employment opportunities within commuting distance are largely non-existent. The Employment Equity Act, obliging large businesses to develop and implement plans for hiring more Indians (among others), is a weak step and its effectiveness is doubtful. However, that Act, coupled with the inadequacy of the CJS, means that the government's overall direction on employment development for Indian people follows the direction of the Nielsen Report. That report urges First Nation's citizens to move away from their communities, which are the last bastion of defence of our cultures, to find employment.

3. Alternate Funding Arrangements (AFA)

The AFA policy was a partial response to self-government positions of First Nations, the Penner Report and the general pressure for improved financial arrangements. The Kitamaat Band, British Columbia, led the way by proposing multi-year

block funding arrangements. The concept envisaged a block of money being negotiated and transferred with only general conditions attached, similar to equalization payments to the provinces. In response, Indian Affairs, with Treasury Board approval, devised multi-year arrangements which are extremely conditional and are based principally on the requirement of Chiefs and Councils to account to Parliament and not to our people.

It also calls for the transfer of most of the administrative responsibility for planning, reporting, monitoring etc. to bands, without corresponding funds to accommodate the increased burden. It seems Indian Affairs will meet its goal of reducing its size, all without further cost to the government.

Meanwhile, contribution agreements with bands are subject to new Treasury Board guidelines which are more restrictive than in the past and which, in part, make specific funding commitments subject to funds voted by Parliament. In other words, negotiated funding levels written into agreements can be diminished but not increased.

The AFA initiative does not support self-government, is highly restrictive and follows the general thrust of the Nielsen Report for greater accountability for federal funds spent by bands.

#### 4. Economic Development

As Sally Weaver points out, few will dispute that a strong economy is the basis to successful self-government. The federal approach to economic development to date has been to encourage private sector development in First Nation communities, with an emphasis on individual entrepreneurship. It has discouraged band operated, controlled or directed endeavors. Without political leadership in economic development, the community will go in a direction motivated strictly by profit, with little consideration of culture and the overall direction which the community wishes to take. As well, delivery of the Native Economic Development Program (NEDP) is being consolidated within DRIE regional offices. In general, again, the Nielsen Report

has been followed in this area. The large majority of funds spent on economic development are not being used to support the transition to self-government.

5. The \$500 million cut in Government Discretionary Program Funds

Finance Minister Wilson, in February 1986, tabled a federal budget which, in part, called for a 500 million dollar, across-the-board cut in discretionary program funding. Mr. Crombie attempted to have Indian programs exempted, consistent with the Prime Minister's public statement of April 18, 1985, that Indian program funding levels would be maintained. The Treasury Board and some senior officials of Indian Affairs tried hard to have Indian programs cut back in a proportion similar to other programs. At the time of this writing, evidence on spending levels for the current fiscal year, which are difficult to get at the best of times, is slowly filtering out, and confirms that Indian programs are being cut. The Nielsen Report mandate and recommendations to find means to save money in Indian programs are apparently coming to pass.

Indian Affairs has internally reorganized its programs to implement the general direction and specific policies listed above.

I will next describe two subtle characteristics, common to all major program, policy, financial and administrative decisions on First Nations issues, of the Conservative government to date.

First, it uses our language of self-government and self-reliance and a special federal/First Nation relationship to mean something much different and quite opposite to that which the majority of First Nations has consistently expressed for years. The majority of the uninformed, self-proclaimed progressive Ministers was likely convinced that the government's new approach went a long way to satisfy our positions. Many of them to this day feel they have taken a more progressive, enlightened approach than any federal government of the past. In my view, I have never seen a Cabinet so easily misled and manipulated by the bureaucracy it is supposed to direct.

Secondly, the cornerstone of the strategy is to lower our expectations which were raised in the last few years of the Trudeau government, and maintained if not enhanced by Crombie until June of 1986, when he was shuffled to Secretary of State.

The federal strategy appears to be: one, to use our language, but not the concepts they are meant to convey, in program and policy formulation; two, to agree to transfer administrative as opposed to real political authority to First Nations; three, to transfer the federal government's current administrative costs and problems to Indian bands without the minimum level of funds to maintain the inadequate level of services we have suffered since the beginning of our relations; and four, to generally lower our expectations and deal with us in terms of needs and not rights.

The obvious question to ask is how that analysis can be reconciled with a federal position on self-government enunciated at the First Ministers Conference (FMC) by the Prime Minister in April, 1985. My view is that once again some of the right language was being used in that proposal while the bureaucrats envisioned an implementation of self-government that would be little different than the approach I described above, even if a constitutional amendment had been achieved. The assumption made here by the bureaucrats is that the required majority of provinces, which, for the first time in history, have been forced to deal with us in high profile, face to face meetings, will never agree to our preferred amendment. Our proposal would require that they share what they view as their land, resources and jurisdiction. Furthermore, the view of some seems to be that FMCs on aboriginal matters with our direct representation were an aberration imposed by a previous federal government and that this quirk in history will soon be past so that we can return to normalized relations. I think that over time, they will be proven wrong in their analysis.

The power of the bureaucracy in our relations cannot be understated. We have long contended, sometimes with corroborating evidence, that Cabinet documents and the verbal presentations of First Nations' issues in Cabinet contain

inaccuracies and half truths. Recently, the Grand Council of the Crees of James Bay campaigned hard to have the terms of the first modern treaty or land claim settlement respected by one of its signatories, the federal government. The Crees were angry at discovering that a Cabinet memorandum upon which Cabinet had based a recent decision was inaccurate. It claimed that the Crees had approved the request for a mediator to assist in breaking the logjam in negotiations when in fact the Cree had not approved any such request.

We have noted this problem for years and we have attempted to convince the politicians that it is they who are in power, that new relations with us are vital and that courageous political decisions must be taken.

Our dealings with the federal bureaucracy, and through Ministers of Indian Affairs with limited Cabinet influence, have shown us that our relations with the government will not improve until we have access to key political decision makers in a formal bilateral process, such as we have now multilaterally in the FMC process.

Earlier this year, the Chiefs of First Nations in Manitoba succeeded in a campaign of several years duration to expose the financial mismanagement of the Department of Indian Affairs and Northern Development (DIAND). The Minister of Indian Affairs responded in part by agreeing to set up a process of negotiating financial relationships with the Chiefs.

The Assembly of First Nations (AFN), in response to obvious substantial problems in almost every region, called for the establishment of a joint AFN-Cabinet Commission to discuss and negotiate major issues of Federal-First Nations relations. It was once again our conclusion that we are not going to get anywhere dealing with government largely through its bureaucracy. Substantial progress--any meaningful progress--will only happen through direct negotiations at the highest political level.

The federal government contends that it is widely representative of Canada, its regions and its people. For the most part, that is true, except that the First Nations are not di-

rectly represented. The fact that Cabinet membership reflects Canadian people and their attitudes is generally true, especially when considered in relation to the attitudes and approaches we have experienced emanating from the bureaucracy.

Cabinet's decisions on Indian policy are lagging behind the progressiveness of the majority of Canada's population in relation to First Nations' rights. The churches, labour, some provincial governments, the territorial councils in the north and some business associations have come out clearly in support of stronger, broader government policies on land claims, self-government and treaty and aboriginal rights and title.

Despite that support and positive public opinion on self-government indicated in a Gallup poll the AFN commissioned in 1984, government policies are not moving in the direction of self-government as we have consistently described it. The conservative element of the bureaucracy and Cabinet, as represented clearly by the Nielsen Report, has gained the upper hand in Indian policy formulation, especially since the Conservative government came to power. The Prime Minister is not fully aware of the political danger into which his subordinates are leading him.

Sally Weaver has described well and in detail the recent historical progression of events in the Indian policy area. My analysis of the problems in the government's Indian policy formulation concurs with hers and is based largely on a wide and reliable network of contacts inside government, regular meetings with Cabinet Ministers and their staffs, glimpses at and revelations of Cabinet and other confidential documents.

The Prime Minister and the Premiers still have a unique historical opportunity to accommodate us finally in Confederation, on mutually acceptable terms.

In Federal-First Nations relations, the Conservative government will fail to satisfy our legitimate aspirations unless it seizes control from its bureaucracy. It needs to make the political decisions that reflect a different vision of Canada, one which sees the First Nations as productive partners in Confederation and in control of our lives in the years to come.

Otherwise, the Canadian taxpayer will continue to pay heavily to maintain the cycle of First Nations dependency on the government.

In addition to asserting control over its bureaucracy, the federal government will fail in setting up a "fresh start" with the First Nations, as the Prime Minister has called for, unless the overall policy direction is decided through Cabinet level, bilateral negotiations with the First Nations.

