VOLUME 8, ISSUES 4-8 APRIL-AUGUST 2010

FIRST NATIONS STRATEGIC BULLETIN

FIRST NATIONS STRATEGIC POLICY COUNSEL

Manny Jules/Tom Flanagan Fee Simple Plan: *DIA Study on Privatization of Reserve Lands & Economic Development*

Manny Jules, Chair, First Nations Tax Commission, at United Nations Side Event, April 22, 2010. (Photo by RDiabo)

By Arthur Manuel, Spokesperson, Indigenous Network on Economies & Trade

I have just reviewed copies of the letters sent out to a select group of First Nations by **Department of Indian Affairs (DIA)** Senior Advisor, Lands and Economic Development, **Paul Fauteux**, with c.c.'s to four national First Nation institutes that support this initiative. These four national institutes and heads are **Harold Calla** of the Squamish Nation, Chairperson of the **First Nations Financial Management Board**; **Leona Irons** of Curve Lake First Nation, Executive Director of the **National Aboriginal Land Managers Association**; **C.T. (Manny) Jules**, Chief Commissioner of the **First Nations Tax Commission**; and former Chief of the Kamloops Indian Band and **Chief Clarence Louie** of the Osoyoos Indian Band, Chairman of the **National Aboriginal Economic Development Board**. I feel it is very important to pay close attention to these national First Nations institutes because they are striving to have very key role on how "***development***" is going to happen to all Indian Reserves. These four national First Nations institutes obviously got the ear of DIA but what does this mean vis-à-vis **Assembly of First Nations** Resolutions that reject those very initiatives being pursued by DIA.

It is very important to see how DIA is using these four national institutions to support their role in taking leadership on how land management will be handled on Indian Reserves. I believe the DIA should not be in charge of straightening out the mess they created because they have the propensity to do the opposite of what we want. DIA has never stood up for our economic and human rights. The purpose of the DIA is to manage the poverty we live in because we were forced by federal and provincial law to move off our large rich traditional territories and live on tiny impoverished Indian Reserves. All the money and resources, which the federal government gives us, results in us living at level 72 according to the **United Nations Human Development Index**. Canada in contrast is always among the top 10 states in the world and once was ranked at level 1 on the Human Development Index for three years.

The fact that Canada was ranked at level one tells us our land is very rich and strong. The big question is why are we so poor? We are poor because we are systemically made poor because we are dispossessed of our land by federal and provincial laws that do not recognize our Aboriginal and Treaty Rights. Federal and provincial law irresponsibly ignores our Aboriginal and Treaty Rights despite the fact they have been recognized by the Supreme Court of Canada (SCC) and protected by the Cana-

Special points of interest:

- **DIA-Jules-Flanagan Team Up to Privatize Reserves**
- **Atelo Plans to Eliminate Indian Act in 2-5 years.**
- **Analysis of Throne Speech & UNDRIP**
- **New DIA Minister Named is an Old Foe**
- **Still Stolen Land the G-20 & Aboriginal Rights**

Inside this issue:

Manny Jules, Chair, First Nations Tax Commissiion. (Photo courtesy of FNTC)

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da Constitution 1982. DIA deliberately and negligently undermines and fights against our Aboriginal and Treaty Rights despite the fact the SCC has found Canada has a trust, fiduciary and the Honour of the Crown duty to Indigenous Peoples. The federal government always sits on the side of the provincial government in any legal case where we challenge the application of provincial jurisdiction in our Aboriginal and Treaty territories. They want to maintain the existing distribution of law making powers between the federal and provincial governments. Bluntly put, they want the province to be rich and us poor. I am therefore very leery about DIA helping us because their track record demonstrates they racially discriminate against our human and economic rights.

I remember how my late father **George Manuel** built his political experience and strength fighting The Right Honourable **Pierre Elliot Trudeau** and the then Honourable **Jean Chretien** over the **1969 White Paper Policy**. I remember when Trudeau and Chretien finally agreed to shelve the White Paper, but not until Chretien commented, we will just have to wait for some future generation to accept it. I guess DIA figures we have reached that point. Will we or will we not make our Indian Reserves into Fee Simple. That is the choice that **Tom Flanagan/Manny Jules Fee Simple Plan** offers us. I believe the purpose behind this DIA survey is to sell this Plan to the more successful First Nations across Canada this summer.

"Will we or will we not make our Indian Reserves into Fee Simple. That is the choice that Tom Flanagan/ Manny Jules Fee Simple Plan offers us"

If Indigenous Peoples are to seriously reduce and possibly eliminate poverty in our Nations we need to develop an economic strategy that is based on our entire Aboriginal and Treaty Territories and not just on our Indian Reserves. Only very few Indian Bands and Reserves have the capacity to participate in Canada's mainstream economy. DIA has selected approximately 62 Bands across Canada as achieving this successful status. These Indian Bands should be congratulated for being successful in using leasehold estates, their geographic location to larger urban centers and economic tenacity to overcome DIA red tape and be successful. I know from personal experience that DIA policies regarding land management do not help Indigenous Peoples convert their lands to leasehold estates for their own business purposes.

One reserve nearby has a **Wal-Mart, Royal Bank, Toronto Dominion Bank, Zellers, Staples, Home Depot, London Drugs, Canadian Tire, Best Western Hotel** and other less nationally known businesses. I know this because I shop there to not to pay federal and provincial tax. The real question is why are non-indigenous people able to take our existing Indian Reserve Land and build businesses and we cannot. I also know of a number of Indian Bands that lease land to white people to build luxury homes. Why can white people under leasehold estates build all these businesses and residences and we cannot? Most Banks have policies against lending money to Indians on Indian reserves or they make it exceedingly difficult for Indians to do so, and in turn non-indigenous persons can access our land for less than fair market value. We cannot lease our land to ourselves because DIA does not unconditionally support converting **Certificate of Possession (CP)** lands to leasehold estates, if, the CP holder is going lease it to themselves. [CP is the highest form of private land ownership on Indian Reserves.] Converting CP land to leasehold estates is a lot safer than making the land Fee Simple. Transforming Indian Reserve lands to Fee Simple would break up the Indian Reserve land base and take away the protection that the collective ownership of Indian Reserves by Indian Bands provides, making them inalienable and not subject to expropriation.

Political Scientist, Tom Flanagan. Right wing proponent of First Nations assimilation.

Let us say you convert your CP land to a leasehold estate under a prepaid lease you can then use the prepaid lease as a form collateral to develop your business. The positive benefit of the leasehold estate method over the Fee Simple approach is that if you lose your business and land to the Bank for the duration of the lease, you will get the business and land back when the lease is finished. If you convert your land to Fee Simple and you lose the business, you will lose it forever, because the Bank or the government will take it. There will of course be limitations to your leasehold estate but if it is good enough for Wal-

'Fee Simple Plan' continued from page 2

Mart and other big businesses it could be good for us too, if, DIA were not so economically racist against us developing our own relationship with the investment and business communities based on recognition of our Aboriginal and Treaty Rights.

The letter from DIA talks about a survey, but the real purpose of the present survey is to get people hooked on converting Indian Reserves to Fee Simple. We need to be very careful about Fee Simple. The federal government supports the **Tom Flanagan/Manny Jules Fee Simple Plan** and flew **Manny Jules** out to New York City to speak at Canada's Side Event on "***Canada's Federal Framework for Aboriginal Economic Development***" at the 9th Session of the **United Nations Permanent Forum on Indigenous Issues** in April 22, 2010.

Armand MacKenzie from the Innu and I challenged Manny Jules on this strategy because it only applied to existing Indian Reserves and in most cases Indian Reserves would not result in reducing poverty if converted to Fee Simple. I remember Armand MacKenzie saying that turning his Indian Reserve into Fee Simple wouldn't do anything because the main source of revenue in his territory is from a Hydro Electric Dam located a few kilometers from his Indian Reserve. I think this clearly shows the limitations of focusing our economic strategy on just our existing Indian Reserves. Canada and the provinces are not stupid, they are very skillful in keeping power over access and benefits regarding our land. So why are they behind the **Tom Flanagan/Manny Jules Fee Simple Plan**?

"The letter from DIA talks about a survey, but the real purpose of the present survey is to get people hooked on converting Indian Reserves to Fee Simple. We need to be very careful about Fee Simple"

The reason why Canada is behind this strategy is that Fee Simple is in deep trouble in British Columbia. Fee Simple is the highest form of private property in British Columbia. Fee Simple is a property concept that was imported to North America from England. Fee Simple is like the deed or title to private property for settlers. Fee Simple is the basis of home ownership in BC. It represents the highest investment individual families will make in their lifetime. It is now a provincially created property right. It is the foundation of the BC economy. Fee Simple worked very good for the BC from 1871 when BC joined confederation, until December 11, 1997 when the Supreme Court of Canada recognized that provincially created property rights, like Fee Simple, did not extinguish Aboriginal Title. That made Fee Simple uncertain. This is why the federal **Comprehensive Land Claims Policy** to extinguish Aboriginal Title in our territories and the Conservative Party Tom Flanagan Plan to make Indian Reserves Fee Simple is trying clear up this uncertainty. These approaches want us, Indigenous Peoples to legally embrace Fee Simple as the highest form of land title in BC and Canada.

In British Columbia the federal and provincial governments say that Aboriginal Rights exist but are not clearly defined. They say that we need to either go to court or negotiate under the Comprehensive Land Claims Policy to define our Aboriginal Rights. BC says that we will carry on business-as-usual until we get a Declaration from the courts or we get a Final Agreement like the **Nisga'a**, **Tsawwassen** and **Maa-nulth** Indigenous Peoples. The federal and provincial governments however fail to say that, if, Aboriginal Rights is undefined then all federally and provincially created property rights, including Fee Simple, must also be equally undefined. This means that Fee Simple is not full title because the province cannot sell full title. BC could not sell what it does not own. The BC government never could sell full title because Fee Simple did not extinguish Aboriginal Title. Therefore if Fee Simple is a proprietary interest it is subject to the proprietary rights of Aboriginal Title.

The **Indigenous Network on Economies and Trade (INET)** made submissions to the **World Trade Organization (WTO)** and the **North America Free Trade Agreement (NAFTA)** during the last Canada USA Softwood Lumber Dispute. Canada at that time exported $10 billion dollars worth of softwood lumber to the United States every year. The US imposed a 27% countervailing duty on Canada's softwood lumber, arguing the government was charging less than fair market stumpage that subsidized the softwood lumbers industry. INET agreed with the USA that Canada's softwood lumber was being subsidized

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Manny Jules, Chair, First Nations Tax Commission. (Photo by R. Diabo)

but also by Canada's policy to NOT recognize Aboriginal and Treaty Rights. **Nicole Schabus** and I did meet with the US government at their Permanent Mission in Geneva, Switzerland and they specifically asked on several occasions if Indigenous Peoples ever got paid for our trees. I answered no. The WTO Tribunal and the Bi-National panel of NAFTA accepted these submissions even after Canada, some provinces and the Canadian forest industry formerly opposed INET's amicus curiae submission.

The WTO is the highest trade tribunal body in the world and NAFTA is the highest trade tribunal in North America. They know that given our legal circumstances, Canada and the provinces cannot arbitrarily ignore dealing with Aboriginal and Treaty Rights. As Indigenous Peoples we have enough ownership in our trees and other resources that the failure of the government to pay for them makes our proprietary rights an international trade subsidy. It is the fact that Aboriginal and Treaty Rights are international trade subsidies that scares Tom Flanagan and the Conservative Party. If Indians accept the same land management system and Fee Simple on the Indian Reserves, it indirectly validates the provincial land management system throughout the province. That is why they want us to legally embrace Fee Simple as the highest form of private property in our Indian Reserve land management systems. They want us to do this without linking our Indian Reserve land management system to our Aboriginal and Treaty Rights. DIA wants to treat Aboriginal and Treaty Rights separately from programs and services. Our former National Chief **Phil Fontaine** signed the "***First Nations-Federal Crown Political Accord***" in May 2005 and the "***Kelowna Accord***" in November 2005. I organized a demonstration by several hundred Indigenous Peoples and supporters against the Kelowna Accord in Kelowna, BC. These Agreements divided "**Aboriginal and Treaty Rights**" from "**Programs and Services**". The AFN First Nations-Federal Crown Political Accord should be reviewed and overturned.

"If Indians accept the same land management system and Fee Simple on the Indian Reserves, it indirectly validates the provincial land management system throughout the province. That is why they want us to legally embrace Fee Simple as the highest form of private property in our Indian Reserve land management systems"

In British Columbia the province also has to report on their liability regarding the judicial recognition of Aboriginal Title according to the international accounting and auditing standards as a Contingent Liability. Ever since 1997 the BC government has been reporting that they are managing their liability for Aboriginal Title through negotiations under the Comprehensive Land Claims Policy and the British Columbia Treaty Commission Treaty Process. The province is telling the independent financial monitors like Standard and Poor's and investors, that BC will maintain ownership and jurisdiction over BC because Indigenous Peoples will voluntarily extinguish their Aboriginal Title like the Nisga'a did in their Final Agreement. They carbon copy this report each year with minor changes. This Report does not accurately and fully describe the economic trouble BC is in. Canada and the provinces want to keep Aboriginal Title as a Contingent Liability and not a fixed liability because they are gambling we are not economically smart enough to make Aboriginal Title become a fixed liability. We need to prove them wrong.

There are more financial and economic uncertainties that recognition of Aboriginal Rights creates that we need to make-work in our favor. It annoys me that we are in the Financial Statements of one of the richest provinces, in one of the richest countries in the world, and the majority of our young families are dependent on social assistance. Furthermore, many communities are borrowing money under the **British Columbia Treaty Commission (BCTC)** process to negotiate away our Aboriginal Title for Fee Simple Land, taxation and entrenched poverty as Indigenous Peoples. Our Elders from previous generations never signed any deals with the government. That is why we are free to make real choices now. We are free to assume our role as landlords here in BC. Recognition of Aboriginal Title has vested in us as the collective owners of Aboriginal Title responsibility to clearly define what we want from Canada and BC in order to recognize the property rights they created. The economic uncertainty Aboriginal Title creates for government property rights are our economic foundation and if we are wise and strong it can be prosperity for our future generations.

The DIA "***Resolving Aboriginal Claims, A Practical Guide to the Canadian Experience***"

'Fee Simple Plan' continued from page 4

in Chapter 4 dealing with "Issues to be Negotiated within the Comprehensive Land Claims Process" states in regard to "***Certainty***" that Aboriginal Title will be restricted to the "***modified rights model***" to what is negotiable. The real bottom line about the Comprehensive Land Claims Policy is that every matter that has to do with the (bigger) macro-economic aspect of our Aboriginal Title is non-negotiable. It is considered to be part of Canada's sovereignty or of national importance. Only limited matters, which directly affect our Indian Reserves and culture, are negotiable. The United Nations has concluded that the modified rights model results in the same outcome, as does the "cede, surrender and release" extinguishment policy.

It is clear that Indigenous Peoples will not extinguish Aboriginal Title. That is why the Comprehensive Land Claims Policy has been a dismal failure in British Columbia. The Indigenous leadership knows that the people will throw them out of office before they knowingly extinguish their Aboriginal Title. What does it mean when we say the federal and provincial governments need to recognize Aboriginal Title. How does this recognition apply to us on the ground?

Aboriginal Title exists throughout our traditional territories. It has always existed despite the fact that the federal and provincial governments created property rights in our Aboriginal Title territories. Premier Gordon Campbell understands this and he knows this causes real uncertainty for the BC economy. What recognition means is that we need to recognize those federally and provincially created property rights to make them full property rights. Right now the failure of the federal and provincial government to not recognize Aboriginal Title is an *economic defect* in all federal and provincially created property rights in our Aboriginal Territories, including Fee Simple. What we need to define is what we want from the federal and provincial governments for recognizing the property rights they created on our Aboriginal Territory. What agreement we come up with will be the application of recognition of our Aboriginal Title. This is the essence of recognition.

The failure of the Canadian and BC governments to recognize Aboriginal Title on the ground has become an economic defect in Canada and BC's capacity to link Canada and BC's economy to the land. This economic defect was recognized by the WTO and NAFTA in INET's amicus curiae submissions on the Canada USA Softwood Lumber Dispute. It is recognized according to the international accounting and auditing standards with regard to BC Financial Statements. Canada and BC have not shown any signs of backing down from their extinguishment and assimilation policy and this is what is causing this economic defect that will ultimately result in the lack of trust in the BC economy. Indigenous Peoples need to take action to protect their Aboriginal Title against the business-as-usual strategy of BC. Canadians need to become aware of this economic defect because it does actually affect the underlying title of their property.

Indigenous Peoples need to realize if we unconditionally accept Fee Simple as full title in our Indian Reserves it will undermine our Aboriginal Title. We would be cutting ourselves off at our ankles and giving away the legacy of our grandchildren. Fee Simple as a property concept cannot be recognized unless the same is done with regard to Aboriginal Title. Fee Simple in our Aboriginal Territory must recognize Aboriginal Title as an essential part and last component for the creation of Fee Simple in BC. Plus certain benefits and responsibilities accrue to the Indigenous Peoples who own the Aboriginal Title with regard to Fee Simple and other government created property rights. Indigenous Peoples must be entitled to a percentage of property taxes and other sources of revenue made on our Aboriginal Territories. This is not outrageous because Indigenous Peoples do get money from Canada and the provinces but this money is given to us as charity and not as recognition and affirmation of our Aboriginal Rights.

Canada must abandon its policy of extinguishment and assimilation and adopt a policy of recognition and coexistence. Money given to Indigenous Peoples must be based on

NOT FOR SALE

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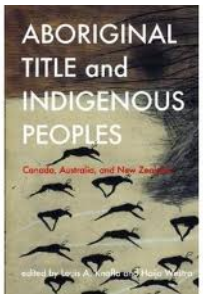

Harold Calla, Chair, First Nations Finance Authority.

"The Tom Flanagan/Manny Jules Fee Simple Plan would benefit settlers and their governments while depriving our people and future generations of their legacy and rights. Single individuals and self-appointed national institutes have no legitimacy or right to determine the collective future of our people"

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recognition and affirmation of our Aboriginal and Treaty Right according to Section 35(1) in the Canadian Constitution of 1982. Canada must quit giving us our money under the Indian Act and under the Department of Indian Affairs under Section 91(24) of the Canadian Constitution. Canada must immediately plan to do away with the Department of Indian Affairs. The essence of the Department of Indian Affairs is totally contradictory to recognition of Aboriginal Title and Rights and establishing political and economic freedom of our peoples. The fact that the DIA is behind the **Tom Flanagan/Manny Jules Fee Simple Plan** tells a lot about the mentality of DIA. Having DIA play a leadership role in our future is suicide.

In conclusion I would advise the four national institutions to stop supporting the Tom Flanagan/Manny Jules Fee Simple Plan. Tom Flanagan and his entire BC Conservative buddies all own their private property based on Fee Simple. They want us to perfect their Fee Simple by accepting Fee Simple on our Indian Reserves. I do not feel that First Nations national institutions professing to represent Indigenous Peoples should be engaged in strategies that will undermine our Aboriginal Rights and the future economic prosperity of our children. Indigenous and non-Indigenous economic institutions need to think outside the extinguishment and assimilation box or get run over or left behind.

The big question facing us today is not how can we fit into the mainstream economy, but how the mainstream economy can fairly, honestly and justly manage the fundamental change that recognition of Aboriginal Rights creates. This is really exciting in terms of reducing our poverty and protecting our land for future generations. I know Indigenous Peoples are concerned about the expansion of Sun Peaks Resort, the Taseko Fish Lake Mine and the Enbridge Dirty Oil Pipeline will have on our environment and culture. Indigenous Peoples need to be very clear to identify what we want. We need to figure out from a broad spectrum including the environment, property, governance, international relations, medical care, royalties, stumpage and taxes to mention a few matters that will have to be covered by recognition, compensation and remuneration for Aboriginal Title. Indigenous Peoples need stand up to the BC business-as-usual strategy by demanding what we are entitled to based on our Aboriginal Title.

As Indigenous Peoples we collectively hold Aboriginal Title in our respective territories, this holds a lot of power and protection. We hold Title as "**a peoples**" or like other nations, not as individuals. We are the landlords and the people in charge of our respective territories. No single individual can give up or extinguish our Aboriginal Title and Indigenous Rights. It would be suicide or extinguishment for our future generations to accept Fee Simple in exchange for our collective Title. We have to keep collective Title to all underlying lands and then we can always decide how people can individually hold single property rights on top of that recognized Title and in exchange for remuneration. Our people have to collectively remain landlords and then we can determine individual land ownership on top in a way that fairly benefits our people. The Tom Flanagan/Manny Jules Fee Simple Plan would benefit settlers and their governments while depriving our people and future generations of their legacy and rights. Single individuals and self-appointed national institutes have no legitimacy or right to determine the collective future of our people. They are not interested in an open debate with our people, because they know we will never agree with their plan. They are closer to the government and DIA who funds them and dictates their agenda than the people who they pretend to work for. They are used to making backroom deals and pushing an agenda that is not endorsed by our peoples. At the recent AFN 31 General Assembly a Resolution condemning the Fee Simple Plan was overwhelmingly endorsed with only three votes against it. DIA cannot push this plan, which lacks legitimacy and support amongst Indigenous Peoples!

AFN National Chief's Plan to Eliminate Indian Act: *Foresees New Relationship with Canadian State*

AFN National Chief Shawn Atleo during the AFN-AGA in Winnipeg, Manitoba, July 20, 2010. (Photo by R. Diabo)

By Russell Diabo

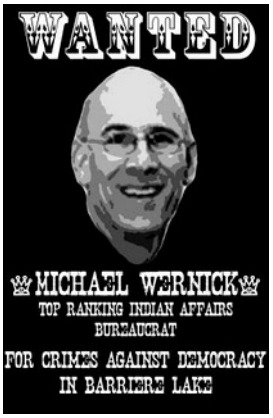
In his ongoing effort to bring the Assembly of First Nations (AFN) back from irrelevance, after Phil Fontaine's administration essentially turned the AFN into a branch office of the Department of Indian Affairs, National Chief Shawn Atleo announced, during the Assembly of First Nation's Annual General Assembly, held in Winnipeg, Manitoba, July 20-22, 2010, a plan to get rid of the Indian Act in two to five years from now.

As National Chief Atleo describes it, the Indian Act is "***clearly designed as an instrument of oppression, control, paternalism and assimilation, continues to permeate and constrain daily First Nation government operation and function. Through the many historical overviews done by academics and our own scholars, we can see this terrible legacy and by witnessing the ongoing impact of a colonial regime that denies our governments the tools to effectively plan for and manage and govern our lands, waters and our peoples.***"

According to National Chief Atleo the way forward is a process that is "***nationally facilitated, regionally driven and community mandated and approved.***"

There are many elements contained in National Chief Atleo's plan, but the core of the AFN plan in developing a new relationship with the Canadian State is as follows:

- National First Nation - Crown Relationship gathering to deliberate on a comprehensive plan for joint implementation of First Nation governments.
- As an outcome of the gathering, we would work to prepare a Parliamentary Proclamation affirming our rights as part of existing Constitutional law of Canada reaffirming Treaties
- Proclamation would describe a process, mutually and previously agreed upon by First Nations (including full community-based engagement and decision-making) for transition away from Indian Act and confirming First Nation governments.
- Proclamation would be a statutory obligation confirmed through an order-in- council and achieved through all party involvement and consensus to ensure that this is a non-partisan and binding commitment.
- Clear analysis and legal confirmation that First Nations funding will not be compromised but rather funding arrangements transformed based on recognition of First Nation governing entities.
- Through intergovernmental dialogue started at the Council of the Federation and culminating in a First Ministers meeting, confirm a process to create fundamentally new fiscal transfer arrangements based on demographics, inflation and factors of need.
- Affirming First Nation governments as leaders in accountable, successful administration and continuing to build capacity through specific workshops and direct support.



"In his ongoing effort to bring the Assembly of First Nations (AFN) back from irrelevance, after Phil Fontaine's administration essentially turned the AFN into a branch office of the Department of Indian Affairs, National Chief Shawn Atleo announced . . . a plan to get rid of the Indian Act in two to five years from now"

Michael Wernick. Deputy Minister of Indian Affairs. (Photo courtesy of Carleton Univ.)

Chief Lawrence Paul, Millbrook First Nation, Nova Scotia.

"the Department of Indian Affairs, has learned how to identify and use certain First Nation leaders and First Nation administrative types to be collaborators on federal assimilative policies and legislation"

John Paul, Executive Director, Atlantic Policy Congress.

'AFN Plan' continued from page 7

- Advocating through all senior Public Administration and Policy Forums to advance new structures and machinery of the Federal Government replacing INAC – Ministry of First Nation-Crown relations; Aboriginal and Treaty rights Tribunal.

What the AFN National Chief is proposing to facilitate in a 2 to 5 year time-frame, is a major restructuring of the federal machinery of government through a negotiated process, which is intended to move to a modern relationship between First Nations and the Crown based upon the "***recognition and affirmation***" of the First Nations' Aboriginal and Treaty rights protected in section 35 of Canada's Constitution Act 1982 and away from the colonial relationship developed under section 91(24) of the Constitution Act 1867, which gave the federal government "***exclusive legislative authority***" over "***Indians and lands reserved for Indians***".

From the **Indian Act** until now, the federal government continues to rely on section 91(24) to unilaterally introduce and pass federal laws that impact First Nations.

Internal First Nation Considerations

While this AFN proposal has it merits and deserves support-in-principle, it is a course of action that has many potential pitfalls. If it is to be accomplished it will take a disciplined, coordinated and strategic approach involving First Nation leaders, staff, advisors and most importantly the grassroots citizens of First Nations. In other words, it will take a broad based political movement among First Nation and First Nation organizations.

Moving from the status quo, or from the devil we know to one we don't, will be feared by many First Nations peoples, mainly because of the dependency on the federal government, which the colonial **Indian Act** has institutionalized and many First Nations have internalized in varying degrees over the last 143 years.

We should consider one of the reasons for the failure of political initiatives among First Nations peoples like the **Charlottetown Accord** in 1991 and the regional British Columbia initiative of a "***Recognition Act***" last year is arguably because the First Nations leaders did not include the grassroots people in their development of the proposed Charlottetown Accord, or the B.C. "***Recognition Act***" and tried to act on short deadlines to achieve support for the political initiatives.

In his Winnipeg speech National Chief Atleo also pointed out that "***AFN operates with almost exclusively Federal Government funding. There is a fundamental conflict of interest in the current model. And the situation is made more acute as Government adds restriction to all funding and requires more and more reporting.***"

It is not just AFN that is controlled by the restrictive terms and conditions for funding set out by the federal government, but First Nation organizations (Provincial-Territorial-Organizations, Tribal Councils, Service Delivery Bodies) and Bands are in the same situation.

Over the past few decades the federal government, led by the Department of Indian Affairs, has learned how to identify and use certain First Nation leaders and First Nation administrative types to be collaborators on federal assimilative policies and legislation. A few prominent examples of these collaborative efforts include setting up the following "***national institutions***" and using individuals from these "***national institutions***":

- National Centre for First Nations Governance.
- National Aboriginal Economic Development Board.
- First Nations Tax Commission.

'AFN Plan' continued from page 8

- First Nations Finance Authority.
- First Nations Financial Management Board.
- First Nations Statistical Institute.

There are a number of First Nation individuals from these "***national institutions***" and others who can be expected to collaborate with the federal government in federal efforts to undermine and derail the AFN proposed process to get rid of the **Indian Act** and establish a new relationship with the Canadian State.

Aside from the First Nation collaborators there are First Nation leaders and staff who be afraid of change from the status quo. Already during the AFN Winnipeg Assembly, **Chief Lawrence Paul**, from the **Millbrook First Nation**, has expressed his view to the Aboriginal Peoples' Television Network (APTN) that First Nation aren't ready for change. Reinforcing Chief Paul's message, **John G. Paul**, **Director of the Atlantic Policy Congress**, told APTN that he was concerned about the lack of details in the AFN plan as to what would replace the **Indian Act**.

It is interesting to note that **Chief Perry Bellegarde**, from the **Little Black Bear First Nation**, who was present at the AFN Winnipeg Assembly was silent about National Chief Atleo's plan, as were a number of his supporters in his failed bid for National Chief, who were also present.

All of this is to say that it will be a very dynamic process to get rid of the **Indian Act**, as there are many among the First Nations who will want to stay with the status quo, others who can be financially convinced to collaborate with the federal government to work against the AFN plan, which seems to have as an overriding objective to achieve a fair and honest interpretation of the scope and content of the First Nations Aboriginal and Treaty rights that are recognized, affirmed and protected by section 35 of Canada's constitution.

External First Nations Considerations

As of the writing of this newsletter, the federal government has not uttered any response to National Chief Atleo's plan to eliminate the Indian Act and develop a new relationship with the Canadian State.

No doubt the broad AFN announcement caught the federal government off guard. The federal **Minister of Indian Affairs, Chuck Strahl** and his departmental bureaucracy have been busy promoting incremental amendments to the **Indian Act**, such as, funding **Manny Jules**, **Chair of the First Nations Tax Commission** to develop a "***Private Ownership Act***". Introducing into the Senate, the controversial **Bill S-4**, **Matrimonial Real Property Act**. Discussing a **proposed Elections Bill** with the **Assembly of Manitoba Chiefs** and the **Atlantic Policy Congress**, reportedly scheduled to be introduced into the Fall session of Parliament.

In addition to the legislative changes to the **Indian Act**, the federal government has been busy establishing new funding policies under Treasury Board Authorities. These changes will lead to greater not lesser control by the federal government over the administrations' of First Nations and First Nation organizations, including AFN, PTO'S, Tribal Councils and Service Delivery Bodies.

Minister Strahl's July 22, 2010, announcement of changes to DIA's "***Intervention Policy***" came on the heels of the AFN Winnipeg Assembly, but has been in the works for awhile. It is part of the federal government's new "***Policy on Transfer Payments***", which was adopted by the federal government on October 1, 2008, but is only now being revealed to First Nations and First Nation organizations.

Herb "Satsan" George, President, National First Nations governance Centre. (Photo courtesy of CBC)

"There are a number of First Nation individuals from these "national institutions" and others who can be expected to collaborate with the federal government in federal efforts to undermine and derail the AFN"

Chief Clarence Louie, Chair, National Aboriginal Economic Development Board. (Photo courtesy of CBC)

Chief Perry Bellegarde, defeated National Chief candidate in 2009, planning for 2012?

"the federal government is engaged in a war on First Nations to empty out or restrict the meaning of section 35 of Canada's constitution to keep the status quo in place. It is an unconventional war in that Canada uses money, it's assumed sovereignty and it's unilateral interpretation of policies and laws to repress First Nations Sovereignty and territorial rights"

'AFN Plan' continued from page 9

The DIA "***Intervention Policy***" is the administrative tool used by the federal government to control the spending of First Nations and First Nation organizations. It was elevated from policy into legislation when the **First Nations Fiscal and Statistical Management Act** became law in 2005.

The DIA "***Intervention Policy***" is triggered when a First Nation or First Nation organization reaches a deficit of 8% of federal revenues, cumulative or otherwise. DIA can start by 1) demanding a remedial plan be put in place to recover the deficit; or 2) demand a co-manager be jointly selected to administer the federal funds; or 3) impose a third party manager, thereby removing the First Nation or First Nation organization from all managerial/administrative decision-making over the federal funds.

Under the new "***Policy on Transfer Payments***", DIA will be doing a "***general assessment***" of the capacity/financial position of each First Nation or First Nation organization in order to determine if more monitoring, reporting, or control is necessary from the federal government's perspective, which is to invest federal dollars into First Nations and First Nation organizations to fit into the "***Federal Framework for Aboriginal Economic Development***".

The new "***Policy on Transfer Payments***" is scheduled to come into effect on April 1, 2011. This new funding policy will be more "***interventionalist***" than before.

The legislative and administrative changes being established by the Conservative Harper government are designed to accelerate the assimilation process by removing the historic and legal distinctions of First Nations who are described as "***Aboriginal Canadians***" in the federal government's lexicon.

All of the Harper government's legislative and administrative initiatives directed at First Nations are to force First Nations into the "***Federal Framework for Aboriginal Economic Development***", which is in conformity with the federal self-government and land claims policies and assumes First Nations will negotiate under these polices and reach settlement agreements under these policies.

As part of the Conservative assimilation approach, the federal Minister of Indian Affairs has also been named the "***Federal Interlocutor for the Metis***", to go along with the Minister's existing responsibilities for First Nations and the North, which includes the Inuit. Therefore, Chuck Strahl, is de facto, the Minister for Aboriginal Affairs until the federal strategy of assimilation-termination is achieved, than "***Aboriginal***" will just be an ethnic term and everyone will just be "***Canadians***".

Moreover, as a settler-state, Canada bases its asserted sovereignty upon the racist and discredited notions of the "***Doctrine of Discovery***", or planting a flag for some European sovereign. This is English-speaking peoples approach, now Canada's. Or just proclaim the land as empty territory (**terra nullius**), because only savages--not humans--inhabited the territory. This is the French-speaking peoples approach, now Quebec's.

As I have asserted in previous issues of this newsletter, the federal government is engaged in a war on First Nations to empty out or restrict the meaning of section 35 of Canada's constitution to keep the status quo in place. It is an unconventional war in that Canada uses money, it's assumed sovereignty and it's unilateral interpretation of policies and laws to repress First Nations Sovereignty and territorial rights.

Canada's war is led by the **Prime Minister's Office**, the **Privy Council Office**, the **Department of Indian Affairs** and the **Department of Justice**, who are backed up by other government departments, as well as, the provincial and territorial governments, the **Royal Canadian Mounted Police (RCMP)**, the **Canadian Security Intelligence Service (CSIS)**, the **Integrated National Security Enforcement Teams (INSETs)**, which includes provincial and municipal police forces, and of course the **Department of National Defense** and the **Canadian Forces**, as we witnessed in 1990.

'AFN Plan' conclusion from page 10

Is Atleo Serious or Posturing?

I have just tried to touch on a few of the internal and external factors that will mitigate against the AFN plan to get rid of the **Indian Act** in order to forge a new relationship that restructures the Canadian Federation to recognize and accommodate the jurisdictional areas, which involve the internal sovereignty of First Nations, as well as, the matters of shared sovereignty with the Crown set out in the historic treaties.

If National Chief Atleo is serious about his plan, then he should take steps to implement his plan before the next AFN Special Chiefs Assembly in December 2010. He will need to quickly identify his allies and his adversaries both inside and outside of First Nations. There will be those who are undecided and will need education about the AFN plan and its implications for the First Nation households and First Nation citizens.

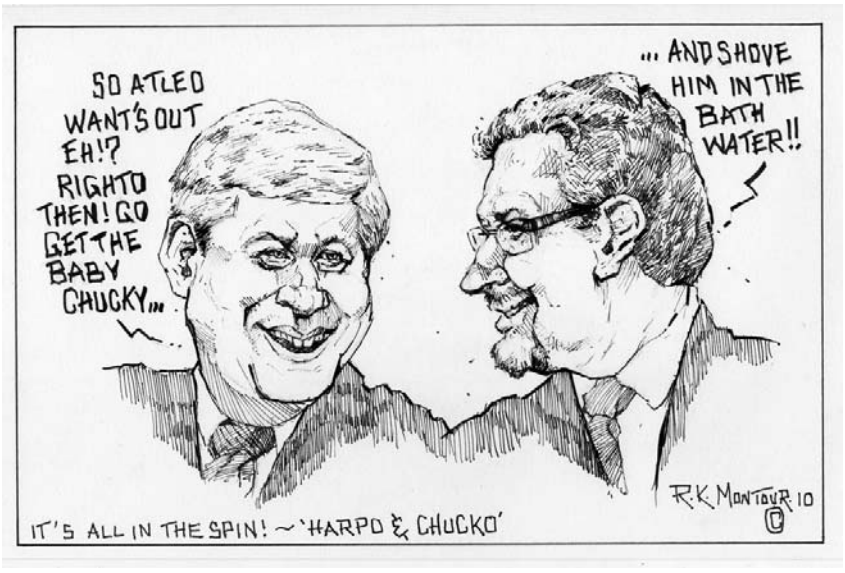
I believe this political initiative/vision/plan will come down to a test of the National Chief's character, his personal principles and values. To embark down the path he has articulated in his plan will mean a serious challenge to the status quo. The AFN plan goes against the federal government's current approach to Aboriginal public policy. No doubt the federal government will be working on a counter strategy to that of the National Chief's.

The National Chief will have to rally his allies and supporters if he is to take on **Prime Minister Stephen Harper** to change his direction on First Nation matters. This will also require support from the opposition parties as well, not to mention an overall public campaign.

One thing appears certain, change can happen only if the First Nations peoples are behind it.

L to R: Nat'l Chief Atleo and DIA Minister Strahl during AFN SCA, Dec. 2009.

"The AFN plan goes against the federal government's current approach to Aboriginal public policy. No doubt the federal government will be working on a counter strategy to that of the National Chief's"



Editorial Cartoon by Ross Montour, Mohawk Nation at Kahnawake.

Prime Minister Harper chats with G-G during Throne Speech 2010.

UN Declaration on the Rights of Indigenous Peoples: Brief Analysis of Throne Speech Statement

Shawn Atleo, AFN National Chief speaking during Panel on North America at the UN Permanent Forum on Indigenous Issues UN-HQ, NYC, April 22, 2010. (Photo courtesy of R. Diabo)

By Paul Joffe, March 5, 2010

On March 3, 2010, a potentially significant step was taken by the Conservative government of Canada in referring to the UN Declaration on the Rights of Indigenous Peoples. In the Speech from the Throne, the following paragraph was included:

We are a country with an Aboriginal heritage. A growing number of states have given qualified recognition to the United Nations Declaration on the Rights of Indigenous Peoples. Our Government will take steps to endorse this aspirational document in a manner fully consistent with Canada's Constitution and laws.'

"It is inaccurate to refer to the Declaration in the Throne Speech as simply an "aspirational" document. Rather, the Declaration is an international human instrument that has legal effect"

The above statement includes positive aspects and serious concerns.

Positive aspects

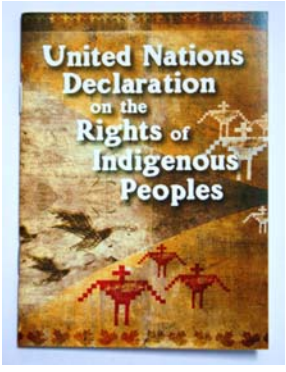
1. The Canadian government indicates that it "will take steps to endorse" the Declaration. Having made such an official statement, the government has now committed itself to act in an affirmative manner.

2. One can reasonably expect that the government will now cease making negative and erroneous statements against the Declaration. Examples include: The Declaration is "very radical". It is "unworkable in a Western democracy under a constitutional government".

3. A more constructive approach was likely motivated — at least in part — by Canada's increasing isolation in international forums. Canada's reputation and credibility have also been seriously tarnished.

4. Hopefully, Canada can begin to assume a principled leadership role.

UN Declaration is more than "aspirational"



5. It is inaccurate to refer to the Declaration in the Throne Speech as simply an "aspirational" document. Rather, the Declaration is an international human instrument that has legal effect.

6. Treaty monitoring bodies are increasingly using the Declaration to interpret Indigenous peoples' rights and related State obligations under existing treaties. UN special rapporteurs, independent experts and specialized agencies are also applying the Declaration within their respective mandates.

7. The Supreme Court of Canada freely relies on declarations and other international instruments in interpreting human rights in Canada — regardless of whether the Canadian government has endorsed or ratified such instruments. The interpretation of human rights is always evolving.

8. Within their respective jurisdictions, human rights commissions are free to rely on the UN Declaration to interpret human rights. The same is true for Indigenous and non-Indigenous governments in Canada.

'Throne Speech' continued from page 12

Declaration cannot be limited to "Canada's Constitution and laws"

9. The government states in the Throne Speech that it will take steps to endorse the Declaration "in a manner fully consistent with Canada's Constitution and laws". This statement gives rise to serious concerns, even if it is not entirely clear.

10. If the government is seeking to restrict the interpretation of Indigenous peoples' rights in the Declaration to what is "fully consistent with Canada's Constitution and laws", this would be highly restrictive. It would serve to perpetuate the status quo. It would defeat the purpose of having international standards that encourage States to strengthen their human right records.

11. No such limitation or qualification applies to the Universal Declaration on Human Rights or the two international human rights Covenants. To impose such a requirement on the right of Indigenous peoples would run counter to the principle of "equal rights and self-determination of peoples" in the Charter of the United Nations. It would also constitute a discriminatory double standard.

12. To require the provisions of the Declaration to be interpreted in accordance with the constitution and laws of each State could serve to legitimize any existing injustices and discrimination in domestic situations. Such key issues as unfair land claims processes, extinguishment policies, violations of Indigenous treaties and denial of land and resource rights might be dismissed by States claiming that their actions are "fully consistent" with their national "constitution and laws".

13. Treaty monitoring bodies and special rapporteurs could be hampered from recommending amendments to constitutions and laws, so as to recognize or safeguard the human rights of Indigenous peoples. Canada and other States cannot avoid respecting international human rights standards. As Special Rapporteur James Anaya recently indicated to Australia about legislative measures in the Northern Territory Emergency Response (NTER):

> In conclusion, the Special Rapporteur ... reiterate[edj the need to fully purge the NTER of its racially discriminatory character and conform it to relevant international standards, through a process genuinely driven by the voices of the affected indigenous people.2

14. To interpret Indigenous peoples' human rights in such a restrictive manner could severely undermine the principle of universality. Indigenous peoples in States with national constitutions that deny Indigenous rights could be denied rights that exist for Indigenous peoples in other countries.

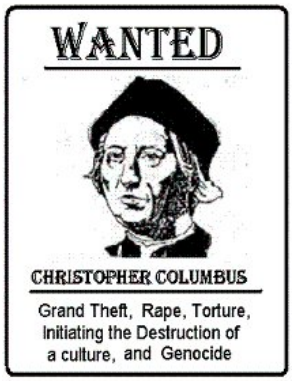
15. In August 2009, at the Expert Mechanism on the Rights of Indigenous Peoples, similar concerns were raised in regard to Canada and New Zealand. Attempts by both States to require Indigenous in the Declaration to be exercised in accordance with the "constitutional frameworks" of States were widely rejected around the world.3

Lack of government credibility on rule of law concerns

16. The Canadian government lacks credibility in showing concern for Canada's Constitution and laws. In relation to the Declaration, discussions with government officials have enera1ly been based on the government' s ideological positions — not on Canadian constitutional or international human rights law.

17. Government ministers have inaccurately characterized the Declaration as incompatible

"To require the provisions of the Declaration to be interpreted in accordance with the constitution and laws of each State could serve to legitimize any existing injustices and discrimination in domestic situations"



‘Throne Speech’ continued from page 13

with Canada’s Constitution and the Canadian Charter of Rights and Freedoms. An Open Letter signed by more than 100 legal scholars and experts in May 2008 underlined the far-reaching impacts of Canada’s “misleading claims”. These include “imped[ingj international cooperation and implementation of this human rights instrument.”4

18. At various international forums, the government has opposed use of the term “indigenous peoples” — even though the term “Aboriginal peoples” is an integral part of Canada’s Constitution. For the past four years, the government has repeatedly failed to meet its constitutional obligations, without accountability. In regard to the UN Declaration, it has failed to uphold the honour of the Crown and disregarded its duty to consult and accommodate Indigenous peoples in taking positions that undermine their rights.

19. The Canadian government has not only opposed the UN Declaration, but also encouraged States that commit torture and other serious human rights violations to do the same. According to Amnesty International, “Canada aligned itself with states with poor records of supporting the UN human rights system and with histories of brutal repression of Indigenous rights advocates.”5

“The Canadian government has not only opposed the UN Declaration, but also encouraged States that commit torture and other serious human rights violations to do the same”

20. In regard to Indigenous peoples’ rights to cultural heritage, intellectual property, etc. Canada has sought to undermine or deny those rights in standard-setting processes at or relating to the Organization of American States, World Intellectual Property Organization, Convention on Biological Diversity and climate change. Such government actions do not uphold the honour of the Crown.

Need for principled government action

21. As illustrated above, there are compelling reasons why the Canadian government should endorse the UN Declaration, without qualifications. Indigenous organizations in British Columbia, Ontario and Québec have already begun calling for such an approach.

22. Any qualified endorsement that attempts to restrict the interpretation ot Indigenous peoples’ rights in the Declaration to what is “fully consistent with Canada’ s Constitution and laws” can be highly prejudicial to Indigenous peoples. It can also undermine the progressive development of urgently-needed international human rights standards relating to Indigenous peoples.

23. The Canadian government appears to be already engaging in a strategy to attract support for qualifying its endorsement of the Declaration. Such support may include: the media, Canadian public, and provincial and territorial governments.

Tools used for torture.

24. Canada strategizes closely with the two other dissenting States, New Zealand and the United States. Canada and New Zealand share similar strategies of limiting the rights in the Declaration to their respective domestic contexts. Indigenous peoples should thus expect that New Zealand — if not also the United States — will support Canada on its current strategy.

25. It may be useful to caution the government to avoid politicizing Indigenous peoples’ rights in relation to the Declaration. The government should not proceed with any Motion in Parliament that does not have the strong support of Indigenous peoples.

26. In light of the above scenarios, it could prove highly beneficial for Indigenous and human rights organizations to communicate as early as possible their concerns with the Canadian government’s approach to endorsement. Silence on this important matter could be interpreted as tacit approval. Regardless of which strategy is favoured by the government,

'Throne Speech' conclusion from page 14

it should genuinely consult Indigenous peoples in a timely and inclusive manner and accommodate their concerns.

27. Should the government of Canada succeed with its current approach, it could mean that Canada would pursue the same qualifications to be included in the draft American Declaration on the Rights of Indigenous Peoples (currently being negotiated at the Organization of American States). This could seriously prejudice opportunities to achieve a strong Declaration for the Americas.

28. At the international, regional and domestic level, the Canadian government should be adopting a human rights-based approach in conjunction with Indigenous peoples. Canadian government positions should strengthen Indigenous peoples' rights and the international human rights system.

ENDNOTES:

1. Canada (Governor General), A Stronger Canada. A Stronger Economy. Now and for the Future. Speech from the Throne, March 3, 2010 at 19.
2. United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, Observations on the Northern Territory Emergency Response in Australia (February 2010) (advance version), para. 66.
3. Grand Council of the Crees (Eeyou Istchee) et al., "Implementation of the UN Declaration on the Rights of Indigenous Peoples: Positive Initiatives and Serious Concerns", Expert Mechanism on the Rights of Indigenous Peoples, 2n sess., Geneva (joint global statement by Indigenous and human rights organizations delivered 12 August 2009).
4. "UN Declaration on the Rights of indigenous Peoples: Canada Needs to Implement This New Human Rights Instrument", Open Letter (1 May 2008), available at http://cfsc.guaker.ca/pages/documents/UNDec1-Expertsi gn-onstatementMay 1 .pdf.
5. Amnesty International (Canada), "Canada and the International Protection of Human Rights: An Erosion of Leadership?, An Update to Amnesty International's Human Rights Agenda for Canada", December 2007, at 7.

See also Luis Alfonso De Alba, "The Human Rights Council's Adoption of the United Nations Declaration on the Rights of Indigenous Peoples" in Claire Charters and Rodolfo Stavenhagen, eds., Making the Declaration Work: The United Nations Declaration on. the Rights of Indigenous Peoples (Copenhagen: IWGIA, 2009) 10 at 149, where the former President of the Human Rights Council De Alba confirms that "New Zealand and Canada were very active in opposing the Declaration, particularly within the African Group."

United Nations Headquarters, New York City.

"At the international, regional and domestic level, the Canadian government should be adopting a human rights-based approach in conjunction with Indigenous peoples. Canadian government positions should strengthen Indigenous peoples' rights and the international human rights system"

United Nations Logo

NEWSFLASH—Harper Replaces Chuck Strahl with John Duncan as the New Minister of Indian Affairs

John Duncan, new Minister of Indian Affairs. (Photo courtesy of CP)

According to the Department of Indian Affairs, John Duncan was first elected to the House of Commons in 1993 and re-elected in 1997, 2000, 2004 and 2008. His constituency is Vancouver Island North, British Columbia.

In 2008, Mr. Duncan was made Parliamentary Secretary to the Minister of Indian Affairs and Northern Development.

From 2006 to 2007, Mr. Duncan worked as Pacific Region Advisor to the Minister of Fisheries and Oceans. Prior to 2006, he was party critic for several portfolios, including International Trade, Natural Resources and Indian Affairs and Northern Development. From 1972 to 1993, he worked in the coastal BC forest industry.

Mr. Duncan was born in Winnipeg and raised in British Columbia. He attended the University of British Columbia and graduated with a Bachelor of Science from the Faculty of Forestry in 1972. **[Reprint from INAC]**

"Mr. Duncan was born in Winnipeg and raised in British Columbia. He attended the University of British Columbia and graduated with a Bachelor of Science from the Faculty of Forestry in 1972"

DIA-HQ Hull, Quebec

MP Glover Shifts to Indian Affairs

Shelly Glover, new Parliamentary Secretary of Indian Affairs.

MANITOBA MP Shelly Glover is moving over to become the parliamentary secretary for Indian Affairs.

The Prime Minister's Office announced the change Sunday for the first-term Conservative MP, who is Métis. She replaces John Duncan, who a few weeks ago was elevated to become the minister of Indian Affairs in a minor cabinet shuffle.

Glover has been the parliamentary secretary for official languages since 2008. She represents Saint Boniface and was elected for the first time in October 2008. She is on a leave of absence from her job as a Winnipeg police officer.

Parliamentary secretaries are assistants to the minister.

They earn an additional $15,834 a year on top of their $157,731 annual salary.

Kenora MP Greg Rickford takes over from Glover in official languages.

-- Staff **[Reprinted from the Winnipeg Free Press, August 30, 2010]**

New Indian Affairs Minister a Foe of Special Rights for Aboriginals

Joan Bryden, Toronto Star, August 19, 2010

OTTAWA—John Duncan's first act as Canada's new Indian affairs minister is being welcomed by aboriginals, but some are still worried about the "old" Duncan.

Duncan issued a government apology this week to Inuit families who were uprooted from their homeland in northern Quebec and moved to desolate spots in the High Arctic during the 1950s.

His soothing words and conciliatory attitude were in stark contrast to past statements adamantly opposing anything that smacked of special treatment for natives.

His past denunciations of "race-based" laws and government policies seem to make Duncan an odd fit for his new post, in which he's responsible for upholding the unique constitutional, treaty and land title rights of aboriginals.

Some native leaders are concerned, wondering if Duncan's appointment this month heralds a new hardline approach to native issues by the Harper government.

But others are convinced the minister's views — along with those of the Conservative government itself — have evolved over the years. And they're cautiously optimistic they'll be able to make some progress with Duncan in advancing the aboriginal rights agenda.

"The way that I look at it is these are really complicated issues that we're dealing with as First Nations people and opinions change or evolve," said Jody Wilson-Raybould, regional chief of British Columbia's Assembly of First Nations.

As a constituent in Duncan's Vancouver Island North riding, Wilson-Raybould has found him to be decent, unassuming, respectful and hard working.

"He has that quiet way about him. He also presents himself as a genuinely good person, one that understands the issues that we face ... I think his heart's in the right place."

Wilson-Raybould refuses to dwell on statements Duncan made during his years in opposition — such as his 1998 warning that a "race-based" native fishery in B.C. amounted to "racial tinkering" that would inevitably lead to "racial tension."

She prefers to focus on his more recent stint as parliamentary secretary to Chuck Strahl, his predecessor. In that role, she found Duncan to be knowledgeable and open-minded on the complex issues facing First Nations people.

Not everyone, however, is so quick to forgive and forget Duncan's past statements.

"I certainly have been aware of his (past) outspoken opposition to indigenous rights in general," said Stewart Phillip, grand chief of the Union of B.C. Indian Chiefs.

"It remains to be seen whether he can know and understand that his responsibilities for aboriginal people demand that he subordinate his biased views and must recognize and respect our unique constitutional status and rights."

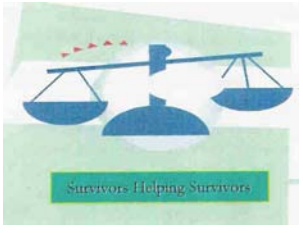
Phillip warned that Duncan could "take an even more hard line toward a lot of these issues, which would only exacerbate an already tense and volatile situation."

Among other things, Duncan has spoken out against differential sentencing for native offenders, which in 2003 he called "another symptom of the government promoting not criminal justice but justice for criminals."

He opposed the historic Nisga'a treaty, the first modern-day treaty in B.C., conferring a significant measure of self-government to the Nisga'a. He predicted the treaty, finalized in 2000, would "haunt Canadians for generations to come" and said it amounted to a rejection of "one law for all Canadians."

REFORM PARTY OF CANADA

"Among other things, Duncan has spoken out against differential sentencing for native offenders, which in 2003 he called "another symptom of the government promoting not criminal justice but justice for criminals."



Algonquins of Barrire Lake Protest in Ottawa.

'Minister a Foe' conclusion from page 17

Shawn Atleo, national chief of the Assembly of First Nations, said he'll be watching carefully to see if Duncan clings to some of the views he held so strongly while in opposition. But he's prepared to give Duncan a chance to prove his thinking has evolved since then.

"I'm prepared to give every opportunity, obviously with an eye to things that may have been said in the past but I'm certainly not going to base my approach on what was said in the past.

"We'll base our approach on things that are done in the here and the now and in the coming months."

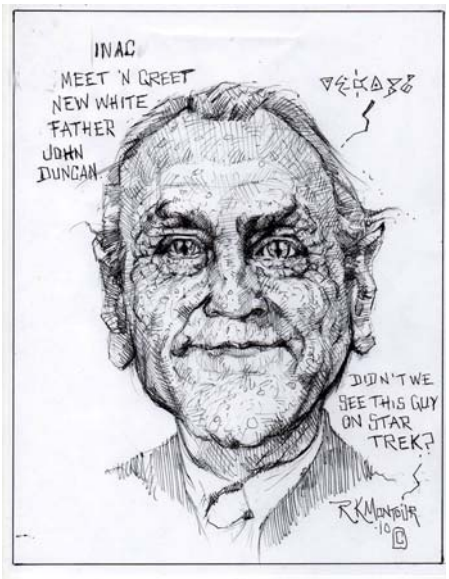
Atleo said he's reasonably optimistic Duncan's actions as minister will prove stronger than his words in opposition. He noted that it was not just Duncan but the entire Conservative party and its predecessors — the Reform party and the Canadian Alliance — that used to rail against so-called preferential treatment of aboriginals.

But the party's stance has softened in government, starting at the top with Prime Minister Stephen Harper, who initiated the historic apology to victims of abuse at residential schools.

Duncan followed that up Wednesday with the apology to the Inuit families.

Atleo also noted that Harper has signalled his intention to finally endorse the United Nations Declaration on the Rights of Indigenous Peoples, after three years of stubbornly refusing to sign on. And he said Harper has told him he's eager to work with the AFN on devolving more responsibility for education to First Nations.

"Duncan's office declined a request for an interview about the minister's past and current views"



This editorial cartoon was not part of the original Toronto Star article. It was prepared for this newsletter by Ross Montour, Mohawk Nation at Kahnawake.

"There has been a recognition, I think, on the government's part — and my hope is that on John's part — that we need to get on with some solutions and leave that sort of high-level, rhetorical back-and-forth that's gone on for far too long."

Duncan's office declined a request for an interview about the minister's past and current views.

In an email, spokeswoman Michelle Yao said Duncan is honoured by his appointment and plans to focus on "working with partners, aboriginal leaders, provincial and territorial counterparts to address important issues such as education, social and economic development and capacity building/ self-government."

"He looks forward to ensuring all aboriginal people have access to the same opportunities that all Canadians have." **[Reprinted from the Toronto Star, August 19, 2010]**

This Land is Still Stolen: *The G-20 and Aboriginal Rights*

By Hillary Bain Lindsay, The Dominion - http://www.dominionpaper.ca

The crowd did not gather for an Indigenous sovereignty march to protest the G20 so much as to reject it entirely.

"The best old school journalism understood that its purpose was to challenge power with unassailable facts; the best activist journalism knows that constructive resistance is fueled by media we can actually use. The Dominion represents the vital fusion of these two traditions: it deserves massive support." --Avi Lewis

TORONTO—"I'm here on a personal matter," Jasmine Thomas of the Carrier Nation tells a crowd of several hundred. "I live in Saik'uz, right in the heart of BC, a community of about 600. It's along the proposed Enbridge pipeline route... The proposed pipeline is threatening the traditional medicines that my great-grandmother has preserved for me."

"Not only that," she continues, "I have family at ground zero, at the tar sands. So where my father used to hunt and fish and gather, there are now open pit mines that you can see from space.

"The world's largest energy project is destroying my peoples."

As the tear gas clears over Toronto and the corporate media's frenzy over broken windows subsides, little has changed for First Nations people.

Canada still has not signed the UN Declaration on the Rights of Indigenous People; 584 Aboriginal women are still missing and murdered; and many of us still live on unceded First Nations territory—and are exploiting it. The list could go on.

On the other hand, Indigenous resistance is growing in Canada; so too are solidarity movements.

For the second time in 2010 (the first being the Vancouver Olympics), First Nations rights were at the forefront of a major convergence of social justice activists.

"No G20 on stolen Native land," chanted demonstrators throughout the week of protests leading up to G8/G20 meetings, and warrior flags were flying at all the marches—whether led by environmental justice advocates or anti-poverty organizers.

And on June 24, more than 1,000 people flooded the streets of downtown Toronto for the "Canada Can't Hide Genocide" march and rally.

The crowd did not gather on June 24 to protest the G20 so much as to reject it entirely.

"Fundamentally, we reject the G8 and G20 as decision-making bodies over our peoples," Ben Powless, a Mohawk from Six Nations, told a cheering crowd. "These are the illegitimate organizations of the colonial states that seek the further exploitation of our peoples."

Marilyn Poucachiche, an Algonquin from Barriere Lake First Nation, drove nine hours from her community to attend the rally and knows that story well.

"The government has been trying to assimilate or has been assimilating [our] people for a long time," she says.

Barriere Lake First Nation has a traditional governing system, a system that the Indian Act does not recognize. "The Canadian government have been trying to impose Section 74 in our community from the Indian Act," says Poucachiche. Section 74 would require the community to hold band elections. "It favours the Canadian policy on how we should govern and select our leaders."

"That will extinguish our Aboriginal title and treaty rights," she says. "They're trying to select their Chief according to their law. But we're saying it's our way, not your way."

Lionel Lepine, an Athabasca Chipewyan First Nation, says the Canadian "way" looks a lot like cultural genocide. Lapine lives at what he calls "ground zero," or Fort Chipewyan, upstream of the Alberta tar sands.

"We are on top of the second largest deposit of oil in the world and they want every single drop at the cost of our lives," he says.

"We're seeing environmental impacts, cultural impacts, human impacts; we're seeing death," says Lapine. "We're seeing the death of the delta, water, animals, plants, air. It's just a matter of time before everything's going to be completely wiped out."

Considering the devastation of his community and the planet, Lapine laughs at the police lining the march on all sides.

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The First Nations Strategic Policy Counsel is a collection of individuals who are practitioners in either First Nations policy or law. We are not a formal organization, just a network of concerned individuals.

This publication is a volunteer non-profit effort and is part of a series. Please don't take it for granted that everyone has the information in this newsletter, see that it is as widely distributed as you can, and encourage those that receive it to also distribute it.

Feedback is welcome. Let us know what you think of the Bulletin—Russell Diabo, Publisher and Editor, First Nations Strategic Bulletin.

For Back Issues Go To: http://epe.lac-bac.gc.ca/100/201/300/first_nations_strategic_bulletin/index.html

'G-20 & Rights' conclusion from page 19

"We are not the threat," he says. "The threat to this country are the people in power."

But the growing Indigenous resistance is a threat to something, says Thomas: It's a threat to the pocketbooks of big business.

"Canada, the US and Australia are avoiding signing the UN Declaration on the Rights of Indigenous people," she says. "One of the main points in that declaration is free, prior and informed consent. That means they have to respect our ability to say yes or no to development in our territories. So it's threatening their prosperity."

The prosperity of a few is coming at a serious cost, says Thomas. "We are facing food security issues, basic human rights issues; we have the highest rates of cancer, HIV aids—all these socio-economic issues that are associated with these large projects [such as the tar sands]."

Their connection to the land and also the fact that Indigenous people are literally fighting for their lives make their resistance powerful. "There's always been Indigenous people leading the struggle in terms of defending the land against these large corporations," says Arthur Manuel from the group Defenders of the Land, a network of Indigenous communities united in defense of their lands, Indigenous rights, and Mother Earth.

"Through supporting Indigenous People you're putting in place a new system of order that's based upon a more circular basis of economy, instead of the vertical economy that the system is working on...where the land isn't looked on as Mother Earth but everything is looked at as a resource base," says Manuel. "Indigenous People do not look at it from that perspective. [We] look at the Earth as part of the decision making process. We know that what we do to the planet will sooner or later impact on us."

Whether or not Canadians choose to support Indigenous struggles, the state, as Powless points out, has certain obligations. "Fundamentally," says Powless, "Canada must live up to its international and domestic treaty obligations and respect self-determination, the right for free, prior and informed consent and the sovereignty of our peoples."

Hillary Bain Lindsay is an editor with The Dominion and a member of the Halifax Media Co-op. This article was originally published by the Toronto Media Co-op. **[This is a reprint from Issue 70, the Dominion - http://www.dominionpaper.ca]**