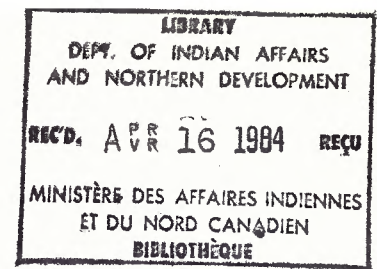


CONSIDERATION OF LOCAL
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CONSIDERATION OF LOCAL GOVERNMENT ON INDIAN RESERVES
(INCLUDING PERTINENT RECOMMENDATIONS
FROM THE HAWTHORN REPORT)

Report on a Three-Day Meeting
Sponsored by the Indian Affairs Branch,
Department of Indian Affairs and Northern Development, Ottawa

by
Eric Hardy, Municipal Consultant

September 14, 1967

ERIC HARDY CONSULTING LIMITED

Consultant's Report on the Indian Affairs Branch
Local Government Conference

Introduction

The main participants in the meeting were head office and regional officials of the Indian Affairs Branch, a single Indian representative and one representative each from two firms of municipal consultants. Officials from the Program Management Evaluation Section of the Department of Indian Affairs and Northern Development were also in attendance, apparently in the role of observers.

Before the meeting, the municipal consultants were furnished with copies of the Hawthorn Report and a paper on local government on Indian reserves, prepared for discussion purposes by the organizers of the meeting, the Policy Planning Directorate Section of the Indian Affairs Branch.

At the start of the meeting, those in attendance also received a proposed agenda and thirty pages of material entitled "Suggestions Concerning the Proposed Amendment of the Indian Act to Promote Development of Local Government and to Make Better Provision for Community Planning" prepared by the head of the Community Planning Section, Engineering and Construction Division. Community planning was the first item on the draft agenda.

In the opening discussion, the attending Branch members agreed to alter the procedure and deal more directly from the outset with the development of local self-government in Indian bands. A policy circular on this subject dated August 28, 1967, signed by the director of the Branch was thereupon considered in detail.

The major proposals contained in the paper from the Policy and Planning Directorate were then examined with the help of a lengthy criticism prepared by the local government adviser attached to the British Columbia regional office. The material from the Community Planning Section received but slight attention, indicating the difficulty experienced by the meeting in covering extensive subject matter within the allotted time.

The Assignment

The Indian Affairs Branch has set itself a local government objective that is at once difficult and impressive. The Hawthorn Report challenges the Branch to much greater effort towards the extension of local government institutions to the Indian people. The report provides a scholarly examination of the problem of extending local government to the reserves along with other difficulties facing Indians in Canada. It is less successful in resolving issues. As one reviewer put it, "It is the spirit of the report rather than the letter of the recommendations which will, if implemented, ultimately change the whole tenor of the lives of the Indians of Canada."⁽¹⁾

Three items among the Hawthorn report's local government recommendations, numbers 69, 70 and 71, are not in fact recommendations at all. Taken together, its other local government recommendations are far from definitive; they raise perhaps as many questions as they answer. This deficiency of the Hawthorn Report made it particularly difficult to conduct a thoroughly efficient and fruitful conference on the subject of local government for Indians on the reserves.

The papers prepared by the Branch to assist conference discussion did not overcome the limitations of the Hawthorn Report. Consequently, while the meeting represented a potentially productive approach to the subject of local government for the reserves, the progress made was disappointing. The technique adopted, perhaps intentionally, by those in the chair did more to stimulate a round robin of individual comment than to achieve consensus. The extent of support for various viewpoints was not recorded and the conference summary therefore tended to fall back upon opinions already accepted within the Branch.

The conference was continually preoccupied with the need for scrupulous observance of the proper relationship between bands and Branch. With only one Indian delegate present, it was difficult for an outsider to judge the real relationship that has existed and the potential for change in the

(1) Joseph Katz in the July-August, 1967, issue of Canadian Welfare, page 30.

relationship in the immediate future. Is it going too far to suggest that Indian Affairs Branch personnel seemed hesitant to push for change of any sort affecting Indians either individually or collectively?

The consultants were invited to participate in the meeting discussion and, after the discussion had been well launched by others, took a substantial part in the proceedings. It is not proposed to recapitulate all that was said during the conference because full notes were taken of the discussion by the Branch and these are expected to provide the basis for a later detailed report.

The prime object of this report is to express personal opinions on several fundamental issues that were touched upon in the meeting and that have a bearing on the most desirable form of future action on the local government project.

What is the Potential for Local Self-Government on the Reserves?

Early in the meeting, it was agreed that discussion would be centred upon the extension of local government to Indians resident on reserves while recognizing that there are Indians living off the reserves and non-Indians on the reserves.

In an opening statement to the conference, I endeavoured to stress the need for a realistic understanding of the practical alternative means by which various local government services could be made available to Indians on the reserves. I tried to emphasize that the population of most Indian bands is far too small for organization of the band as a municipal corporation. Throughout the remainder of the conference the notion of separate municipal status for Indian bands individually came up repeatedly and, in my view, without due acknowledgement of its very limited application. This persistent attitude is rooted in what I am inclined to dub a mistaken emphasis in the Hawthorn Report.

I am still not sure that the conference participants are sufficiently conscious of the potentially negative results that can come from giving tiny

Indian settlements individual municipal status. There are few local government services, and perhaps none of significance, that should be permitted to be organized today to serve populations below one thousand persons, regardless of the obstacle of territorial scatteration. This point is equally valid for Indian and non-Indian communities. I doubt if any Canadian province will encourage the fresh incorporation as a municipality of a non-Indian community of less than one thousand persons. I question whether even this minimum figure is large enough to satisfy most provincial departments of municipal affairs.

It is my impression that a sizeable proportion of Indian settlement is to be found in remote territories where population is thinly scattered and access difficult. There are of course many non-Indian settlements that are similarly situated. Again, as I understand it, a significant and growing proportion of our Indian population is resident off the reserves while non-Indians constitute a growing proportion of those resident on the reserves.

All Indians and non-Indians in frontier locations regardless of where they live need senior government assistance in order to obtain a full range of desirable local government services on the most appropriate basis. The foundation of an acceptable arrangement should include

- (a) the lodging of responsibility for each service with a unit that is large enough and strong enough financially to make available a brand of service of reasonable scope and quality, and
- (b) a reasonable opportunity for participation in the control and operation of each service by all parts of the community it serves.

larger unit:
Ran. S.D.

The Indian Affairs Branch can be a strong partner with the province in the development of new and broader local government arrangements applicable to remote territories, provided it can bring the Indian bands along in support of such objectives. A program of this sort must be recognized

as offering the best hope for improvement of the Indian's rightful place in local government affairs throughout Canada.

To encourage local self-government by Indians in isolation from other elements of the Canadian community would, in my opinion, constitute support for an objective that is at best largely unproductive and that could cripple the future progress of the Indian people.

Who Should Take the Initiative in Developing Local Self-Government on the Reserves?

During the conference, repeated stress was laid upon the necessity of developing local self-government among the Indians from the ground up. Reference was made to the unfortunate experience of the American Bureau of Indian Affairs resulting from a lack of consultation with the Indians and involvement of the Indians in the development of a program for them. In the summary at the end of the conference, the chairman was reluctant to employ the word "promote" in describing the Branch's local government activities. As one delegate put it, "The Branch has to wait for the reaction of Indians to its new local government policy before setting quantitative program goals." If some of those present doubted the desirability of relying so heavily upon Indian initiative, they failed to impress their viewpoint upon the meeting.

Almost everyone present appeared to agree that the Indians should be left to choose the extent of local government they want, if any. The fact that most non-Indians have no such choice was not at any time acknowledged.

In relation to the widespread concern to consult the Indian and meet his wishes, the following points are significant. The Indian representative at the meeting expressed the view that the National Advisory Board cannot be said to speak for the Indian people although it provides ideas from some of the most capable Indians across the country. Repeatedly, those in attendance suggested that opinions on suitable local government arrangements ought to be elicited directly from the Indian bands themselves. Much support was found for a case study approach to the local government requirements of Indian settlements. The point was made, and not challenged, that case studies cannot

be rushed. The conference was told that Indians were slow to respond to enquiries. The chairman underlined the problem by this example: if a request should be made to the B. C. Indians for comments on changes in the Indian Act at the start of the fishing season, nothing would happen for six months. Again, a visit by a Branch person to an Indian reserve cannot be expected to yield a full or immediate response. As one regional officer put it, "In the Indian community there is very little dialogue, sometimes none."

Both head office and regional officials of the Branch acknowledged the urgency of action on the new local government policy advocated by the Hawthorn Report. One regional representative made the blunt statement that he could not wait for Ottawa to hire experts before stepping up his own program. Yet along with this sense of urgency, there was a lack of clear-cut agreement as to how to proceed. Some regions appeared to prefer that headquarters should give the lead in the proposed local government expansion. At one point, a head office official expressed the expected relationship in these terms: the head office people are prepared to participate with the region in developing the local government objectives and, further, if Ottawa does not hear soon enough from the regions, the regions may hear from Ottawa.

Perhaps the dilemma faced by the Branch in proceeding with its new local government policy might be put this way:

On the one hand, the Branch is concerned not to remove or threaten any existing Indian rights guaranteed by the constitution, by treaty or by federal statute. It would not want the Indians to gain the impression that they may be caught up in a process of change for which they are in any sense unprepared.

On the other, the Branch is expected to build a framework for Indian life that affords the Indian adequate safeguards and opportunities in his relationships with non-Indian society throughout Canada. Consequently it must make

the most serious efforts to prevent an increasing gap between the level of achievements of Indians and of non-Indians in all aspects of their community development-- physical, social and economic.

The present sad state of many Indian communities was stressed in the report of the Executive Director to the Seventh Annual Meeting of the Indian-Eskimo Association on December 2, 1966. His report noted:

Nearly forty per cent of the Indian population is unemployed and living on government relief. The situation does not appear to be improving ... About forty-seven per cent of Indian families earn less than \$1,000 a year (according to 1963 statistics). About three-quarters of all Indian families earn less than \$2,000. The unemployment rate is about ten times the national average.

In the same report, the point was made that the Indian population is growing at nearly twice the national rate. It is therefore not surprising that the July-August, 1967 issue of Canadian Welfare contained five articles on Indian affairs grouped under a heading "The Emerging Indian Crisis".

In such difficult circumstances, how should the Indian Affairs Branch move on its local government program? It is my strong conviction that the Branch must produce proposals for an ever broadening extension of local self-government to Indians. A cardinal feature of each such proposal should be an experimental approach with a guaranteed right of withdrawal from any plan of local self-government that proves unsatisfactory.

The Indian Affairs Branch should observe the progress and assess the results of each new form of local self-government that is introduced on a provisional basis. The Indian bands should be given every opportunity to do the same and to report their findings to the Branch. Each experiment in local self-government must be regarded as unsuccessful if it fails to win the understanding and backing of the Indians themselves.

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The Indian Affairs Branch can scarcely rely upon the bands to generate political science proposals for local self-government. On the other hand, the notion that each band might have an opportunity to judge its own local government requirements is not unreasonable, provided the Indian people are also invited to express opinions throughout wider constituencies than the individual Indian band. *but some ss are limited to Indians.*

At this stage, I am not in a position to suggest the precise approach that might best be taken in proceeding to implement this kind of plan. I am firmly convinced, however, that each blueprint for local self-government advanced by the Branch or accepted by its representatives as a consequence of suggestions from the Indian bands should require national approval in order to ensure that it is among the legitimate and constructive alternatives for local self-government of the territory in question. Bearing in mind the need to work with provincial departments of municipal affairs, it becomes evident that national acceptance will not be synonymous with a national stereotype.

Indian Affairs Branch initiative in devising suitable arrangements for local self-government need not threaten the position of the Indians if the Branch acknowledges that

- (1) the Indian community can be given the option of rejecting any Branch proposal;
- (2) local government arrangements sponsored by the Branch can be introduced provisionally and the right to revert to the previous position can be preserved;
- (3) Indian bands will remain free to negotiate directly with provincial governments, as one or more bands have already done.

Who Should Draw the Plans for Local Self-Government on the Reserves?

If the relative roles of Branch and bands can be resolved, the question still remains as to how the Branch should fulfill its responsibilities.

The conference drew attention to the problem of communications with Indian bands. The need was seen to work with Indians in their own territories and to live with them at times on the reserves. One delegate thought it essential to live with the Indians as a prerequisite to the determination and promotion of community development schemes. Other delegates did not go this far. A distinction was recognized by those present between the capacities to determine Indian requirements and to persuade Indians to accept change of persons based in the regions and those employed at national headquarters.

The assignment of regional personnel to the specific task of developing local self-government for the reserves is of very recent origin. Even today, less than half the eight regions have personnel specially assigned to this work. It was my impression also that across the whole of Canada only one regional official has the formal training that might be specified in hiring new personnel employed for this purpose. In other regions where the advancement of local self-government is taking place or being sought, regional personnel appeared interested in the use of consultants in order to add qualified opinion to their own staff capabilities.

In the meeting, opinion appeared to be divided between those who felt that plans for local self-government could be developed regionally without surveillance from head office and those who saw some need of national direction. During the conference one head office official volunteered the opinion that a consultant working on the project for the Ontario region might obtain an experience that would serve a new national director in good stead.

It is my opinion that the local government program requires the joint efforts of national and regional personnel within the Branch. Yet while ideas can and should be generated in the regions, policy decisions must I suggest be national. The local government project should be recognized unequivocally as a national project. If a consultant is assigned in the first instance to one of the regions, the action should be taken by head office and the consultant's basic terms of reference should be developed from head office with the benefit of discussions with the regional personnel.

What is Involved in The Hawthorn Proposal that Local Government Functions be Separated from the Function of Managing Indian Assets ?

The proposal to separate band management of its property interests from its performance of local government functions appeared as the final recommendation of the Hawthorn Report. The recommendation was backed by a lengthy consideration of the subject in the text. It also drew on an earlier report entitled "The Indians of British Columbia".

While it is quite unnecessary to review the problem in detail, it should help to list some of the main points at issue.

1. Membership in a band need not coincide with residence on a particular reserve.
2. The interests of non-resident band members can differ from those of resident band members and these can differ, in turn, from those of residents who are not members of the band.
3. The desired distinction is not always drawn between the corporate interests of Indians in their band resources and the stewardship they exercise over public funds when acting in certain local government capacities.
4. The council of the band is expected, traditionally, to deal both with the egalitarian, communal property interests of the band and any local government responsibilities assumed by the band.
5. The Indian Affairs Branch has long interested itself in both corporate and governmental band functions and Branch personnel has not been accustomed to keeping the two matters separate.
6. The urgent need to buttress the economic base of most Indian settlements, perhaps involving relocation of the settlement, constitutes a third distinctive interest of both Branch and band that overlaps with and tends to be confused with the other two.

Throughout the conference, it was never suggested that the Hawthorn recommendation which would separate corporate and local government functions of Indian bands should be modified or rejected. At the same time, the problem did not seem to be viewed as particularly urgent. It is my

opinion, however, this particular recommendation warrants early implementation.

From what I know of the subject, I have reached the conclusion that some form of separation of administration must be worked out, committed to paper, adopted as policy and observed in the future conduct of Branch and band administration. The first step in that direction would be to decide the resulting sponsorship of each function among Indian bands and within the Indian Affairs administration. Until this development can be accomplished, the local government objectives of the Hawthorn Report must remain in some confusion.

How Should the Branch Proceed Towards Developing Staff Support for its New Local Government Program?

The Hawthorn Report recommended that the Indian Affairs Branch establish a local government bureau and went on to delineate some of its major functions, including:

- (1) to provide a focus for developing local government on reserves;
- (2) to act in a middle-man capacity between Indian communities and provincial officials in arranging, where feasible, for provincial legislation to operate through reserve institutions;
- (3) to provide Indian bands with information on various grants, programs and advisory services that provincial governments may be prepared to extend to Indian communities;
- (4) to provide a roving inspection and advisory service for Indian local governments.

It was my suggestion during the meeting that implementation of these recommendations should begin by formation of a local government section at the national headquarters and the appointment of one or two staff persons having quite similar qualifications. Each would be a political science

graduate with specialization in public administration and some practical experience in local government. I proposed that these people be expected to draw upon and co-ordinate the efforts of the variety of local government resource persons now distributed among five or six divisions or directorates of the Indian Affairs Branch.

This notion of how to staff the local government bureau appeared to receive cautious endorsement. Attention was drawn, however, to the minimum of six months to a year that would be needed to recruit capable people and for their work to reach a productive stage.

If the Indian Affairs Branch resembles other government departments, it could experience difficulty in establishing positions with the high status and pay levels needed to attract persons of the quality I regard as essential to head up the new section. It was for this reason, among others, that I proposed they be given a senior co-ordinating capacity in relation to other Branch personnel exercising local government functions. This would add to their status without empire building.

The Northern Administration Branch also has continuing interests in various aspects of local government throughout the territories. Notwithstanding the current transition to semi-autonomous territorial government, the Territorial Division of the Northern Administration Branch will continue to include a municipal affairs section and other local government functions will still be performed by at least four other divisions within the Branch. The calibre of local government specialists that I envisage to serve the Indian Affairs Branch could also afford a source of advice or leadership for the local government responsibilities of the Northern Administration Branch. Indeed, a local government section might conceivably be established with responsibility for local government matters throughout both Branches. Such an arrangement, if it could be accomplished, would give the section further added standing.

During the conference, I was asked for an opinion as to the immediate staffing that would be desirable within regional offices paralleling the new local government establishment at national headquarters. My response

was that no such positions should be created immediately since the extent of the need and the nature of the job requirements and qualifications had yet to be determined. I also suggested that any such staffing should be recommended by the new local government section head after he has had time to become familiar with the Branch's work in the field and to map his own program. Incidentally, the Hawthorn Report did not recommend any new field organization in conjunction with the proposed development of a Local Government Bureau.

As the conference sessions proceeded, it became increasingly apparent that many people both in head office and from the regions were not content to forego immediate local government field staffing. Just before noon on the third day, the idea of appointing two persons each for the eight regions was still under consideration.

Yet I must reiterate my belief that such a move would seem unrealistic. How can a well directed campaign be mounted for extension of local self-government if people are hired without any precise or integrated definition of their duties? On the other hand, I cannot quarrel with the closing of present gaps in regional staffing provided the filling of existing vacancies does not become an alternative, in whole or in part, to the specialized staffing that would appear to be justified eventually. Similarly it would make immediate sense to employ a consultant for two purposes: to assist the Branch in sharpening its focus upon its local government program and to reinforce the capacities of the regional offices in the local government sphere. Any proposed regional assignment ought, however, to be examined beforehand at national headquarters in order to avoid terms of reference that are apt to conflict with the Branch's long-term local government objective.

At this stage, a consultant could, I suggest, be used productively by head office:

- (a) to help in defining policy goals both in relation to the Hawthorn Report and reflecting the new conviction as to the Branch's local government function;

- (b) in conformity with federal government hiring procedures, to assist with the recruitment and selection of suitably qualified local government personnel;
- (c) under the Branch's direction, to develop a precise outline of the information that will be needed in order to define realistic alternatives for local government throughout each region;
- (d) to participate in appropriate discussions of the program with provincial government officials and with Indians.

* * * * *