

Canada. Dept. of Indian Affairs and
Northern Development.

Indian band government legislation.

E92
C3243

LIBRARY
DEPT. OF INDIAN AFFAIRS
AND NORTHERN DEVELOPMENT
MAY 7 1984
MINISTÈRE DES AFFAIRES INDIANES
& DU NORD CANADIEN
BIBLIOTHÈQUE

INDIAN BAND
GOVERNMENT LEGISLATION

INDIAN BAND GOVERNMENT LEGISLATION

Background

Since 1969 the Government has adopted new policies based on consultations with Indian people, on acceptance of the notion of special identity for Indians as long as they desire it, and on the desirability of strengthening Band Governments on reserves. These policies included the devolution of administration of DIAND funds to Indian Bands (which now administer 40% of the budget of the Indian and Inuit Affairs Program compared to 16% in 1971/72), the adoption in 1973 of the comprehensive claims policy on settling land claims based on the use and occupancy of Canadian lands, and the publication of the 1976 Government/Indian Relationships paper which accepted the special Indian identity in Canadian society. Another action that went a long way toward accepting the desirability of reinforcing Indian Governments was the James Bay and Northern Quebec Agreement, which committed Canada to bring in legislation to strengthen Cree Band Government on Cree lands. These policies culminated in the inclusion in the resolution on the patriation of the Constitution a clause recognizing the existing aboriginal and treaty rights of Indians and the aboriginal peoples and a building block that must be recognized in the development of all future policies in relation to Indians.

During the summer of 1980 the Minister of Indian Affairs and Northern Development (IAND) consulted extensively with Indian people and was advised by a number of Bands that further progress in the strengthening of Band governments on reserves is impeded by limitations faced by Indian people and their Band governments under the Indian Act.

The Act subjects Bands to a variety of controls which effectively preclude maturing Band governments from settling their own socio-economic goals and from proceeding at their own pace towards a better future. The terms of the Act are such that Bands can be little more than administrative arms of the Federal Department of Indian and Northern Affairs, administering programs which react to the poverty of Indian reserves rather than respond to traditional Indian socio-economic and political standards.

=

While there is a shared awareness between Indians and Canadian governments that opportunities must be created for Indian people to gain additional control over their own destinies, however, there is a disagreement amongst Indians in Canada on how to move beyond the status quo arrived at in 1982.

Indian Views on How to Proceed

A number of viewpoints emerged during the discussions with Indian political leaders on the subject of strengthening Indian self-government.

- 1) Indian Bands have the right to self-government in international law and the power to exercise or limit that right belongs to the Bands alone.
- 2) The recognition of the rights of Indians should be developed further in the Constitution of Canada before proceeding on any other front. Indian people should have a government at least equivalent in status to provincial governments, with a share in fiscal transfers to match.
- 3) Notwithstanding the problems with the Indian Act, the Act should be unchanged and no other legislative initiatives should be taken until Indian people are more knowledgeable about their options and opportunities under current law.
- 4) Any changes in legislation or any initiatives respecting Indian government should come from the Indian people themselves rather than from the Federal government.
- 5) The variety of Indian conditions and needs calls for regional and/or Band specific legislation and initiatives rather than laws of general application.
- 6) Rather than attempt to revise the Indian Act, the Government should develop alternative enabling legislation, which, upon the choice of those Bands wishing to take advantage of it, would recognize the authority of Bands to be responsible for their own social, economic, political and cultural development.

The Federal Response

The Federal Government has accepted that a full consensus among Indian people on one of the above positions is highly unlikely and is concerned that the opportunity to strengthen Indian Band government should nevertheless be available to those Bands which desire it. The Federal Government, therefore, referred the matter to the Standing Committee on Indian Affairs and Northern Development in a motion on August 4th, 1982, which was accepted by Parliament and empowered the Committee to study the merits of alternative ways for strengthening Indian Government in Canada.

The Committee has begun to hold public hearings for its deliberations and is giving particular thought to possible provisions for new Indian Government Legislation.

It is recommended that the Minister encourage the Committee to take up Chief Ahenakew's acknowledgment to the Committee that proposals on Indian government be compatible with Canadian federalism and the rule of law, and appropriate for 1982 circumstances. It is also important that the Committee be guided to focus on Band level government rather than stray into regional or national Indian government, which is a constitutional concern. At the Band level, finally, increases in authority will have to be matched by increases in responsibilities, accountability, and so on.

Federal-Provincial Relations

Provincial Ministers have indicated agreement in principle with the idea of Indian self-government. There will, nevertheless, be major requirements for consultations with Provincial Governments concerning both the content and the implications of any initiative which strengthens Indian Government in Canada. There is some doubt, for example, as to whether the Provinces would accept the full implications of Band authority to exercise their own powers without a check from the Federal or Provincial Governments. There is a Provincial concern that reserves could become enclaves within the Provinces which are answerable to neither the Federal nor Provincial Governments in the exercise of their authority. Provinces are also concerned that any new

Indian Government legislation could lead to either increased costs or loss of revenues to Provinces. It is therefore expected that some Provinces will actively seek to make representations to the Standing Committee during its work.

Conclusion

Once the Standing Committee has submitted its report, perhaps early in 1983, the Minister will be asking the Cabinet to consider Indian Government further. The Minister has committed himself not to proceed with Indian government legislation, in any event, until after the Committee has done its work and then only if the option has received some support.

R. Westland (4-0122)
Corporate Policy
November 26, 1982

COMPREHENSIVE
CLAIMS POLICY

COMPREHENSIVE CLAIMS POLICY

ISSUES

Federal/Provincial Relations - Comprehensive claims negotiations in B.C., Quebec and Labrador require provincial involvement because many of the elements of a claim (such as land) pertain to provincial jurisdiction. Negotiations in these areas therefore depend largely on provincial policies and positions. Ways and means for ensuring appropriate provincial participation in comprehensive claims settlements are being explored and developed as required.

Political Constitutional Elements - Some native groups seek enhanced access to political power, constitutional guarantees and jurisdictional changes and authority to enable them to effectively take charge of their own affairs. The government's position has been that constitutional development cannot be decided within a claims forum since all citizens resident in the claims area or otherwise affected must be involved in solutions. However, as it is a major element in several of the northern claims, the issue has to be addressed in part in a claims context. The strategy is to take note of the claimants' positions while pointing out that final resolution will require action beyond claims settlements per se. The only exception to excluding political elements from the claims process is where a local or municipal type of government is proposed and this can be accommodated within federal, territorial or provincial legislation.

Native Perceptions and Native Representation - The declared expectations of some native groups regarding both the compensatory and political aspects of their claims have run far in excess of what the federal government has been prepared to entertain. Moreover, frequent changes in the native leadership, particularly in organizations representing disparate bands or communities, have caused repeated shifts in claims proposals, making it difficult to discern core positions and otherwise delaying negotiations. This situation is gradually being overcome as concrete agreements are being reached in particular components of settlement, e.g., wildlife harvesting, eligibility, etc.

Overlapping Claims - In a number of areas, the traditional interests of various native groups with regard to land may overlap. The policy has been that where boundaries cannot be agreed to among the competing users, no land be granted in the contested areas until appropriate means are found to resolve the disputes, e.g. reciprocal agreements.

Third Party Interests - Land selections are subject to consideration of third party interests and appropriate easements, access to sub-surface resources, etc. may be required.

Finality of Settlement - Final agreement must put to rest for all time any claim native parties to the agreement may have based on traditional use and occupancy, in effect clear extinguishment of the claim. However, rights and benefits obtained through settlement are to be enshrined in legislation or - as proposed - given constitutional recognition. "Extinguishment" does not therefore, as sometimes feared, mean extinguishment of native identity, culture etc.

BACKGROUND

British colonial policy towards Indians, which is best expressed in the Royal Proclamation of 1763, assumed that native people had an interest in the land which had to be dealt with before orderly settlement could take place. At the time of Confederation, this policy was adopted by the new Dominion Government which, under the BNA Act, was given legislative authority over "Indians and lands reserved for Indians". This policy resulted in a series of formal treaties dating from the 1870's whereby the Indian interest in several areas of Canada were relinquished in return for certain benefits including land (reserves), cash annuities, schools, and hunting, fishing and trapping privileges within the area ceded.

By the 1920's likely areas of settlement or development had been covered by treaties or other agreements. Regions not covered by treaties or colonial acts include the Yukon, most of the Northwest Territories and British Columbia, Northern Quebec and Labrador. While little attention was given to completing formal arrangements in these regions, Indians in British Columbia and elsewhere continued over the years to press for settlement through submissions to Parliament, court action and political lobbying.

In early 1973 the native claims issue of aboriginal title was brought sharply into focus by the Supreme Court decision in the Calder Case (the British Columbia Nishga assertion of native title). Although dismissing the case on a technicality the court split three-three on the substantive issue of whether or not the native title continued to exist or had been extinguished.

A review by the Government at that time led to a policy statement on native claims announced by the then Minister of Indian Affairs and Northern Development on August 8, 1973. This stated that the federal government was prepared to accept land claims from native people based on traditional use and occupancy of lands in areas where these rights had not been extinguished by treaty or superseded by law. Although acceptance of such a claim was not an admission of legal liability, the government was willing to negotiate settlements of such claims.

At the time, the areas where negotiations were contemplated were the Yukon, Northern Quebec, most of British Columbia and the Northwest Territories. This did not preclude the government's acceptance of claims in other areas, however, provided the claimant group could make a case for outstanding aboriginal interests.

Considering that a number of years have lapsed since the 1973 policy was announced, it was felt that a Cabinet review of the comprehensive claims policy was necessary. As a result, in late 1980 a Memorandum to Cabinet and accompanying Discussion Paper was put forward to seek Cabinet direction on the further treatment of comprehensive claims to confirm the commitment of a policy of settlement by negotiations and approval of modifications to the negotiating process. On January 15, 1981, Cabinet approval was given to the proposals, reaffirming the political will to settle claims and accepting the financial implications of such settlements.

The modifications approved included:

- Guiding Principles for negotiations
- Guidelines for negotiators and a process of mandatory consultation
- Conditions for appointment of independent negotiators.

The renewed policy, including its basic guidelines, was published in December 1981, "In All Fairness - A native Claims Policy."

POLICY CONSIDERATIONS

Reconciliation of a traditional policy of extinguishment with entrenchment of aboriginal rights is a matter that must be addressed and resolved. Various options for dealing with the question are in fact in the process of being explored in preparation for the first Constitutional Conference. The federal government believes, however, that it is in the interests of all concerned to continue negotiations with claimant groups pending resolution of the question since a great deal of preparatory work must be done before the outlines of any possible claim settlement become discernible. At the same time no agreement would be made to settle any claim without finality of the claim being assured, however this might be achieved. In effect, the quid pro quo for settlement, insofar as the federal government is concerned, is the elimination of any possibility of the subject claim being raised again and native recognition that the grievance for any loss has been addressed with finality.

It is the government's position that overall parity must be maintained between claim settlements. However, as the particular needs of each of the claimant groups differ from one area to the next, cash compensation, land and other details of settlements are left open for negotiation in accordance with the basic guidelines outlined in the booklet, "In All Fairness."

Respect for the rights of other Canadians must be maintained in claim settlements. These would include public access and rights-of-way on settlement lands, servitudes for governmental purposes and access by holders of sub-surface rights to native lands subject to fair compensation if resource exploitation takes place. Moreover, the negotiation process must allow for the participation of the territorial and provincial governments where their interests are involved, and thereby further strengthens the lasting effectiveness of the settlements.

TALKING POINTS

- The government is thoroughly committed to the equitable settlement of accepted claims through a process of negotiation.
- The basic guidelines published in the policy booklet, "In All Fairness", provide direction to the several groups whose claims have already been accepted for negotiation as well as to the federal negotiating teams.
- While there has been moderate success to date, it is recognized that much remains to be done. Positive actions initiated by the Minister and government in general during the last two years are outlined in Appendix A.

COMPREHENSIVE CLAIMS
POSITIVE ACTIONS

COMPREHENSIVE CLAIMS
POSITIVE ACTIONS DURING 1981 AND 82

1. FEDERAL COMPREHENSIVE CLAIMS POLICY

A publication entitled "In All Fairness - A Native Claims Policy", outlining the federal position on comprehensive claims was released on December 16, 1981. It expands on the 1973 policy statement and reaffirms the government's commitment to negotiate claims based on aboriginal title relating to the traditional use and occupancy of land. It also sets out some of the parameters which must be adhered to in the claims process and to which both claimants and government can relate.

2. COUNCIL FOR YUKON INDIANS

Negotiations respecting the Yukon Native Land Claim have proceeded satisfactorily since the appointment on May 23, 1980, of Mr. Dennis O'Connor, Q.C., as Chief Government Negotiator for the claim. The negotiators have initialled thirty-three (33) preliminary agreements-in-principle to date on key aspects of the claim, including land selection for six out of twelve bands. A series of negotiating sessions began in Ottawa on October 12th to deal with the outstanding matters of social programs, beneficiary participation in economic opportunities and financial compensation. At the same time a sub-committee is continuing with work on land selection for remaining Yukon communities. All parties to the negotiating table are working toward resolving all substantial issues by December 31, 1982, with an overall agreement-in-principle being signed by March 31, 1983.

3. COMMITTEE FOR ORIGINAL PEOPLES ENTITLEMENT (COPE)

The Committee for Original Peoples Entitlement (COPE) claim, submitted in 1977 on behalf of the Inuvialuit of the Western Arctic resulted in an agreement-in-principle in October 1978. Negotiations toward a final agreement were interrupted by the 1979 and 1980 federal elections with difficulties subsequently experienced in their resumption because of differing claimant and government perceptions in several areas of concern. Concrete steps are now being taken, however, to move negotiations forward, including the recent appointment of Mr. Simon Reisman as Chief Government Negotiator followed by a series of preliminary meetings with COPE, held between October 22 and November 16. An announcement on the resumption of formal negotiations should be made in the near future.

4. TUNGAVIK FEDERATION OF NUNAVUT (TFN)

The Inuit claim in the Central and Eastern Arctic, now being negotiated by the Tungavik Federation of Nunavut (TFN), has undergone a series of revisions since originally presented by the Inuit Tapirisat of Canada (ITC) in 1976. In 1981 negotiations culminated in the initialling of Wildlife provisions, now under review by federal departments concerned. Negotiations are continuing in the areas of land and resources with the federal government, represented by Mr. Thomas Molloy, appointed as the new Chief Government Negotiator in March 1982. Intensive negotiating sessions are scheduled until March 31, 1983. Inuit aspirations for the establishment of a separate "Nunavut Territory" encompassing traditional Inuit areas, are being dealt with outside the claims forum.

5. DENE/METIS - MACKENZIE VALLEY

Negotiation of the Dene and Métis claims in the Mackenzie Valley, submitted in 1976 and 1977, has been delayed by a number of factors, including Dene preoccupation with constitutional matters and lack of common ground between the two claimant groups whose claims cover the same area. During negotiations held in November 1982, the claimants announced that they would no longer pursue constitutional and political development in the land claims forum. Future negotiations, led by Mr. David Osborn (appointed Chief Federal Negotiator in April 1981) will concentrate on eligibility, the Norman Wells project and land selection criteria. The parties have indicated that they are interested in discussing land selections as soon as possible.

6. CONSEIL ATTIKAMEK-MONTAGNAIS

The Quebec government agreed in September 1980 to participate with the federal government in a negotiated settlement with the Conseil Attikamek-Montagnais du Quebec. In March 1982, Mr. Anthony Price was appointed Chief Federal Negotiator for the claim. A number of clarification meetings with CAM have taken place followed by preliminary tripartite negotiations in early November.

7. NISHGA CLAIM, BRITISH COLUMBIA

The Chief Federal Negotiator, Mr. John Bene, appointed in June 1981, is pursuing discussions with the B.C. government at both the ministerial and official levels, with the object of seeking agreement on common ground which can form the basis for tripartite negotiations on the Nishga claim. In the meantime, Mr. Bene's initiatives for a new approach to the claim have been well received by both the Nishgas and the province.

A tripartite negotiating session, chaired by the provincial representative, was held in Prince Rupert on June 22-23, 1982. Some progress was made in the development of a possible infrastructure for the administration of settlement benefits. Discussions were also held in the areas of fisheries and a provincial/Nishga lava-bed park. A follow-up meeting was held September 1-2 in Vancouver, also chaired by the B.C. representative, with further meetings anticipated, the next one being scheduled for January 13 and 14, 1983. In the meantime work is continuing on the development of an overall strategy for B.C. for discussion at the ministerial level.

ONC

November 25, 1982

SPECIFIC CLAIMS POLICY

SPECIFIC CLAIMS POLICY

ISSUES:

The main issue is a general perception amongst Indians that the specific claims policy, while recently redefined, is basically unchanged and therefore fails to meet their objections to the policy as it has operated over the past decade. Their principal areas of concern in this regard are as follows:

- a policy based on lawful obligations is too restrictive
- a trust responsibility by the government should be recognized
- claims arising from pre-Confederation events should be accepted
- the Office of Native Claims and Department of Justice act as both defendant and judge in assessing past government actions and obligations.

BACKGROUND

The underlying basis for settlement of specific claims originated in the government's acknowledgement in its 1969 statement on Indian Policy that "lawful obligations must be recognized." This policy was confirmed by the government in its claims policy statement in 1973, and again in 1974, when Cabinet decided that the government would negotiate specific claims on the legal advice of the Minister of Justice concerning the legal aspects of the claim. Specific claims were defined as those claims relating to the administration of land and other Indian assets under the Indian Act and to the fulfillment or interpretation of the treaties.

While the policy was intended to reduce the Indians' sense of grievance over the performance of successive governments in regard to treaty obligations and management of Indians' assets, the government's handling of specific claims was seriously criticized as ineffective. The Indians argued that "lawful" obligations were too narrow a criterion, that it should be broadened to include various specified equitable grounds; that Indian claims research was under-funded and that additional funds were also needed to advance claims in negotiations or in the courts. They harboured strong suspicions that third party interests (in land, for instance) took precedence.

This general Indian dissatisfaction with the specific claims policy culminated in a request for a new policy at the First Nations Conference in Ottawa, April 1980. This resulted in a policy review being undertaken to determine whether improve-

ments were possible. As part of this review, native views were obtained through direct discussions and through the assessment of various reports and submissions received from the various native organizations.

Pursuant to Cabinet consideration of the results of the review, including alternative claims criteria and processes, a redefined specific claims policy was established and subsequently promulgated in the form of a booklet, "Outstanding Business", on May 13, 1982. In this statement the government reaffirmed and strengthened its commitment to meeting its lawful obligations to Indians through the resolution of specific claims. In doing so it has provided guidelines to which claimants and government representatives can now relate. It has also broadened the bases for the acceptance, assessment and compensation of claims, moving beyond strict legal liabilities.

With regard to process, once a claim is presented to the Minister of Indian and Northern Affairs, it passes through two main phases of activity. The first - assessment of possible federal liability - involves ascertaining the historical facts in concert with the claimants and obtaining a legal opinion from the Justice Department as to whether or not Canada has a "lawful obligation." If some liability is determined to exist, a second phase - negotiation of a settlement - is initiated. At this stage claimant and government representatives seek to reach a common understanding on appropriate mode, level and conditions of compensation.

POLICY CONSIDERATIONS

While the redefined specific claims policy has clearly moved in the direction of liberalizing the government's approach for dealing with well-founded Indian grievances, it does not introduce a moral basis for claims, does not acknowledge an open government-to-Indian trust relationship, does not reduce the roles of the Department of Justice or Office of Native Claims and does not change negotiations as the main process for claims resolution, excepting always that Indians are free to bring claims issues before the courts. It can be expected therefore, that Indians will continue to raise objections to the specific claims policy as promulgated in May. On the other hand, the policy does go beyond strict lawful obligations in a number of areas, as well as broadening the basis for claims compensation, e.g.:

- acknowledgement of claims based on failure to provide compensation for reserve lands taken or damaged by government under authority;
- acknowledgement of claims based on fraud by government employees or agents in the acquisition or disposition of reserve lands even where the government could not be found legally liable;

- waiving of statutes of limitation and doctrine of laches in negotiating context;
- consideration of all relevant historic evidence even where not admissible in a court of law;
- possible return of reserve land where land never lawfully surrendered;
- possible inclusion in compensation of an amount based on loss of use of lands in question, reasonable acquisition costs (not exceeding 10%) in purchase of alternative lands and a reasonable portion of costs of negotiation.

TALKING POINTS

- The government has reaffirmed and strengthened its commitment to meeting its lawful obligations to Indians through the resolution of specific claims. In doing so it has established and promulgated guidelines to which both claimants and government representatives can now relate. It has also broadened the bases for the acceptance and assessment of specific claims and claims compensation, moving beyond strictly legal liabilities in the former. It has further undertaken to enter into negotiations in good faith and to provide funding at substantially increased levels* to Indian associations for claims research and to claimant bands to support the development and negotiation of accepted claims.
- The government asks that the specific claims policy, while recognizing that it does not meet in full the wishes of the Indian people, nevertheless, be given a fair chance of producing equitable settlements.
- Two recent settlements were achieved, 1) a settlement of \$1.2 million with the Wagmatcook Band on Cape Breton Island which was ratified by referendum on the reserve on February 10, and 2), a settlement in excess of \$13 million with the Penticton Band in respect of their "cut-off" claim. An additional "cut-off" claim settlement with the Osoyoos Band consisting of a total of \$994,908 in compensation for lands cut off from the band's reserves is imminent.

Office of Native Claims
November 25, 1982

*Contributions in 1982-83 of \$3.7 million versus \$2.2 million in 1981-82; loans in 1982-83 of \$1.5 million versus approximately \$300,000 annually in the three previous years.

INDIGENOUS PEOPLES
INTERNATIONAL CONFERENCE

INDIGENOUS PEOPLES INTERNATIONAL CONFERENCE

a) AFFIRMATIVE ACTION

Two special programs operated by the Native Programs Directorate provide 110 p/y's for the recruitment and placement of native persons. An additional temporary quota of 35 p/y's for native persons facilitates their recruitment and placement within DIAND for training and development assignments of up to two years. Most recently, eleven associate director positions have been filled within DIAND.

An inter-program committee is being established within DIAND which will pursue the thrust of affirmative action and explore the possibilities for promotion of affirmative action in provincial and industrial contacts.

e) CONSULTATION AND PARTICIPATION OF NATIVE PEOPLE: POLICY

Canada, as a multicultural society and the home of an aboriginal population, Indian and Inuit, is faced with the human problem of providing a cultural and psychic identification that acknowledges the uniqueness of each group's history and respects the cultural reality of its present and the evolutionary potential of its future.

This is the leit-motif against which the Department of Indian Affairs exists and operates as the official representative of Indian and Inuit peoples. The Department assumes an active role as policy maker, arbiter of land claims, protector of Indian and Inuit interests and advocate on their behalf vis-à-vis federal and provincial governments.

Indian and Inuit communities are faced with central value choices and with unforeseen disruptions of their old ways and problems in adapting to new ways. They are confronted with the question of whether they can maintain a viable culture, achieve development, both social and economic, without becoming alienated. Can Indian and Inuit people constitute a relationship of equality with the larger Canadian society through an exchange of their own cultural wisdom for western science and technology. Will the larger Canadian society recognize this as a fair exchange. These are the issues which inform DIAND policies and activities.

In respect of this, the Department of Indian Affairs has articulated strategic goals aimed at fostering and strengthening Indian and Inuit cultural values and providing policy instruments enabling control of their own community life and participation in that of the larger society.

The experience of the Indian and Inuit communities in the James Bay region of Quebec illustrates that retention of some traditional life-ways, including the aboriginal economic pursuits of hunting and trapping, can coexist with western management principles expressed through local government.

The recognition of the uniqueness of Canada's aboriginal population is illustrated in the following examples:

1. Studies conducted by the Department on Indian and Inuit land use and occupancy as a basis for land claim adjudication and settlement. These studies have pointed out the aboriginal perception of land as sacred, of its use carefully nurtured for present and future harvests and preservation for posterity, and the rational occupancy necessitating human and animal migratory patterns.
2. DIAND Indian and Inuit Fine Arts Collection and exhibitions; grants to creative Indian and Inuit artists.
3. Indigenous Development Corporations.
4. DIAND funding to Indian and Inuit political associations, both national and regional.
5. Indian-operated post-secondary institutions; Inuit media support. Increasing Native community control of public services: education, social services.
6. Indian and Inuit contributions to school curricula; Indian language development.
7. Income support for traditional native economic pursuits (Quebec).

f). PREJUDICE

A national study of Canadian's Opinions and Attitudes towards Indians and Indian Issues by Gibbons and Ponting (January 1978) finds that while pejorative stereotyping of Indians is not uncommon, particularly in prairie provinces, it is not the public norm. Marked regional differences in public attitudes were encountered, however. The Cree and other Algonquins in Val d'Or, Quebec do much better as indicated by less racism, higher income, less crime (see Robbins, 1977) than the Cree and other Algonquins in English towns such as Kenora, Sioux Lookout, and Moosonee in Ontario and Churchill in Manitoba (see Elias, 1975; Molohon, 1981). Robbins found that the Indians of Val d'Or were more stable in migrating during their childhood, better educated, and more satisfied with their jobs, and generally better paid, than the Indians surveyed in Halifax, Regina and three western towns.

INDIGENOUS PEOPLES INTERNATIONAL CONFERENCE - DECEMBER 1982

Culture and Native Hawaiians

The following notes reflect the Canadian federal government approach and experience with respect to the role of education in the advancement of indigenous minorities:

I Strengthening Cultural Identity in Terms of Language, Customs and Values

a) Policy

For almost ten years now, the federal Indian education policy has been based on the principles of local control and parental responsibility. This has led to a dramatic growth of Indian-managed education systems and also greater participation of Indian people in both the federal and provincial systems.

Increasing Indian influence in terms of goal-setting is reflected in greater cultural relevance of school programs with resulting improved student success rates.

b) Programs

Support for indigenous cultures through the education system takes various forms:

i) Schools

For several decades, support has been provided for advisory committees; these have developed into band education authorities where communities have opted to manage their school systems.

Where local communities indicate an interest, native languages form part of the school program. In 1981-82, almost 40% of Indian elementary and secondary students used native languages in their school programs. Additionally, other culture-based activities enrich the programs of federal, provincial and Indian-managed schools.

In federal and Indian-managed schools, the local community participates in the recruitment, selection and orientation of school personnel. The percentage of native teachers has risen to 30% in federal schools and all jurisdictions have native paraprofessionals on their staffs. The paraprofessionals play a key role in the cross-cultural education process.

INDIGENOUS PEOPLES INTERNATIONAL CONFERENCEii) Special Training Programs for Native People

The federal government has underwritten the costs of special programs provided by provincial universities for native people including law, social work and teacher education courses. There are also, at present, four Indian-managed post-secondary institutions which offer degree and diploma credit programs in affiliation with provincial universities and colleges.

iii) Cultural/Educational Centres

This program provides financial and other assistance to enable Indian and Inuit people to establish and operate cultural/educational centres in their efforts to make the process of education more relevant to their perceived needs. Indian and Inuit communities are enabled to pursue any or all of the following objectives:

- a) to revive and develop traditional and contemporary cultural skills of Indian and Inuit people;
- b) to conduct and/or facilitate research in Indian heritage and culture;
- c) to increase Indian peoples' knowledge and use of their traditional languages;
- d) to develop Indian linguistic learning resources;
- e) to develop and test culturally-oriented educational curricula, methods and materials for use by established and other programs;
- f) to promote cross-cultural awareness in mainstream educational programs and institutions;
- g) to develop and increase access to new and more accurate information about Indian heritage;
- h) to improve the opportunities for the public to become knowledgeable about and sensitive to the historical and current role of Indian people in Canada.

INDIGENOUS PEOPLES INTERNATIONAL CONFERENCE

iv) Cultural Grants

The Cultural Grants programs assist Indian and Inuit people to further careers in the various creative arts fields. The programs are supportive of practising and potential artists and serve to acquaint the general public with contemporary achievement in native art.

v) Contemporary Art Collection

The Department's Indian Art Collection is a collection of noteworthy examples of paintings, sculptures, prints, etc. acquired over the last ten years. Travelling exhibitions have been put together which have made Indian art and cultural identity better known at home and abroad.

II Mobilizing Non-Indigenous Awareness and Support

a) Heightening the Visibility of Indigenous Cultures

Through the education system, the federal government cooperates with Indian and provincial education authorities in the development of curriculum aimed at recognizing the contribution of native people to Canada. There are active projects designed to remove material which depicts native people in an offensive or stereotyped way. History may be presented from the native person's perspective. In mixed communities, native elders may be involved in the in-school program.

At the post-secondary level, there has been a dramatic increase in Native Studies programs and a consequent expanded understanding of native cultures by non-natives.

b) Enhancing Indian/Inuit Influence in Provincial Educational Jurisdictions

The federal government supports greater native involvement in provincial education. The focus has been on greater representation on school boards, the encouragement of the setting up of Indian Education Branches in Provincial Ministries of Education, the passing of enabling provincial legislation to permit tuition agreements between Indian and provincial authorities.

. . .

INDIGENOUS PEOPLES INTERNATIONAL CONFERENCEIII Native Cultures Enhancing the Dominant Culture -

Indigenous cultures enrich "national" cultures in various ways. Canada's policy of multiculturalism, as well as the special constitutional position of the aboriginal peoples, guarantee recognition of native cultures.

The education system may act as a primary vehicle for raising the awareness of native cultural realities among the general population. Curricula may be developed at all levels to reflect, in an authentic manner, native philosophy spirituality and psychology, native concepts of ecology, native forms and techniques of artistic expression and appropriate technology.

J. McArthur, (4-3555)
Education and Social Development
November 26, 1982.

Indian Education

ISSUE:

The main issues in Indian education currently facing the Department derive from the Indian people's perception that federal and provincial delivery systems are not meeting Indian students' needs. Despite the existence of indicators reflecting considerable advances over the last fifteen years, Indian people generally are dissatisfied with their educational services.

BACKGROUND:

1. Federal Schools

In 1981/82 221 Federal Schools provided services to 31% of Indian children who are of elementary and secondary school age. 1,409 professional and paraprofessional staff were employed in these federal schools which were attended by 22,930 students.

The current emphasis is being placed by the Program upon the quality of Indian Education, Local Control of Indian Education and upon Education Management and funding issues.

2. Provincial School Agreements

53% of Indian children of elementary and secondary school age (39,490 students) commuted to provincial schools from their reserve homes. Large distances result in the residential placement of some.

Access to provincial schools by Indian children is provided through tuition agreements and joint capital agreements between the province/board and the Department upon concurrence of the Indian Band.

The current emphasis is similar to that of Federal Schools.

3. Band Schools

As part of the Department's strategy for increasing Indian control over the development of their communities, contribution agreements enable bands and tribal councils who wish, and have the capacity, to operate independent elementary and secondary schools on reserves. Typically, the curriculum includes native cultural content, especially languages, in addition to provincial-type studies.

. . .

INDIAN EDUCATION (Cont'd)

Indian education authorities currently operate 183 on-reserve schools which range in size from one-room kindergartens to institutions offering complete courses from pre-school to university entrance. In 1981-82, they served 10,860 students, approximately 15% of the Indian student population.

4. Post-Secondary Education Assistance

The primary post-secondary education objective of the Department is to make post-secondary education accessible to Indians and Inuit by providing adequate financial resources. The Post-Secondary Education Assistance Program (PSEAP) provides grants to individual students accepted into a post-secondary program at any accredited university, college or similar institution. Entitlements include tuition costs, books, supplies and special clothing, travel, training allowances for living costs and post-graduate incentives; there were increases in training allowances in 1980 and 1982 based on Canada Price Index changes. The number of Indian Post-Secondary students rose from 247 in 1968-69 to approximately 6,800 in 1981-82. The 1981-82 expenditures were \$25,889,300.00.

5. Community Adult Education

This program provides contributions to bands for academic upgrading programs, literacy, social and leadership skills. A recent evaluation assessment of the program showed the Department to be reducing its priorities in this area. The 1981-82 expenditures were \$925,100.00.

6. Cultural Educational Centres

The Cultural/Educational Centres Program was introduced in 1971 as a five-year renewable program to provide financial and other supportive assistance to enable Indian and Inuit people to establish and operate cultural/educational centres in their endeavour to make the process of education more relevant to their perceived needs.

. . .

INDIAN EDUCATION (Cont'd)

Despite problems, significant progress has been made both in increasing Indian involvement in all aspects of education and in student success rates. Band-controlled education operations and maintenance funds have risen in the last 8 years from \$7 million to almost \$110 million. 80 on-reserve schools have 2,500 students in high school classes. Over ten years, the percentage of Indian students in high school has risen from 13.4% to 19.2%. Over 32,000 Indian children are involved with native languages in federal, provincial and band schools. 58 Indian-managed Cultural/Educational Centres are operating this year on a budget of \$6.8 million.

Education Paper

Consistent with Departmental strategic goals relating to fulfilling federal obligations and increasing Indian control over decisions and resources affecting Indian people and their communities, the recently initiated review of Indian education addressed the related issues of education quality and local control. Since the results of the review are intended to provide a focal point for renewed federal/Indian dialogue aimed at resolving current outstanding problems, work is now proceeding to develop a communications package for distribution to Indian communities.

POLICY CONSIDERATIONS:

The primary policy consideration relates to the need to rationalize Indian Control of Indian Education in terms of guiding principles and operational procedures. In the mid and late 1970's, Departmental efforts to develop guidelines for the operation of education programs were met with Indian organization rejection. Problems related to four distinct areas.

1. Quality of Education

As a result of the transfer of programs to bands and the consequent reduction in Departmental person-years, federal capacity in areas such as curriculum development, student and teacher support and the monitoring of education standards has declined.

. . .

INDIAN EDUCATION (Cont'd)2. Indian Control

The concept of "Indian control" has not been clearly defined. The transfer of the management of education to band education authorities has, at times, taken place without adequate preparation. Deficiencies in the federal school system were not always eliminated prior to transfer of control to Indian authorities.

3. Education Management Framework

The education management framework and supportive infrastructure, in both the band-operated and federal school systems, are inadequate when compared with generally accepted norms and are significantly inferior to provincial structures.

4. Funding

A Treasury Board condition of the implementation of the 1973 policy was that it should not result in increased costs. Funding levels in Indian-controlled and federal schools are below those of provincial systems. This disparity is accentuated because of the higher costs associated with the special demographic, social and economic circumstances of most Indian communities.

Other policy considerations include:

1. While some Provinces accept the idea of greater Indian involvement in education, generally others will only deal with the Department direct when services for Indian students are being negotiated.
2. Under the Indian Act 4(3), the Department is not authorized to provide elementary and secondary educational services to off-reserve residents. Citing the terms of treaties, Indian organizations are claiming that all Departmental education programs should be available to all status Indians regardless of residence. Some Provinces are supportive of this position. It is the Federal position that Section 91(24) of the British North America Act did not create a Federal obligation to

INDIAN EDUCATION (Cont'd)

provide educational services to Indians living off-reserve; that the Department's responsibility under the Indian Act (Sections 4(3) and 114 to 123) is limited to the education of children of Indian status living on-reserve or on Crown land; that children of Indian status residing off-reserve are Provincial residents whose education is a Provincial responsibility.

3. There is an inherent possibility of a conflict of interest regarding students' entitlements when the Post-Secondary Assistance Program is transferred to band jurisdiction. Contrary to Departmental policy, band authorities may decide on-reserve residents have priority over off-reserve residents with respect to resource allocation.
4. Indian organizations and provincial governments have vested interests in influencing the Department to accept full responsibility for costs of Indian post-secondary institutions and special programs.

RECOMMENDED POSITIONS FOR THE MINISTER:

It is recommended that the Minister indicate that:

- the Department will pursue its present course of consultation with Indian Community leaders in efforts to improve the quality of education and to facilitate improved delivery systems through Indian control.
- the main policy thrusts in the overall education program 1981-82 to 1986-87 will be in the area of developing vehicles for the integration of the total education program into the community planning of Indian leaders and clearing the path for the smooth transition of the control of Indian education into the hands of Indian communities.
- policy of major change thrusts will affect the Elementary/Secondary and Post-Secondary components in different ways but in general, they will be directed towards:
 - (a) decreasing community dissatisfaction with current outputs;

. . .

INDIAN EDUCATION (Cont'd)

- (b) increasing community involvement in the definition of needs and goal-setting in education;
- (c) improving the quality of the education program through total community action.

Education Directorate
October 27, 1982.

DEPARTMENTAL
MANDATE

D. DEPARTMENTAL MANDATE

The mandate of the Department flows from its statutory authority, the DIAND Act and is manifested through the operations of the various responsibility centres outlined below:

INDIAN AND INUIT AFFAIRS PROGRAM

- Under the authority of the Indian Act, the Indian and Inuit Affairs Program provides services to approximately 317,000 status Indians across Canada, and 7,500 Inuit (mainly in Northern Quebec and Labrador). The Program is responsible for (a) administering the statutory commitments defined by the Indian Act including registration of Indians, Reserve land and other resources and Band elections; (b) providing for a full range of social, educational, economic and community support services to Indians on reserves and Inuit in Labrador.

NORTHERN AFFAIRS PROGRAM

- The Northern Affairs Program, both directly as well as indirectly through the governments of the Yukon and the Northwest Territories, promotes the social, cultural, political and economic development of the two territories, placing particular emphasis on safeguarding the needs of native northerners, and has responsibility for the management of lands, resources and the environment in the Territories.

OFFICE OF NATIVE CLAIMS

- The central mandate of the Office of Native Claims is to settle comprehensive and specific claims through the negotiation of agreements.

CORPORATE POLICY SECTOR

- Corporate Policy provides the strategic framework within which Departmental policies are developed and ensures that these policies are integrated, consistent with and responsive to the Minister's priorities.

FINANCE AND PROFESSIONAL SERVICES

- The responsibility of Finance and Professional Services includes the control and stewardship of departmental resources (money, physical assets, material and information).

PERSONNEL

- The Personnel Branch provides advice and assistance to all levels of management for the quality and effectiveness of human resources management as expressed in the various statutes governing employment in the Public Service of Canada.

COMMUNICATIONS

- The mandate of Departmental Communications is to promote a positive understanding of the Department's objectives, policies and programs.

CANADA OIL AND GAS LAND ADMINISTRATION (COGLA)

- Federal oil and gas management which functions under the Canada Oil and Gas Act (1982) has been pooled into a single organization known as the Canada Oil and Gas Land Administration (COGLA) reporting to both the Deputy Ministers of DIAND and Energy, Mines and Resources.

This organization provides support respectively to DIAND's Northern policy and to EMR's Energy policy (administering the Canada Oil and Gas Drilling Regulations) and for the regulatory control of all oil and gas activities on Canada Lands.

**INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
SUMMARY OF PERSON-YEAR AND DOLLAR RESOURCES
FOR THE FISCAL YEARS 1981-82 AND 1982-83**

See Note (1)

(\$'000's)

	INDIAN AND INUIT AFFAIRS PROGRAM		NORTHERN AFFAIRS PROGRAM		NATIVE CLAIMS PROGRAM ^a		ADMINISTRATION PROGRAM		TOTAL	
	1981-82	1982-83	1981-82	1982-83	1981-82	1982-83	1981-82	1982-83	1981-82	1982-83
BUDGETARY										
Operating Funds (3) and (4)	\$343,026	\$399,349	\$61,501	\$73,063	\$-	\$-	\$41,952 ⁽⁶⁾ (7)	48,837 ⁽⁷⁾	\$446,479	\$521,240
Capital Funds	48,860	54,477	22,370	23,938	-	-	36	96	71,266	78,511
Grants and Contributions (4)	985,632	678,995	358,110	392,933	17,016	3,729	-	-	968,758	1,075,657
Total Budgetary	985,518	\$1,132,821	\$441,981	\$489,934	\$17,016	\$3,729	\$41,988	\$48,933	\$1,486,503	\$1,675,417
NON-BUDGETARY	-	-	14,000	-	9,845	15,188	-	-	23,845	15,188
TOTAL	\$985,518	\$1,132,821	\$455,981	\$489,934	\$26,861	\$18,917	\$41,988	\$48,933	\$1,510,348	\$1,690,605
PERSON-YEARS (4)	4,489	4,494	857	833	-	-	952	984	6,298	6,311

NOTE (1) The resources for 1981-82 include Main and Supplementary Estimates. The resources for 1982-83 include Main Estimates, Supplementary Estimates "B" and any other items to date that have been approved by Treasury Board to be included in final Supplementary Estimates.

NOTE (2) The Administration Program includes the offices of the Minister and Deputy Minister, Corporate Policy, Native Claims, Corporate Personnel and Finance and Professional Services.

NOTE (3) Contributions to Employee Benefit Plans have been included in Operating Funds.

^a This does not include the Office of Native Claims. It includes funding to native organizations for claims research and negotiation and funding for Claims Settlements.

NOTE (4) Person Years and dollar resources for the Summer Youth Employment Program have been included.

NOTE (5) Includes Indian Annuities.

NOTE (6) Includes Management Practices and Controls.

NOTE (7) Includes Minister's Salary and Motor Car Allowance.

Financial Management Branch
October 26, 1982.

G. DEMOGRAPHICS

1. Indian Population

There are approximately 317,000 status or registered Indians in Canada at present. Ontario has the largest band membership with about 70,000; British Columbia has 57,000; Manitoba and Saskatchewan have 47,000 and 48,000 respectively; Alberta has 38,000; Quebec 32,000; Atlantic has 12,000. The Northwest Territories have almost 8,000 and the Yukon approximately 3,000.

The annual population growth rate for Indians at 2.3% is nearly twice that of the total population of Canada (1.2%). The Indian birth rate while declining is still nearly double that of the total population. The same trend is true of the infant death rate for Indians as compared to the total population. The young adult population among Indians will increase their share of the total Indian population from 29% in 1976 to 34% in 1986.

Currently there are 576 Indian bands, 2,251 reserves of which 789 are inhabited and 91 inhabited settlements. At present 71 percent of the population live on reserve and Crown land and 29 percent live off-reserve.

The following two tables show the latest count of Indian bands and population by on/off reserve residence in each region; and the total number of Indian reserves and inhabited reserves and settlements in each region.

2. Inuit Population

There are approximately 23,626 Inuit in Canada at present. Of these 16,100 live in the Northwest Territories, mainly above the tree line, while the remainder reside in Northern Quebec (5,326) and Labrador (2,200).

The following table gives the estimated Inuit population in each dialectal region together with the number of communities having a significant, in most cases a predominant, Inuit population. The dialectal regions indicated also approximate government administrative regions and regions having Inuit Associations.

<u>Dialectal Region</u>	<u>Inuit Population</u>	<u>Communities</u>
Labrador	2,200	4
Northern Quebec	5,326	12
Keewatin	3,800	8
Baffin	6,100	12
Central Arctic	3,100	6
Western Arctic	3,100	5

Note:

At present there are no Inuit resident in the Yukon.

H. NATIVE ORGANIZATIONS

	PAGE
1. Assembly of First Nations	15
2. Inuit Tapirisat of Canada	16
3. Native Council of Canada	17
4. Inuit Committee on National Issues	18
5. Coalition of Aboriginal Peoples on the Constitution	18

1. ASSEMBLY OF FIRST NATIONS

The Assembly of First Nations was established at a national meeting of chiefs, the First Nations Constitutional Conference, in Ottawa, April 28 - May 1, 1980. The chiefs declared, in this conference, that the Assembly would constitute the only voice of the First Nations. They further decided that a Confederacy of Nations be established and that the National Indian Brotherhood should serve as an incorporated secretariat to the unincorporated AFN. The AFN/NIB structure is currently being further revised.

National Chief:	David Ahenakew
Vice-Chiefs(7):	Herb Norwegian (Yukon/NWT)
	Tom Sampson (B.C.)
	Peter Kelly (Ontario)
	Stanley Johnston (Nova Scotia/ Newfoundland-Labrador)
	Ernie Daniels - Vice Chief/ (Alberta/Saskatchewan/Manitoba)
	Quebec - to be elected
	New Brunswick/Prince Edward Island - to be elected

2. INUIT TAPIRISAT OF CANADA (ITC)

The Association was established in August 1971 to represent the Inuit in their resolve to preserve and promote the Inuit language and culture in the midst of change and pressures of progress. ITC represents 7 regional member associations.

CLIENTELE:

ITC represents the Inuit of Canada (22,760).

OBJECTIVES:

To preserve Inuit language and culture
To promote a sense of dignity and pride in the Inuit heritage
To provide a focal point for determining the needs and wishes of all Inuit
To represent Inuit on matters affecting their well-being.
To improve communications to and between Inuit settlements.
To help achieve fully participation in Canadian society.

OFFICERS:

President:	John Amagoalik
Vice-President:	Michael Amarook
Secretary-Treasurer:	Leah D'argentcourt

3. NATIVE COUNCIL OF CANADA (Métis and Non-Status Indians)

NCC was established in 1970 to provide a national voice for Métis and Non-Status Indians. Each member association determines its own membership criteria and in this regard the Council for Yukon Indians and the United Native Nations (B.C.) represent registered as well as unregistered Indians. The Native Women's Association of Canada is also a member organization of NCC and represents registered and unregistered Indian, Métis and Inuit women.

Executive Officers:

President: Louis Bruyere

Vice-President: Bill Wilson

Secretary-Treasurer: Patricia George

4. INUIT COMMITTEE ON NATIONAL ISSUES

ICNI was created at a general meeting of Inuit Tapirisat of Canada in Igloolik, NWT, in 1979. The sole function of the Committee is to focus upon the constitutional development of Inuit.

The board of ICNI is largely overlapping with that of ITC, and in practice joint meetings are held. ICNI reports to the General Assembly of ITC on its constitutional mandate.

Co-Chairpersons (2): Charlie Watt
1 position vacant (to be filled
in September)

Technical Staff: Peter Jull
Jeff Richstone

5. COALITION OF ABORIGINAL PEOPLES ON THE CONSTITUTION

This is an informal grouping established in November 1981 to secure constitutional entrenchment of aboriginal rights. Organizations participating in the coalition have included the Dene Nation, Council for Yukon Indians, various Tribal Councils and political associations from B.C., Inuit Committee on National Issues, Native Council of Canada and Native Women's Association of Canada.

(ii) In Relation to the Indian Act

Under S. 91(24) of the Constitution Act, Canada has the authority to legislate in relation to "Indians and lands reserved for Indians". The main exercise of this authority has been the passage of a series of Indian Acts and the establishment of the Department of Indian Affairs to administer the Act and design and administer programs for Indians.

The Indian Act provides the legal framework within which the affairs of the Indians are administered by the Government of Canada. It does not embody all the laws applicable to Indians, for generally speaking they are subject to the same laws as non-Indians. Rather, the Indian Act represents special legislation taking precedence over provincial legislation which the Parliament of Canada considers is essential to the needs of the Indian people not only as a safeguard to protect their treaty and property rights, but as a means of promoting advancement.

The main purpose of the current Indian Act are to provide for Band Councils and the management and protection of Indian lands and moneys, to define certain Indian rights, such as exemption from taxation in certain circumstances, and to define entitlement to Band membership and to Indian status. As well it provides for the delivery of services such as education, housing, social services, and local government support. The Minister also controls the estates of Indians and administration of wills.

Under the legislation, Band Councils have many of the powers of local Governments under provincial systems (such as zoning, control of domestic animals, provision of local health programs, maintenance of local law and order and definition of minor offences). They also have special rights in relation to the "preservation, protection and management" of fish and game and punishment of trespassers. Advanced Bands have additional local Government powers in relation to taxation, appropriation and the appointment of officials.

The exercise of all these powers is subject to various kinds of control by the Minister and/or the Governor in Council through the power of disallowance. In most instances, the Federal Government's power of discretionary control is not exercised in practice if a Band is acting within the law.

The Act contains a special land regime. The Minister exercises great discretion and has trust responsibilities in relation to the exercise of many of his important powers over land, and these cannot be delegated to the Band or left unexercised. The Minister also has trust responsibilities in relation to Band moneys.

C. Claims Funding to Native Claimants

BACKGROUND

The Privy Council Office began funding native groups in 1969 to enable them to conduct research into Indian rights and treaty matters. This responsibility was assumed by the Department of Indian Affairs and Northern Development in 1972. Following the 1973 Nishga court case, and the Federal Government's subsequent policy statement on claims of Indian and Inuit people, the funding program was broadened to encompass the research, development and negotiation of native claims.

During the 10 year period from April 1, 1972 to March 31, 1982, the Department has issued approximately \$23 million in contributions and \$44 million in loans to native groups for these purposes.

Departmental authority for claims funding rests with the Native Claims Funding Program which is distinct and removed from the Office of Native Claims. All claims funding arrangements with native groups are administered by the Research Branch, Corporate Policy, which may issue contributions or loans.

Contributions are generally provided to provincial Indian organizations on behalf of their member bands for the research, development and submission of claims, although individual Bands may be funded in exceptional cases.

Should a claim, either Specific, or Comprehensive, be accepted by the Minister for the purpose of negotiation,

continued funding is provided in the form of loans. The loans will enable the claimants to further develop the claim, consult with their members, and negotiate a settlement. The loans, which are to be repaid from the proceeds of the claims settlement, are issued interest-free until an Agreement-In-Principle has been reached. Loans provided after an Agreement-In-Principle has been reached are subject to interest at rates comparable to those given to Crown Corporations.

All contributions and loans issued to native groups are subject to terms and conditions of formal Agreements which include requirements for quarterly progress reports as well as annual audited financial statements.

CURRENT STATUS

The contribution allotment of \$2.229 million for the research, development, and submission of Specific and Comprehensive claims was increased to \$3.729 million in the 1982-83 fiscal year. This increase of \$1.5 million is expected to result in greater claims research productivity and in an increase in the number of additional claims being presented to the Government for resolution.

The allotment of loan funds for claims development and negotiation has also been increased. The \$8.4 million base available in 1981-82 for loans to native claimants was increased by \$5.9 million bringing the new total to \$14.3 million. Of this amount \$13.1 million is for the development and negotiation of Comprehensive Claims, and \$1.2 million for Specific Claims. The funds will enable claimant groups to engage in sustained negotiations towards Agreements-In-Principle or Final Agreements during 1982-83.

The additional \$5.9 million for loans to native claimants in 1982-83 was approved by Treasury Board on condition that the Minister submits formal Terms and Conditions and Funding Guidelines covering native claims funding to Treasury Board by September 30, 1982. An amount of \$2.5 million against the 1982-83 loan allotment has been frozen by Treasury Board and will be released to the Department when the formal Terms and Conditions and Funding Guidelines are approved.

These Terms and Conditions and Funding Guidelines which were prepared in consultation with the provincial Indian associations are presently under review by the Treasury Board. Approval is expected before the middle of November, 1982.

The tables on the next page indicate the amount and nature of claims funding made available to claimants over the years.

3. NATIVE ECONOMIC DEVELOPMENT

A. Native Economic Development

BACKGROUND

In light of the particularly acute problems facing Native people, which have been well chronicled for Cabinet in recent months (Indian Conditions: A Survey, 1981), Natives were identified as a priority target group by the Social Policy Committee for the 1981 Medium-Term Social Objectives.

The Priorities and Planning Cabinet Committee agreed in September 1981, to transfer \$345 million from the Western Development Fund to the Social Envelope for Native economic development initiatives for fiscal years 1982-83 through 1985-86.

One of the weaknesses of developmental efforts to date has been the assumption that the severe and complex socio-economic problems which face Native people could be overcome with the application of standard approaches to economic growth and development. In many instances when "business development" was undertaken, the desired results did not materialize, despite liberal doses of money and strong efforts to develop "better businessmen". The problem is much more fundamental. It is rooted in an attitude of dependency and the lack of opportunity to develop meaningful work experience and the consequential effect upon motivation.

Notwithstanding the difficulties that they face, Native people have demonstrated significant developmental

capacity during the past decade with important achievements such as:

- the emergence of a Native leadership dedicated to breaking the dependency cycle;
- the improved structure and capacity of Band governments;
- the emergence of comprehensive community planning as a recognized priority activity;
- the development of a national native socio-economic strategy;
- the emergence of native designed, owned and managed sectoral programs;
- growing numbers of successful native small businesses;
- the creation of Native owned and directed financial institutions.

The proposed economic development thrust is to benefit people of Indian ancestry rather than status Indians exclusively hence native economic development. Such a strategy will require consideration of the implications for government organization.

In a draft Memorandum to Cabinet developed by DIAND and circulated to the Committee of Deputy Ministers in March 82, Ministers are asked to:

- i) approve an approach and guiding principles for community-based Native economic development directed towards three distinct target groups: Natives in urban settings, Natives in rural settings and Status-Indians on-Reserves;
- ii) authorize a program expenditure for DIAND totalling \$345 million (as designated in the November 1981 budget) over fiscal years 1982-83 through 1985-86;
- iii) approve the creation of a Native Economic Development Agency integrated with the Department of Indian Affairs and Northern Development but having a distinct and exclusive program delivery structure funded from a separate Parliamentary appropriation;
- iv) authorize the establishment of a Native Economic Development Board, with national and regional structures, to oversee the direction of the Native Economic Development Agency; and
- v) authorize the Minister of Indian Affairs and Northern Development to conduct the necessary consultations with Native groups and the provinces in respect of program implementation.

POLICY CONSIDERATIONS

The proposals contained in the draft Cabinet document encompass the native population as a whole. The responsibility for natives generally goes beyond the

Department's mandate which is concerned with Indians, Inuit and Northerners (N. of 60°). There is a possible concern for establishing a precedent for dealing with native issues.

CURRENT STATUS

The Cabinet Document was signed off in February 1982 to Priorities and Planning and the Department is now awaiting a decision from Cabinet which will determine how and by whom the \$345 million set aside for Native Economic Development will be administered.

In the June 28th budget report, a portion of the fund (\$85M) was deferred for two years. The total amount (\$345M) will be spent over a longer period than originally intended.

B. DEVOLUTION TO BANDS

BACKGROUND

The process of devolution is where the Department transfers to chiefs and councils the funds for the management and delivery of program services to individual Indians. The Department's policy is to encourage devolution to bands, initially through the administration of programs and services and ultimately through autonomous local government.

Beginning in 1956, limited funding was provided to Indian band councils for the administration of school communities, thus establishing the beginnings of a process of devolution. Indian bands were gradually allowed to manage more and more departmental programs until, in 1964, the Department sought and received Cabinet approval for a policy respecting the funding of Indian community development plans.

During the next ten years the Department sought and received some 30 odd separate authorities. The result of this piecemeal approach was a patchwork of authorities with little recognition of the need to develop and receive approval for a comprehensive management framework or the resources required to ensure a capacity at the band level before turning over programs. This resulted in situations where the Department had reduced staff and no longer had the capacity to take back programs from bands even where requested by a band or required as a result of bands inability to manage the programs.

In 1979, Treasury Board approved the first set of Terms and Conditions for contributions to Indian bands and organizations. While this introduced a more formal arrangement between the Department and Band Councils as to the purpose for which funds were transferred and established better accountability, some Indian leaders interpreted the process as an attempt by the Department to dictate the needs of Indian bands. Nevertheless, significant progress has been made in the last decade such that the proportion of the Indian and Inuit Affairs budget administered by bands has risen from 16% in 1971 to 50% in 1982/83.

The cost of devolution of programs to Indian management has been found to increase from 20% to 30% over those administered by the Department. These additional costs can be attributed to lost economies of scale, better access by Indians to services and program enrichment to meet Indian expectations.

CURRENT STATUS

The Treasury Board Submission

Based on the experience to date the Department recognizes the need for a structured and disciplined management framework in order to access, monitor, evaluate and resource Indian bands in the devolution process. This whole issue is currently being addressed by way of a Treasury Board Submission entitled "The Management Process - Transfer of Program Delivery to Bands" the purpose of which is:

1. To obtain Ministerial concurrence on the establishment of a properly delineated, structured

and disciplined process for the management of the transfer of program delivery to bands.

2. To ensure the availability of adequate resources both within the Department, to provide for the management advisory and consultative capacity, and at the local band level, to provide for the required administrative and program delivery structure.

This submission, currently before the Board for review addresses the issues of band assessment for eligibility, training, funding mechanisms, performance criteria and standards of service delivery, accountability and the resourcing of the Department. Depending on a band's assessment of its management capabilities two funding mechanisms are proposed as steps on the devolution continuum. Respectively, they are the Controlled Contribution Process and Conditional Transfer Grants.

Controlled Contribution Process

Composed of two separate contributions:

- Band Administration (overhead costs associated with program delivery); and
- Program Delivery (all other non-capital contributions).

Bands will deliver Programs as they do presently, operating much like an administrative extension of the Department and the post-audit function will continue.

7. HOUSING, EDUCATION AND OTHER SOCIAL
DEVELOPMENT MEASURES FOR INDIANS

A. Housing

1. On Reserve

BACKGROUND

A comprehensive housing survey confirmed that a significant and growing housing problem existed on reserves. Houses on Indian reserves are frequently sub-standard and over-crowded. The current volume of house construction (2,400 new units and 3,000 renovations) per year is sufficient to deal with the housing backlog which currently stands at approximately 11,000 new units and 11,000 renovations.

DIAND provides front-end subsidies for housing units on reserves ranging from \$18,000 in low cost areas to \$22,125 in high cost areas. In many reserve areas, an additional allowance up to \$7,000 may be provided to offset transportation costs.

The present front-end subsidy is only sufficient to meet about 45% of the cost of a house built to National Building Code Standards. Many bands are unable to obtain the financing for the remainder.

CURRENT STATUS

New program proposals were recently presented to the Social and Native Affairs Committee of Cabinet. The proposals include an additional subsidy beyond the basic subsidy be provided to certain bands based on their economic circumstances. The proposals were approved in principle but have not yet been funded.

Policy and program changes dealing with the shortcomings of the current housing program are being developed. Several actions will be taken in the coming months which will have a major effect on Indian on-reserve housing.

The Department will go forward to the Treasury Board with the submission dealing with contribution Terms and Conditions for capital projects, including housing, and will strengthen project planning and control processes.

The Department will be requesting Cabinet approval of \$25,200,000 as a permanent addition to Capital 'A' Base to maintain the current funding level of \$72,500,000. It is also expected that a requirement will be imposed that all houses shall meet National Building Code Standards and that stringent inspection procedures shall be followed.

The Department will continue to support the delivery of housing programs through Indian band administration and still continue to use a process which will provide for strong Indian participation in decisions regarding the allocation on capital funds. Capital funds will be managed in such a way that the overall housing unit targets set by Cabinet will be adhered to and that housing construction projects managed by bands will be subject to the

application of management and technical standards. Actions are also underway to strengthen management processes relating to housing and all other capital projects.

2. Off-reserve

BACKGROUND

The present off-reserve housing is designed to provide assistance to Indians living off reserve. The program provides a forgivable mortgage loan of a minimum of \$1,000 for a person earning \$16,000 or less to a maximum of \$12,000 for a person earning \$3,000 or less. This loan is forgivable, under certain conditions, over a ten year period. CMHC or an approved lender under the National Housing Act can provide additional funds at current interest rates for first mortgage requirements.

The regulations, as well as the schedule, are obsolete due to inflation of incomes and housing costs and current high interest rates. The need for update has been a major contribution to the programs decline since 1973, when a total of 300 2nd mortgages were approved. About 30% of Indian people live off-reserve (approx. 92,000 in numbers) and regional forecasts indicate a waiting list of applicants. Therefore, it is imperative to have a working program to assist them. A five year forecast by all regions indicates that an average of 235 applicants will be processed annually over the next five years, with the approval of revised regulations. Delay in approval of new regulations has created and will continue to create a great deal of impatience and frustration for applicants.

CURRENT STATUS

A Cabinet Memorandum is being developed with proposals to update the existing regulations by increasing the forgivable loan to new minimums and maximums and change the eligibility criteria to permit the program to assist a wider range of Indian and Inuit applicants. The changes will make the program relate more closely to the present housing market. Cabinet will be asked to increase the forgivable mortgage loan scale from its present range of minimum of \$1,000 to a maximum of \$12,000 to a new loans scale ranging from \$5,000 to \$20,000. Approval will also be sought to extend eligibility criteria.

B. EDUCATION

BACKGROUND

Indian Education is a responsibility, arising out of Treaty commitments and the provisions of the Indian Act, whereby:

- a) Indian children of compulsory school attendance age are provided with a full and appropriate range of educational services to enable them to develop academic and vocational skills, and to encourage their personal, social and cultural growth, to the greatest extent of their capabilities;
- b) access to a broad range of pre- and post-secondary school services is developed and supported;
- c) Indian parents exercise their responsibility for determining and controlling the education of their children; and
- d) new understandings, changing criteria and more effective delivery systems can be incorporated into the process as required.

The Department's approach to meet these commitments is based upon principles of local control and parental responsibility. Furthermore the Department is striving to encourage Indian students to complete their secondary school education and those who are prepared to acquire skills in professional and para-professional areas which will be useful to Indian communities.

The issues arising from these objectives range from funding arrangements with provinces responsible for post-secondary institutions, to the desire by Band to have a measure of control over the education of their children in Provincial schools or the high cost of underwriting the administration of Special Programs offered by provincial institutions.

Efforts are continuing to resolve these issues and to meet the educational needs of Indian People by means of programs such as:

- . Federal Schools

Access to elementary & secondary education via school provided by the Federal governments. They could be schools located on reserves or residential schools located off reserve. The current emphasis is being placed by the Program upon the quality of Indian Education, Local Control of Indian Education and upon Education Management and funding issues.

- . Provincial Schools Agreements

Access to provincial schools by Indian children is provided through tuition agreements and joint capital agreements between the province/board and the Department upon concurrence of the Indian Band. The current emphasis is similar to that of Federal Schools.

. **Band Schools**

As part of the Department's strategy for increasing Indian control over the development of their communities contribution agreements enable bands and tribal councils who wish, and have the capacity, to operate independent elementary and secondary schools on reserves. Typically the curriculum includes native cultural content, especially languages, in addition to provincial-type studies.

. **Post-Secondary Education Assistance**

A major objective of the Department is to make post-secondary education accessible to Indians and Inuit by providing adequate financial resources. The Post-Secondary Education Assistance Program (PSEAP) provides grants to individual students accepted into a post-secondary program at any accredited university, college or similar institution. Entitlements include tuition costs, books, supplies and special clothing, travel, training allowance for living costs and post-graduate incentives.

. **Community Adult Education**

This program provides contributions to bands for academic upgrading programs, literacy, social and leadership skills.

. Cultural Educational Centres

The Cultural/Educational Centres Program was introduced in 1971 as five-year renewable program to provide financial and other supportive assistance to enable Indian and Inuit people to establish and operate cultural/educational centres in their endeavour to make the process of education more relevant to their perceived needs.

CURRENT STATUS

Consistent with Departmental strategic goals relating to fulfilling federal obligations and increasing Indian control over decisions and resources affecting Indian people and their communities, a recently initiated review of Indian education has addressed the related issues of education quality and local control. The results of the review are intended to provide a focal point for renewed federal/Indian dialogue aimed at resolving current outstanding problems. Work is now proceeding to develop a communications package for distribution to Indian communities.