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**EVIDENCE**

**Thursday, May 15, 2014**

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**Chair**

**Mr. Chris Warkentin**



## Standing Committee on Aboriginal Affairs and Northern Development

Thursday, May 15, 2014

• (1530)

[English]

**The Chair (Mr. Chris Warkentin (Peace River, CPC)):** Colleagues, we'll call this meeting to order. This is the 24th meeting of the Standing Committee on Aboriginal Affairs and Northern Development. Today we have the privilege of having representatives of the Cree-Naskapi Commission with us. They have brought with them a briefing on the 2012 report on their commission. We're thankful that they made time for us.

We know that you, Mr. Chairman, have been looking to come before our committee. We certainly appreciate that you've taken the time on short notice to be with us.

I will turn it over to you to begin, Mr. Chairman, Mr. Saunders. Thanks so much for joining us, and we welcome you to our committee. We'll turn it over to you for your opening statement and then we'll have some questions for you for the remainder of the hour.

**Mr. Richard Saunders (Chairman, Cree-Naskapi Commission):** Thank you, Mr. Chairman.

The clerk informed me at the beginning that we'd have about 10 minutes. I know from previous experience that the committee is a little flexible, but on the other hand we'll try not to be too long-winded. We'll attempt to keep within that or close to it.

First of all, I'd like to thank the committee for having us here. We've made previous appearances before this committee and its predecessor, as you probably know. We found that process to be very useful. We find it to be useful in that it focuses our attention on some of the more important things that need to be brought to the political level, either for information or sometimes for action. So we appreciate that.

It also, with all due respect, focuses the attention of government officials with whom we deal, in that if a matter is here they're going to pay a little more attention to it than if it's just my colleagues and I talking in the wilderness.

As most of you know already, the Cree-Naskapi (of Quebec) Act has two main functions assigned to this commission. These are the preparation of biannual reports to the minister, which are tabled in Parliament and automatically referred by the standing orders to this committee; and the investigation of representations made by individuals, institutions, whomever, concerning how powers are exercised under the act and duties performed, or not performed, as specified in the act.

The report, which you have, is the 2012 report, which was tabled by the minister in the House in September 2012, and currently we're working on the 2014 report, which will be tabled this September. Hopefully your schedules and ours will make it possible for us to have this privilege again at some time in the future.

We'd like to draw your attention today to three things. My two colleagues will deal with a couple of them, and I'll deal with one.

The first one is the need to reconcile aboriginal and treaty rights, including the inherent right, with mainstream administrative law in Canada.

The second is the need to address certain specific concerns that have been raised many times by the communities and reported upon by us over the past 20 years on which no action has occurred. Some of those have been the need for some housekeeping amendments to the act to improve the functioning of the local governments, individual governments' need for things dealing with referenda requirements in the act and things of that sort.

Finally, we'd like also to run through the major elements in the 2012 report. I'm going to be a little briefer than planned on this first one about administrative law. Let me just say that administrative law in this country, as you know, generally serves us well. It provides for fairness on the part of commissions, tribunals, boards, things of that sort. It provides, for example, that if I go before anybody, from the Immigration and Refugee Board of Canada to the taxi commission of Vancouver, to complain about something I do not expect to find sitting on the board somebody who's opposed to my view, or their wife, or their boyfriend, or whomever. We expect that you cannot be a judge in your own case, nor appear to be.

That's a reasonable way of contribution to achieving fairness. We expect that. In a community of several thousand, several hundred thousand, and in Canada with 35 million, we could easily find people who aren't related to anybody appearing before a board.

In a community of 400, 500, or 1,000, it's practically impossible. So what do you do? We've begun discussions with similar bodies to ourselves across the country on how to address that problem. Clearly you have to be ever more transparent. Your decisions have to be detailed. You have to spell out the reasons for your decisions in ways that are defensible to anyone, and in the case of, say, an immediate relationship, a spouse, a child, or something of that sort, you may need to step aside and be replaced by a temporary person.

But in the case of our hearings over the past 28 years, I doubt that there's ever been a time when anybody coming to the commission was not either related to one of us, particularly my colleagues, or knew us well, or had some previous relationship of some sort or another with us, even just as good friends. So you have to take that extra step, be extra transparent, and give more detailed reasons for decisions, and so on.

• (1535)

There are many other things where administrative law serves most of us in Canada quite well but is a problem for some communities. For example, there's the traditional process of deciding things by consensus. If the Ontario Municipal Board has differences of view on a matter, at the end of the day they'll have a vote. The majority will decide, and that serves us well most of the time. Even the Supreme Court will decide, if necessary, by majority, and that's fine.

Again, there's a very strong preference in aboriginal communities, as most of you know, to decide things by consensus, not to ride over the dissenter but to bring the dissenter on board and come up with something that reflects a consensus, so administrative tribunals, boards, commissions, what have you, need to make an extra effort. That needs to be built into their procedures.

In our case, we have never made a decision, ever, without unanimous agreement, except once, and that was on a fairly minor administrative matter. I was an old bureaucrat so I had a different idea from these guys. But the fact of the matter is that all substantive decisions, every last one of them, has been made unanimously, and it's not because we aren't independent thinkers. It's because we listen to each other and work these things through. Those are just a few examples.

We've been talking with the Assembly of First Nations for obvious reasons about this. We've been talking with the British Columbia Treaty Commission, who have a particular desire to have overlapping land claims resolved in more traditional ways, even though Chief Commissioner Sophie Pierre sort of says, with a twinkle in her eye, that sometimes they resorted traditionally to methods that we probably wouldn't use today. So that is one of the issues we're working on.

We have been active members for years in the Council of Canadian Administrative Tribunals, but the fact of the matter is that they have major concerns that reflect on boards and commissions dealing with millions of Canadians. They really can't focus on this. So we're doing it in cooperation with BCTC, AFN, your friend Harry Slade and his Specific Claims Tribunal, and various others.

Respecting your time, I'll stop and if there are questions, I'll be happy to go on with them later. But I'd like at this point to call on my colleague, Commissioner Awashish, who will talk about some local governance issues.

**Mr. Philip Awashish (Commissioner, Cree-Naskapi Commission):** Thank you.

Since 1986 the commission has heard from the Cree-Naskapi people about many issues and concerns. That's almost 30 years that we've been around. These concerns raised by the people usually form the basis of our recommendations in the various reports we have prepared. Many of these issues have been resolved.

Unfortunately, however, a few matters have remained unresolved year after year, and we keep repeating our recommendations.

The main issues in this category include the need to amend the act—that is the Cree-Naskapi (of Quebec) Act—that was put into force back in 1984, so we're talking about the fact that it's been around for almost 30 years. In fact, it will be 30 years this year, and the act remains unamended with respect to improving the decision-making process of local governments and local administrations.

The quorum provisions under the act are much too high for people to comply with. At the time when the act itself was being considered by the parties, the Cree population was about 6,000 people. We now have a population triple that size and is now 18,000. A quorum provision requiring something like 20% of electors voting on an issue is much too high, considering that the number of electors has risen in numbers greatly over the past years.

These provisions are in the act, so the Cree are stuck with these quorum provisions. They need to be reviewed and amended accordingly.

Such things as long-term borrowing bylaws require a quorum provision that is much too high. It's not practical to expect bands to hold a referendum on a long-term borrowing bylaw. Sometimes the Cree do have to conduct a referendum, because they cannot have 20% of the electors meeting in the band hall somewhere to vote on an issue, so they have to revert to a referendum. We don't think that should be necessary. It simply impedes local administration.

There is also the need to address a large and growing housing shortage in the Cree communities. This is not simply an isolated Cree issue. We know that it is in fact a big issue right across Canada among other first nations. Every time we bring the people together for hearings on the implementation of the Cree-Naskapi (of Quebec) Act, housing is an issue that has repeatedly been reported to us and is a matter that needs to be resolved as it remains a critical issue.

The other issue is the block D lands, which are lands near the community of Chisasibi. There is an airstrip on block D. Since 1986 it's an issue that has again and again been brought to our attention. That strip of land was promised to be transferred to Chisasibi and it remains unresolved today. Some progress has been made, but the matter is not finalized as of today.

• (1540)

Another issue that's been brought to our attention again and again concerns the youth and the need for programs and services for the youth, and adequate funding for these programs and services. Because of the high rate at which our young people remain in the communities in comparison with other first nations, the need is especially great. The commission has recommended that Canada address this issue with the Cree-Naskapi communities for 22 years, and the need continues to grow.

At this point I will call upon my colleague Commissioner Kanatewat.

• (1545)

**Mr. Robert Kanatewat (Commissioner, Cree-Naskapi Commission):** Thank you.

Mr. Chairman, members of the committee, you have the copy of the 2012 report. I don't need to read the recommendations that we have put forward, but simply just draw your attention to a few items that are ongoing concerns of the Cree people in the territory.

Some of the things that we need to address are issues of the local governments that have been changing. You heard over the years that we have substantially been working on improving and also working toward self-government to govern ourselves in the Cree communities.

A lot of these things have been brought to our attention, as my other colleagues have already expressed. We repeatedly put them in our report, and some have been touched on by the federal people, but not to the total satisfaction of the recommendations that we have expressed.

Also, one of the things that has been brought to us recently is that Canada should recognize the old post of Waswanipi as an historic site, to be turned into a heritage site. It is not a costly undertaking, but rather the recognition of the historic and cultural significance of the site.

As my other colleague Commissioner Awashish said, the shortage of community housing is a long-term problem. We've been told this every two years when we have our hearings. This item has been brought to our attention every time. We keep putting it in our report and hardly anything has been done.

Also, Commissioner Awashish mentioned about "block D". That has been an ongoing process, and we have been told once in a while that it will be solved, and resolved, and so on. Up to this day we have been told by the people of the Chisasibi that this has not been solved yet.

Also, to say that enormous progress has been made with the Cree and Naskapi communities since the James Bay project was first announced in 1971.... A great deal has been achieved. Most of these achievements have been made possible through negotiations, agreements, and litigation.

On a less positive note, most of these negotiations were initiated as a result of litigation brought against the federal and provincial governments. Litigation is very costly, time-consuming, and worst of all it creates a necessary adversarial atmosphere.

Because the first nations are bringing forward land claims across the country, I would urge this committee to use its influence with the Government of Canada to make good faith negotiations of claims a strong priority, not only at the level of political leadership but also as the principle by which senior officials operate day to day in responding to land claims of Canada's first nations.

Thank you.

**Mr. Richard Saunders:** Thank you, Philip and Robert.

Mr. Chairman, we'd be happy to take any questions or explain any points that we've been vague on.

**The Chair:** Thank you, gentlemen.

We'll turn to Mr. Saganash for the first rounds of questions.

**Mr. Romeo Saganash (Abitibi—Baie-James—Nunavik—Eeyou, NDP):** Thank you, Chair.

*[Member speaks in Cree]*

Allow me first, Mr. Chair, to welcome and thank our guests from the Cree-Naskapi Commission. I'm from the area so I've known these three people before us very well for many years.

I should say, Mr. Chair—I'll use the word you used—we are privileged to have Mr. Awashish and Mr. Kanatewat at this committee because for many Cree people these two are legendary figures. Both Philip and Robert are one of the very few remaining signatories of the James Bay and Northern Quebec Agreement.

Welcome to you both, and thank you.

Secondly, I'd like to express my appreciation for the recommendation to recognize Waswanipi Post as a heritage park. As you probably know, that is where I spent my summers as a boy before being taken away to residential school. Thank you for that recommendation.

I want to talk about some of the issues. We've talked about the change that has happened over the last 30 years in the Cree territory. I've noticed that as well. The Cree world today is not the Cree world we knew back in the early 1980s or late 1970s. Much has changed. The legal, political, and economic landscape has changed a lot over the years. I share your view that these changes have not been incorporated into the Cree-Naskapi act.

You write in your report that the act remains a "rigid, inflexible, and unchanging instrument as it fails to evolve with the changing realities and dynamics of Eeyou local government." I certainly share that view.

Could you tell us a bit more about the changes you've seen in the Cree world and how these changes can be reflected in a contemporary, actualized Cree-Naskapi act?

• (1550)

**Mr. Philip Awashish:** Thank you Mr. Saganash. Thank you for your comments in Cree as well, for I am a Cree person too, and I perfectly understood what you said.

I'd like to just say something about the fact that the Cree-Naskapi (of Quebec) Act honours the Cree language as well as the Naskapi language, because there is a legal requirement under the act that we produce our biannual report in French, English, Cree, and Naskapi. This report is submitted to the Minister of Indian Affairs, who tables it in both houses of Parliament. That's the legal requirement and the process. So I am honoured that Cree as well as the Naskapi language are recognized by federal legislation. I do not know of any other precedent in law that honours a language of the first nations in such a manner.

In reply to the question about the changes, I'd like to say that yes, there have been major changes in the political, social, and economic landscape of the Cree territory and Cree society. In 1971, when the James Bay hydroelectric project was announced, we had a population of about 6,000 Cree living in six Cree communities. There were about nine separate communities, but not nine separate villages; there were six villages. There were six groups of first nations Cree.

Of course, now we've increased from 6,000 to 18,000 Cree, and we have gone from six villages to now nine Cree communities in the territory. There is a possibility of a 10th Cree community coming up, called Washaw Sibi nation. That's Cree people living in the south who happen to be beneficiaries of the James Bay and Northern Quebec Agreement, who wish to be recognized as the 10th Cree band and have their own community lands and their own village as well.

Back in the 1970s all the Cree villages were isolated. There were no roads leading to these Cree communities. The only way of access was through a float plane. As far as communication was concerned, it was limited to the radio-telephone system. We didn't even have electricity, so how were we to understand why a big major hydroelectric project was proposed to be built in our territory when we didn't need or live with electricity to start off with? We used to occupy the entire territory with our hunting, fishing, and trapping.

Now we have a population of 18,000, as I said, and nine Cree communities. In the 1970s the federal government provided services and programs, but under their exclusive and complete control and domination. The government did not recognize an inherent right of self-government. The only form of governance they recognized was through the legislation they imposed on first nations, such as the Indian Act. Even that was not what we considered an acceptable and strong form of local governance. Indian Affairs, under the Indian Act, had full authority to veto any decisions made by the chief and council. It was more like a supervised local regime of governance.

•(1555)

The Cree decided to get rid of the Indian Act. That's why we have the Cree-Naskapi (of Quebec) Act today. The Crees killed and buried the Indian Act for a lot of reasons.

**The Chair:** Thank you.

I'll recognize Mr. Strahl now, for his questions.

**Mr. Mark Strahl (Chilliwack—Fraser Canyon, CPC):** Thank you very much, Commissioners, for being here, and it's good to have Mr. Saganash here as well to provide some local flavour to your report.

I would like to continue down the road you were following about the way things have changed over the last 30 or 40 years since you took control, as you said, of your own territories. I'll maybe deal more with the hunting, the fishing, and the trapping that you talked about and what a central part of your way of life that has been.

You spoke in the report about some challenges with no longer being a float-plane-only community. There is obviously, probably, greater access for non-aboriginal hunters and others with the commercialization of the area. Can you maybe talk about the efforts of the Cree-Naskapi people in the communities to preserve that

hunting, fishing, and trapping heritage in the face of other factors that, perhaps, weren't putting pressures on those lands 30 and 40 years ago?

**Mr. Robert Kanatewat:** First of all, when we first negotiated the agreement we had two categories of survival, people who would continue their way of life in the bush, and people who were going to be in the labour market to earn their living. We created what you call an income security program for the hunters and trappers to remain hunting in their territory. This sort of bolstered people to decide they were going to go into the bush, and they still are. This is funded only by the provincial government, not the federal.

As Commissioner Awashish has already expanded on, as part of the major changes we already had, we also went into Ontario territory. We have a whole band of Crees over there in Moosonee, that we call MoCreebec. They're beneficiaries of the agreement also. Of course, our leaders are working toward helping them to continuously benefit from the agreement that we have. This sort of promoted the hunting and fishing when we created the income security. When they go into the bush, they have to be in the bush for so many days to be eligible for the program. This is what we have now.

As a matter of fact, when we talked about the provincial government sort of adding on it, it probably thought that if it wasn't working very well it would have done away with the social program in the province and could use that sort of system that we have for the Cree territory. In other words, there was a little too much, so they gave that up. Anyway, the Cree people are using it to this day and there are more and more people going into the bush. Even the ones who are retired, they go back on this program. They're off the labour market into this program. They are using that.

•(1600)

**Mr. Mark Strahl:** I have another question along the same line. On page 95 of the English version it talked of concerns about the possibility of firearms regulation. Of course, we have eliminated the long-gun registry, but the Province of Quebec has talked about bringing back a long-gun registry. Has there been any consultation with the Government of Quebec? Has it offered any exemption for traditional use, or is that really still in its infancy? I did note that it was a concern you raised.

**Mr. Philip Awashish:** Yes, we raised that concern. It was the Cree Trappers' Association that raised the matter with the commission. As far as we know, there hasn't been any further discussions between the Cree and Quebec on the matter, yet.

At this stage, we simply don't know how far Quebec is going to go with taking over the whole gun registry system after the federal government terminated the program.

**Mr. Mark Strahl:** Finally, Mr. Saganash mentioned, as did the commissioner, the old post of Waswanipi. I read about the desire for that to be recognized as an historical site.

Has the commission, or the communities, approached Canadian Heritage? Has anyone taken the first step there to formally request that? Just maybe give me an idea of where that request or that concept is right now, and what has been done on that file so far.

**Mr. Richard Saunders:** Waswanipi has been in touch with the appropriate, both federal and provincial, authorities on that. We're awaiting word on how they're doing.

Last time they spoke to us, they said it was a work in progress, but like for a lot of works in progress there seems to be a delay.

**Mr. Mark Strahl:** When was that last word that you had from Canadian Heritage, for instance?

**Mr. Richard Saunders:** We didn't have any word from Canadian Heritage. We had it from the Waswanipi people, that they were indeed in touch with Canadian Heritage.

**Mr. Mark Strahl:** Was that before this report or after, in broad terms?

**Mr. Richard Saunders:** That was in preparation for this report. They spoke to us in February 2012. They have spoken to us since then but not on that topic.

**Mr. Mark Strahl:** Thank you.

**The Chair:** Thank you. We'll turn to Ms. Bennett for the next questions.

• (1605)

**Hon. Carolyn Bennett (St. Paul's, Lib.):** Mr. Chair, I would probably learn more if Mr. Saganash took my time.

**The Chair:** Mr. Saganash, do you have some follow-up questions?

**Mr. Romeo Saganash:** All right, thank you. I should come back to this committee more often.

Following the change that has happened in the territory over the last 30 years, enormous changes, I know the concerns about housing have been raised for many years, and it's still a persistent problem in the Cree communities. So one of the follow-up questions that I had for the commission is this. What are some of the other issues that the youth have brought forward, for instance?

Certainly, from the days that I founded the Cree Nation Youth Council in 1985, things have changed a lot for the youth in the territories. What are some of the current concerns that they brought to you?

Lastly, you mentioned this is the 13th biannual report that has been tabled. In terms of a percentage, or a number, how many recommendations have been followed up on since the Cree-Naskapi Commission has existed?

**Mr. Richard Saunders:** Let me try to address those two questions.

First of all, on youth, I think the problem that youth face right now.... We have a twofold problem it seems to me. One problem is the problems of youth in aboriginal communities across Canada, and we're, sadly, in many cases familiar with what some of those are and what some of the bad outcomes are. In Northern Ontario as well as everywhere else we unfortunately see youth suicide and assorted other problems of youth that require being addressed in a proactive way.

I think in the case of the Cree, the youth of course, as you know, are well organized politically. There are youth chiefs and so forth—you're familiar with the system—and they're very articulate.

Sometimes, as youth tend to be, they're pretty angry that there are not programs, activities, focusing on them and policies that address their issues. I think in Waswanipi I recall the three of us drove to the band office one day a few years ago and we saw something rather rude written on the wall with spray paint. It said something rather rude and then concluded with, "We want a youth centre". They have one now.

But I think it's important to realize that the position faced.... Here we're usually very critical of government and that's part of our job and so on, but I think here we have to sympathize a little, not just with the federal government or the province but with the Cree government. Nobody has the funding they need. The housing problem is really critical. There's just no two ways about it. Some infrastructure problems exist. The Naskapi community has a problem with the disposing of waste water. They need some infrastructure help with that. There are many problems that are critical.

Then you get to the youth concerns. If a government, the Cree government, any government, is faced with the problem that they don't have enough money to address all of the needs, then they begin to prioritize. So a matter that's urgent has to be put to one side to deal with a matter that's even more urgent in the view of the community, of the political leadership, of the officials. This means unfortunately that youth programs, when they hear youth programs, that sounds like something it would be nice to have if they had the money, but they don't.

I think the youth look at that and think, "Are we second-class citizens here? What the heck is going on? Why aren't these issues addressed?" So the problem as it affects youth I think is that they're on the leading edge of being—I don't like to use the word victims. Everybody is a victim these days. They're on the leading edge of feeling shortchanged when the overall funding resources and revenues are not adequate. When the overall funding is not adequate, who gets to go first in terms of having their programs postponed, ignored, reduced? It's frequently youth. I think youth are pretty tired of it.

We'll have more to say about this in our next report. Out of respect to the minister we don't disclose what's in it until it's tabled with him and he tables it with you and so on, but let's say it's an ongoing issue.

You had one other question, Mr. Saganash, and that was about the percentage of recommendations that have been addressed. Early on in our mandate, Indian Affairs—as it was then known—basically took the view that we could not deal with issues that arose out of the agreements. If there was an implementation of the James Bay and Northern Quebec Agreement or the Northeastern Quebec Agreement, if there was some concern about implementation of that, their view was that we had no jurisdiction to deal with it.

People came to us because we were the body that was around where they could have a recommendation and they knew if we made a recommendation it would be on the minister's desk. As a matter of law, it would be before the House and before this committee. So they saw that as a good avenue to use.

•(1610)

Also, reporting on implementation was the responsibility of the minister, under the James Bay and Northern Quebec Native Claims Settlement Act. He had to report to Parliament on it annually from 1978 to 1998. In 1998 it lapsed. So who's going to report on it? Who's going to deal with it? A whole area arose out of the agreements that the department said we had no mandate to deal with.

A couple of members who have been here for some time will forgive me because they may have heard it before, but interestingly while they were telling us in writing and in their appearance at commission hearings that we had no jurisdiction in relation to the agreements, they were telling the United Nations that they did have a system for monitoring the implementation of treaties and agreements in Canada. They cited specifically the Cree-Naskapi Commission as an example.

We pointed this out to this committee and their speech to the United Nations vanished from their website the next day, and that's a fact. They didn't realize another speech was still on there that said it in even stronger terms.

So a whole raft of recommendations were not addressed for that reason. Now Aboriginal Affairs accepts that we deal with that.

On other recommendations flowing directly from the act itself, it has been varied. I'd have to look at the figures, but there is some positive response. Whether it's a satisfactory one, in our view, is a matter of debate obviously, but there has been some response of a substantive nature. I would say 40% or 50%. That still leaves you with 50% or 60%.

**The Chair:** Thank you.

We'll go to Mr. Boughen.

**Mr. Ray Boughen (Palliser, CPC):** Thank you, Mr. Chair.

Welcome to the commissioners. We're glad you could take some of your day and spend it with us. We appreciate your commitment to the project.

Commissioner Saunders, you talked about youth and the necessity to work with the youth, give them some options, some alternative ways of working on the reserve, off the reserve. Can you expand on that a little for us, be a little more specific maybe?

**Mr. Richard Saunders:** I think there are quite a few dimensions to that. One is, first of all, that the youth retention rate in the Cree communities is way higher than it is for most first nations across Canada.

Across Canada, as you know, there's an outflow of a lot of young people into non-native communities, into the cities, and so forth. Sometimes that's a positive experience and sometimes not so much.

There's a 95% retention rate in the Cree communities, and that has a couple of impacts. One impact is that young families are being formed and so the demand for housing is higher than it is in a lot of other communities that are otherwise comparable, just because of that retention rate. So you have a very good thing happening on one hand, the retention rate of young people, but there's a price for that good thing. Housing is one of them. Another is programs that are aimed at them particularly.

Programs are needed for elders. I'm 71. I need programs. Seriously, programs are needed for young people. As I said earlier, I think sometimes this is looked at as something nice we wish we could do but times are tough, so we have to cut, blah, blah, blah, so we're going to cut that or we're going to postpone it or whatever.

But I think that governments at every level, the Government of Canada, the governments of the provinces, the first nation governments, have to have a hard look at that because if you get situations where there is substance abuse, where there's a certain amount of violence and dysfunctionality of one kind or another, even suicides, which are happening, it's long past time to take that need seriously.

•(1615)

**Mr. Ray Boughen:** What about educational programs? I'm thinking particularly of those that were more hands on, like trade programs, Red Seal programs. Do you see the youth being involved in those programs? Many of them are off reserve, I know, but some I'm sure are run on the reserves as well, particularly things like masonry, bricklaying, carpentry, those kinds of programs.

**Mr. Richard Saunders:** There's some of that, but I think before I give you a proper answer I would like to get back to you on that and give you some facts, not just my impressions. I must confess I'm not up to speed on facts that will be useful, but I would be happy to look into that and provide you with some facts.

**Mr. Ray Boughen:** That would be good.

Kind of switching horses here, your mandate deals where? Is it across Canada, eastern Canada, western Canada, or mid-Canada? Is there a complementary group of commissioners who are also working where you folks aren't working?

**Mr. Richard Saunders:** That's a very good question.

Our mandate's pretty clear. We operate with 10 Cree communities in what the Cree people in Quebec refer to as Eeyou Istchee, which is their traditional territory, and with the Naskapi community, which is over in the vicinity of Schefferville, along the Labrador border. Our mandate is from the Cree-Naskapi act, which applies only to the Cree of northern Quebec and the Naskapi. The act provides, for example, that we are appointed by order in council—well, upon the recommendation of the Cree regional authority and the Naskapi band. So our mandate clearly is limited.

Also, our mandate permits us to make recommendations. We don't make decisions. If somebody comes to us with a complaint about the government, about their chief, or about whatever, we can make recommendations. We cannot make binding decisions. We would argue that's a good thing. We have courts to deal with that. We try to deal with things in a non-adversarial way, and generally speaking, our recommendations at the community level have been accepted quite readily.

For example, we have no power of subpoena. That's a good thing. People come to us voluntarily. We've only had two people who wouldn't cooperate in 28 years, and one of them was told by his chief, "Get in there. Cooperate". We'd say that less power is better, in our case. If you want to fight, go to court.

Our mandate is limited, and to my knowledge, there is nothing really analogous to us around the country in terms of overseeing the implementation of an act.

**Mr. Ray Boughen:** Thanks, Chair.

**The Chair:** Ms. Crowder, we'll turn to you.

**Ms. Jean Crowder (Nanaimo—Cowichan, NDP):** Thank you, Mr. Chair.

As always, I welcome Commissioners Awashish, Saunders, and Kanatewat before the committee. I've been privileged to be here a number of times when you've come forward. What strikes me as I go through this report is that a number of your recommendations are recommendations that you've been making for a number of years. Housing in particular is one, but I know that the governance issues have also come up consistently.

I want to drill down just a little bit. I know that this is your 13th report. You mention in the report that you've had 13 ministers, but I think it's now up to 14 since you wrote the report. There's been an ever-changing, revolving door of ministers, which might, in part, speak to the fact that a significant number of the recommendations have not been either responded to, or they're responded to but they're not responded to in a way that sees action happening.

In the report you talked about the requirement for resources, and you talk about, "In particular, strategies need to be developed and implemented to strengthen Eeyou governing capacities for meaningful and effective governance", and then you list a series of things, including education, human resource development, formalized systems, and so on.

In your view, what gets in the way of having these strategies developed and implemented?

• (1620)

**Mr. Richard Saunders:** I think there are a couple of things: resourcing and leadership. I think the point you make about the fact that ministers are not in office particularly long—the average is two years—is important. Let's be realistic. The ministers we have dealt with for the most part, without any partisan consideration, have been people who have been largely wanting to make a change, wanting to do things. You might take issue with one or two, but it wouldn't be a partisan thing. There are ministers of various parties who have held office and have been relatively sympathetic in trying to get problems solved. So you could say, whose fault is it? Is it the bureaucracy? Well, not exactly.

That's part of the problem of accountability for decision-making at senior levels, when you have a minister who on average is in office two years—and the two years dates back to when Chrétien was minister for Indian Affairs, which is a long time ago. There were ministers there who some of us have probably never heard of because they came and went so quickly.

We have some 630-odd bands in Canada, first nations. We have three federal territories. We have scores of Inuit communities, and we have law that since 1982 has been evolving more rapidly, possibly, than any other area of law in Canada, which we need to keep up with. Also, contrary to the impression that the number of treaties might give, there are several hundred treaties in Canada for which the minister is responsible, and there are a couple of dozen land claims agreements in modern times. Then we have several thousand officials, a couple of hundred programs, yet the poor guy or lady in office has two years. Come on.

We've met with quite a few of the ministers—again, this is not a partisan comment—but one of them was Jane Stewart. She wanted us to sum up quickly our big issue at her level. We said, "Minister, you're impotent". She sort of pulled herself up to her considerable height and said, "Well, I can't speak for my colleagues, but I certainly am not". She tells that story all the time now apparently. But that was our point. You can have a minister who is really well-intentioned, or one that's not, but the fact of the matter is that in two years they're not going to get the problem by the throat and address it. They simply cannot.

I mean, I'm not telling the Prime Minister how to run his cabinet, but it would be real nice if some minister could stay in office long enough to get his hands on the throat of the problem. It really would.

The other thing is resourcing, and yes, that is an endless problem. We don't know what the answer is. The answer we think might be there is one that's being discussed, and I'm sure you've heard it a million times, about resource revenue sharing.

These first nations in Canada were operating as independent communities, looking after their own affairs, addressing their own needs thousands of years ago. The Crees were in James Bay looking after themselves before my ancestors, the Anglos and the Saxons, got to England. We weren't even in England when these guys were running societies here, and running them very effectively. So the answer, to me, is somewhere around resource revenue sharing, which brings in provincial jurisdiction, of course.

It seems to me that traditional territories supported first nations across this continent for thousands of years. They lived off their traditional territory. In some cases that's still possible, if they get a fair share of resource revenues and direct benefits from the exploitation of resources in their territory. That's not simply from hunting and fishing, because that's something they were doing to a greater extent than they are now, but all of the benefits from logging, mining, tourism, the benefits from all of those things.

You can say that's a nice answer for the Cree, but how does that solve Six Nations' problem and how can we be consistent?

Well, you might start looking at things like the sharing of land transfer tax.

•(1625)

What's the land producing right now for the crown and for local governments? It's land transfer tax. Every time you buy or sell your home, there's a land transfer tax. That's what's happening on the traditional territory of Six Nations. The crown use of that... There are all kinds of rights-of-way for hydro, highways, pipelines, railways, and everything else across the traditional territory. Maybe there's something to be talked about there. Acquisition of increased land base on a willing seller basis. There are innocent third parties there that have nothing to do with any treaty violations or anything else. Some are willing to sell. That should occasionally be looked at.

But for the Cree, we're looking primarily at what Quebec would call crown land, and that's, I think, the long-term answer to the reserves thing. The government right now is demanding in negotiations that own-source revenues be there on the table. Okay, let's have a base for those own-source revenues. Bingo games aren't going to raise it all.

I could go on and on, as you can imagine.

**The Chair:** Thank you, Mr. Chairman.

Thank you, Commissioners.

Gentlemen, we appreciate your taking the time today to join us and share with us your thoughts, and to express your thoughts, again, on the work you've been doing. This report is appreciated, so we thank you and look forward to having you again.

Colleagues, I'll just suspend for a minute so we can greet our visitors as they leave. We just have to adopt the report that's been circulated, so I'll just suspend for a minute.

The meeting is suspended.

- \_\_\_\_\_ (Pause) \_\_\_\_\_
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**The Chair:** I'll call the meeting back to order.

Colleagues, you have had circulated to your desk the copy of the third report from the subcommittee. It is just a work plan, moving through to the 27th, so I'm hoping we can just adopt that so we can schedule meetings. All in favour?

**Some hon. members:** Agreed.

**The Chair:** Colleagues, we will see you after our constituency workweek.

The meeting is adjourned.







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