

CLEARING THE PATH

INDIAN TAXATION ADVISORY BOARD

VOLUME 7 ISSUE 2 SPRING 2004



Adams Lake and District Reach Deal

Shared Business Strategy for Region

The Adams Lake Band and the District of Salmon Arm entered into a new era of cooperation. Using a long-term business approach, the two parties have agreed to work together with a shared sense of purpose for the economic betterment of both communities.

“With two of our seven reserves situated within the municipal boundaries of the District of Salmon Arm, it is important for us to consider the interests of the District of Salmon Arm as a whole in our planning,” says Chief Ronnie Jules of the Adams Lake Band. Mayor Colin Mayes described the agreement as groundbreaking and evidence of the respect and cooperation between the parties.

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Chief Ronald Jules, Adams Lake Indian Band, and Mayor Colin Mayes, District of Salmon Arm, sign the expanded Servicing Agreement in February 2004.

First Nations Fiscal and Statistical Management Act Reinstated

On March 10, 2004 the *First Nations Fiscal and Statistical Management Act* (Bill C-23) was reinstated by the federal government, a move that was supported by proponents of the proposed legislation.

Mr. C.T. (Manny) Jules, lead spokesperson for the fiscal institutions initiative, applauded the announcement.

“I am pleased that the federal government continues to support this First Nation-led legislation,” said Mr. Jules. He also took the opportunity to underline its benefits, stating that: “For those communities that choose to use them, the institutions will stimulate economic development, improve infrastructure, and raise the quality of statistics and information.”

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ITAB Announces New Chairman

The Indian Taxation Advisory Board welcomed Chief Strater Crowfoot of the Siksika Nation in Alberta as its new Chairman on December 1, 2003. As an original ITAB Board member, appointed in 1989, Chief Crowfoot brings a wealth of experience and core ITAB values to the position. Since joining ITAB, Chief Crowfoot has served as both its Deputy Chair and Chair of the Rates Committee. He was elected Chief of the Siksika Nation – a First Nation exercising its jurisdiction to levy property tax – from 1988 to 1995 and was re-elected in November 2003.

Between 1996 and 2003, Chief Crowfoot served as Executive Director and Chief Executive Officer of Indian Oil and Gas Canada (IOGC), a federal government agency responsible for management of oil and gas resources on First Nation reserve lands. His pragmatic approach transformed IOGC into a genuine partner with First Nations and established the organization's sound operational footing for the future.

Chief Crowfoot succeeds Mr. C.T. (Manny) Jules, a longtime colleague and friend, who resigned the Chairmanship. Mr. Jules – whose vision and determination led both the First Nation amendment to the *Indian Act* in 1988 and the creation of the Indian Taxation Advisory Board in 1989 – congratulated Chief Crowfoot. “Strater is an extraordinary First Nation leader and I have

every confidence that he will lead ITAB with the same pride and dedication he has given to his community and to IOGC. ITAB is in very good hands.”

Mr. Jules will continue as spokesperson for the *First Nations Fiscal and Statistical Management Act*, as well as coordinating the interaction of the fiscal institutions proposed under the Act.



Chairman Crowfoot presents a gift to Anita John at the 'Building Partnerships - Building Mutual Gains' workshop. The workshop, sponsored in partnership with the Canadian Energy Pipeline Association, took place in Calgary, AB in December 2003.

Adams Lake and District Reach Deal

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In 1998, the District of Salmon Arm Council signed a Servicing Agreement with the Adams Lake Band which gave the certainty of service delivery to reserve lands within the boundaries of Salmon Arm. The District Council recognized that the Servicing Agreement worked well for the first five years, but subsequently – in light of the on-reserve Wal-Mart development – needed to be revisited. In a spirit of cooperation, the Adams Lake Band and the District

Council expanded the Servicing Agreement that will see a portion of taxes collected by the Band paid toward the global road infrastructure of Salmon Arm.

Focusing on sustainability over the long term, they have committed to work together under the principles of fairness, cooperation and respect for differences in governmental responsibilities and priorities. The agreement was announced on February 16, 2004.

Chairman's Message

It is my pleasure to extend this first message to you as ITAB Chair in this issue of *Clearing the Path*.

When Manny Jules stepped down as ITAB Chairman in 2003, he had enjoyed 14 very successful years in that position. It was Manny's vision for greater economic opportunities for First Nations that led to the creation of ITAB in 1989 and we have certainly come a long way. In the early days, it was thought that 15 or 20 First Nations would decide to exercise their property taxation jurisdiction. Today, ITAB works with 108 First Nations generating some \$43 million in annual revenue. Manny's future projects include a continuation of his work in support of the *First Nations Fiscal and Statistical Management Act* to ensure that it becomes law. We wish him success in this critical endeavour.



I feel fortunate to take over the Chairmanship on the cusp of historical change in the area of First Nation property taxation and self-government. With the reinstatement of the *First Nations Fiscal and Statistical Management Act*, ITAB is proposed to become the First Nations Tax Commission (FNTC). This will transform the organization from an advisory body answering to the Minister of Indian Affairs and Northern Development to a statute-based service agency for First Nations and their taxpayers. Just as ITAB was a pioneer in this area, I believe the FNTC will be a model institution in the emerging First Nation public administration.

I believe the valued relationships ITAB has built with its partners provides a strong basis for continued success. I have been a member of the board since its inception in 1989 and I look forward – in my new role as Chairman – to building on the momentum we have generated thus far.

Sincerely,

A handwritten signature in black ink that reads "Sg Crowfoot". The signature is fluid and cursive.

Chief Strater Crowfoot
Chairman

Canadian
Property Tax
Association, Inc.  Association
canadienne de
taxe foncière, Inc.

Congratulations Strater!

The Canadian Property Tax Association, Inc. would like to take this opportunity to congratulate Chief Strater Crowfoot on his recent appointment to Chairman of the Indian Taxation Advisory Board.

We look forward to continuing our strong relationship with ITAB, working together in the areas of assessment and taxation policy on First Nation lands.

CONGRATULATIONS CHIEF STRATER CROWFOOT

ON YOUR APPOINTMENT TO ITAB CHAIRMAN
FROM THE
FIRST NATIONS TAXATION ADMINISTRATORS ASSOCIATION!



Supporting Transition to BBTR in Alberta

In April 1997, the Indian Taxation Advisory Board revised its policy on tax rate setting in response to requests from First Nations for greater autonomy in the setting of these rates and a desire for improved transparency. Under Budget-Based Tax Rates (BBTR), First Nations collecting property taxes can determine their tax rates from a budget that is included with the annual rates bylaws. Previously, taxing First Nations would adopt comparative tax rates set by a neighbouring jurisdiction. It was determined that under the comparative rate setting approach, rates adopted by First Nations would not always reflect the specific conditions found in the First Nation.

ITAB has recently been working with First Nations in Alberta to update taxation bylaws and to develop a specialized training program to support BBTR. A new sample bylaw is being developed for Alberta First Nations which will assist those with tax jurisdiction in amending their laws and moving to the BBTR system.

The Alberta training program, which consists of two stages, assists First Nations implementing budget-based rate setting. The program is modelled after the current curriculum developed by Dr. Robert Bish of the School of Public Administration at the University of Victoria. Using the program, ITAB will provide a tutorial with respect to the preparation of a budget to support the expenditure of property tax revenue for local services.

In addition, ITAB will offer further training in the use of Millrate Wizard software that integrates the budget-setting process with assessed values and generates annual tax rates for the First Nation.

ITAB's transitional approach and supporting specialized courses are offered to all taxing First Nations still using the comparative method of tax rate setting. In light of the training requirements, ITAB has amended its BBTR policy to allow for a two-year grace period for implementation. First Nations wishing to obtain this training should contact the Education and Training Department in the ITAB Kamloops office.



BBTR Instructor Professor Robert Bish (centre), with two participants from a recent workshop: Patrick Gwilliam, Innu Takuaikan Uashat mak Mani-Utenam First Nation, (left) and Paul Ledoux, Muskeg First Nation, (right).

First Nations Fiscal and Statistical Management Act Reinstated

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The *First Nations Fiscal and Statistical Management Act* (formerly known as Bill C-19) was first introduced in the House of Commons on December 2, 2002. It passed Second Reading shortly thereafter, and was then referred to the House of Commons Standing Committee on Aboriginal Affairs, Northern Development and Natural Resources. The Committee tabled a report of its study of Bill C-19 on September 24, 2003 in the House of Commons, but the legislation was not debated until November 6, 2003. On November 12, 2003, Parliament

was prorogued. At that time, the *First Nations Fiscal and Statistical Management Act* was at Report Stage in the House of Commons.

On January 21, 2004, the Minister of Indian Affairs and Northern Development, Andy Mitchell, issued a news release in which he announced the federal government's intention to seek reinstatement of the *First Nations Fiscal and Statistical Management Act*, stating that it is "offering First Nations who choose to use its provisions improved access to engines of economic development."

Following the Legislative Process of the *First Nations Fiscal and Statistical Management Act (Bill C-23)*

Timeline for Bill C-23 in the Parliamentary Process

Date	Parliamentary Study (House of Commons and Senate)
August 15, 2002	• Notice
December 2, 2002	• Introduction and First Reading
February 25, 2003	• Second Reading and Referral to the Standing Committee on Aboriginal Affairs, Northern Development and Natural Resources
June 9, 2003 to September 22, 2003	• Committee (Witness Hearings and Clause-by-Clause Examination)
September 24, 2003	• Report tabled by Committee
March 10, 2004	• Reinstatement at Report Stage (as Bill C-23)
	• Third Reading
	• Senate (same stages as for the House of Commons)
	• Royal Assent

What Happens Next?

Bill C-23 is currently at report stage. Members of the House of Commons will debate and vote on the amendments to Bill C-23, as prescribed in the Committee Report and as put forth by other Members. Following this, Bill C-23 will receive its third reading and then be referred to the Senate.

What is the Report Stage?

The report stage of the Committee Process, which follows witness testimony and clause-by-clause consideration, involves the House of Commons (the House) considering the Bill as reported by the Standing Committee.

The report includes amendments proposed by the Committee, which are debated and voted on in the House.

Further amendments may be proposed by any Member of the House during the report stage; these are usually amendments that Members did not have the opportunity to propose in Committee.

When all of the amendments have either been passed or rejected, the Bill receives its third reading (often the report stage is combined with the third reading and a final vote on the Bill).

If the motion for third reading carries, the Bill goes to the Senate where it enters into a process similar to that in the House of Commons, including: introductory reading; second reading; Senate Committee Report; third reading; and finally, Royal Assent.



From left to right: ITAB's Manny Jules, Minister Andrew Mitchell and Kamloops Band Chief Shane Gottfriedson meet in the ITAB Head Office on March 16, 2004, to discuss the importance of economic development and the benefits of First Nations institutions.

Auditor General Finds Value in Institutional Support for First Nations

According to Auditor General Sheila Fraser's report, tabled in the House of Commons on February 10, 2004, federal programs can create barriers that increase the cost of doing business for First Nations and impede their economic development. Ms. Fraser noted that federal programs can be an administrative burden and said, "Institutional arrangements make a significant difference between remaining poor and achieving sustainable economic success." She also noted that she was pleased by First Nation communities who recognize the major responsibility for economic development rests with them and stated the need for federal organizations to work together with First Nations to build appropriate institutional arrangements.

Mr. C.T. (Manny) Jules, past ITAB Chairman and lead spokesperson for the *First Nations Fiscal and Statistical Management Act*, was pleased with the Auditor General's findings. "We are excited that the Auditor General recognizes the economic value of national First Nation institutions. We have been working for many years to develop legislation that will create the types of institutions the Auditor General speaks of."

The Auditor General, in citing research commissioned by ITAB (*Expanding Commercial Activity on First Nation Lands: Lowering the Costs of Doing Business on Reserve*), also found that the costs of completing an investment on First Nation lands are too high and steps should be taken to reduce these costs. Mr. Jules said that the new Act provides the appropriate response to this problem.

"The fiscal and statistical institutions will support national standards for information, First Nation property tax systems, financial reporting and debenture financing. The standards created through the legislation will provide potential investors with the certainty and confidence they require. Reducing the cost of doing business on First Nation lands will provide immediate and measurable results," said Mr. Jules.

With the *First Nations Fiscal and Statistical Management Act* before the House of Commons, the Auditor General's report is timely and provides strong validation for the fiscal institutions initiative.

Jules Offers to Debate Jamieson

ITAB Board Member and Spokesperson for the First Nations Fiscal Institutions Initiative, C.T. (Manny) Jules, has challenged Chief Roberta Jamieson to a public debate on the proposed *First Nations Fiscal and Statistical Management Act* (Bill C-23). Jamieson, an outspoken critic of the First Nation-led initiative, most recently characterized the Bill as a "trap".

"I cannot be more diplomatic than to say that Chief Jamieson is deliberately misleading First Nations and parliamentarians about Bill C-23. As such, I believe it is important that the public record be clarified," said Jules.

Jamieson's most consistent criticism of C-23 is that it is part of a "suite" of legislation. Although clearly a stand-alone bill, conceived years before the current Liberal government came to power, Ms. Jamieson insists it is tied to the *First Nations Governance Act*.

"This litany sung by the opponents of C-23 no longer washes given the government's announcement that the *First Nations Governance Act* will not be proceeding," said Jules. "It is not dependent upon any other piece of federal legislation. In fact, Bill C-23 will begin the process of dismantling the *Indian Act*, removing the Minister from the paternalistic role of approving First Nation laws concerning the inherently governmental power of raising local revenue through real property taxation. In effect, opponents of Bill C-23 are arguing in support of the *Indian Act*. I just cannot understand this."

In her February 2004 letter to Members of Parliament, Jamieson states that Bill C-23 "unilaterally transfers

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First Nations Jurisdiction Confirmed: Mutual Gains Approach Successful

ITAB's mutual gains approach – negotiate rather than litigate – continues to bear fruit between taxing First Nations and Canadian Pacific Railway (CPR) in British Columbia. Apart from the new tax dollars flowing to participating First Nations, and the business certainty gained by CPR, 39 court cases between the parties have been settled.

In November 2001, ITAB helped facilitate the settlement reached between five First Nations and CPR. The litigation revolved around property taxation jurisdiction over CPR interests situated on First Nation reserves in BC. CPR believed that it held full ownership of the rights-of-way in fee simple and that, therefore, the rights-of-way were not within the First Nations' reserves and were not taxable by First Nation governments. The First Nations disagreed and claimed sole property tax jurisdiction over all real property interest situated on reserve. In the settlement, the CPR main rail line through these communities was confirmed as reserve land and CPR granted back a right-of-way from Canada. The settlement led to the

November 2002 passing of the *Property Assessment and Taxation (Railway Right-of-Way) Regulations* – the first-ever regulated tax regime under the *Indian Act* – and settled six court cases that were before the Federal Court of Canada.

In June 2003, nine First Nations signed an Agreement-in-Principle with CPR, and the Department of Indian Affairs and Northern Development (DIAND). The land involved was again CPR's main rail line in BC through the Fraser and Thompson River valleys from Abbotsford east of Vancouver and east as far as Shuswap reserve near the Alberta border. In November 2003, Chawathil, Little Shuswap Lake, Kanaka Bar and Nicomen First Nations voted overwhelmingly in favour of the settlement agreement and the regulations were amended by Canada later that month.

On March 11, 2004, Adams Lake, Leq'amel, Neskonlith, Siska, and Shuswap First Nations ratified their settlement agreements. Regulations to further amend the *Property Assessment and Taxation (Railway Right-of-Way) Regulations* were passed by Canada on March 29, 2004.

Jules Offers to Debate Jamieson

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the federal government's fiduciary obligations onto the First Nations" and makes opting in to Bill C-23 a condition for funding. Jules called this allegation outrageous and portrayed it as fear-mongering.

"Chief Jamieson has consistently ignored the historical development of this initiative, its objectives and benefits. I believe the public deserves to hear the facts about Bill C-23 and that Chief Jamieson should be held to account for her yet-to-be-substantiated allegations. First Nations deserve the facts."

In a March 2004 rebuttal to Chief Jamieson's allegations, Mr. Jules proposed a debate at the Assembly of First Nations Annual General Assembly in July 2004. The letter to Chief Jamieson is posted at www.fnfi.ca. Chief Jamieson has not yet accepted Mr. Jules' challenge.

Canadian
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taxe foncière, Inc.

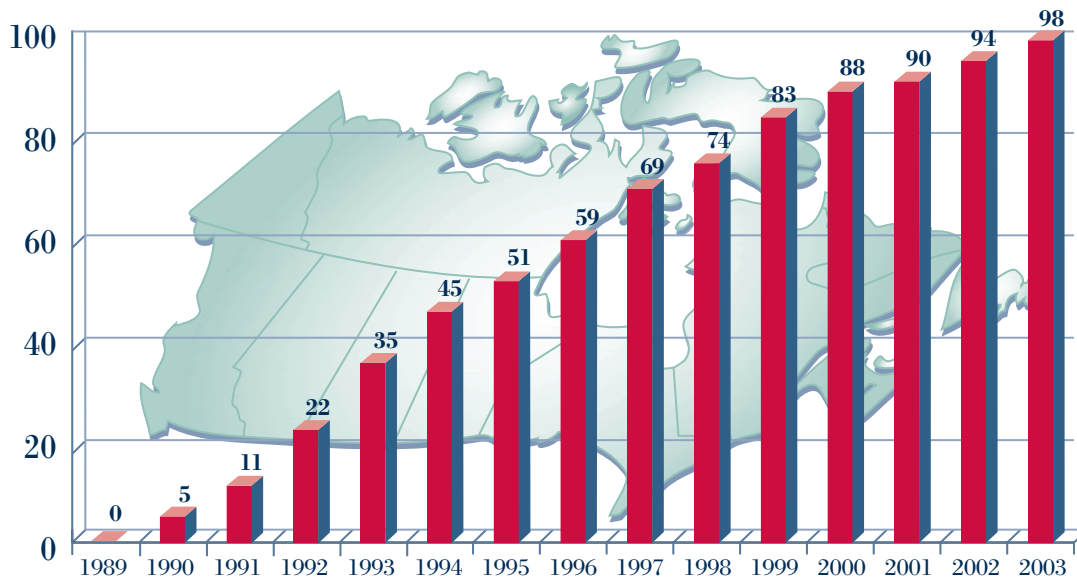
CPTA 38th Annual National Workshop

The Delta Prince Edward

Charlottetown,
Prince Edward Island

September 26 - 29, 2004

First Nations Property Tax Systems 1989 - 2003



First Nations Taxation Administrators Association

11th Annual Seminar*

September 29, 30 and October 1, 2004

Millbrook First Nation, Truro, Nova Scotia

*Dates and location are tentative. For more information on the FNTAA, visit www.fntaa.ca.



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**INDIAN
TAXATION
ADVISORY
BOARD**



**COMMISSION
CONSULTATIVE
DE LA FISCALITÉ
INDIENNE**

Eastern Office

Lorne Building, 90 Elgin Street,
Ottawa, Ont. K1A 0H4

Telephone: (613) 954-6201 Fax: (613) 954-2073

Head Office

321-345 Yellowhead Highway
Kamloops, B.C. V2H 1H1

Telephone: (250) 828-9857 Fax: (250) 828-9858

www.itab.ca

Clearing the Path is written and produced by the
Indian Taxation Advisory Board.

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Printed on recycled paper