

## Q&A: The Post's Kevin Libin interviews Robert Nault, former Indian Affairs minister

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Robert Nault, the former Liberal minister of Indian and Northern Affairs, was the driving force behind the First Nations Governance Act, considered one of the most dramatic proposals for altering aboriginal policy, even though it proposed only the same minimal, codified standards of accountability and transparency to band council elections and financial management as are common off reserve. The National Post's Kevin Libin spoke with Mr. Nault about his "revolutionary" ideas on native governance.

**National Post:** Attempts to rearrange the First Nations policy status quo seem to be pretty fraught with risk, judging by previously failed attempts. What motivated you to get involved in trying to improve governance and accountability on reserves?

**Robert Nault:** In 1988, I became a member of Parliament for 51 First Nations ... I had the most First Nations of any member of Parliament. I had all the mix. I had successful ones in an urban environment. I had totally isolated First Nations that didn't have, at this stage in their lives, a hope in hell of an economy, unless someone decided and they agreed to dig a mine right beside them. Even that was impossible, because a good 25% of those communities were on diesel-generated power ... What I learned over those 11 years when I was going to these communities on a regular basis, was that the policies that they have and that still exist today just weren't working. They just weren't going to get them where they wanted to go.

**NP:** One would think that there would be a great deal of support among First Nations members for change. So why did they oppose your better-governance act?

**RN:** Over 50% of the on-reserve people that we polled were in favour of the legislation. Almost 80% of Canadians in general were in support of what we were doing. It was hugely popular ... [Paul] Martin killed it. When I talked to the chiefs after I had left [cabinet], many of them said to me, "We're shocked they didn't finish it. We just assumed it was done." A lot of the Alberta chiefs said, "Oh, we just thought you were finished, pretty much just waiting for it to pass." ... I got delayed by a year because internally they decided to set up an ad hoc cabinet committee to have a look at all aboriginal policy. I think it was just a stalling tactic. There were some people internally that didn't like how fast I was moving and what it meant ...

The only question I have asked rhetorically on a number of occasions, and I asked this to my friend Mr. Martin, "If you have something better to offer than what I am proposing, show me." What I got was Kelowna [Accord]. Kelowna is not the kind of fundamental change necessary to improve the lives of First Nations. Money will not solve the problem. Yes, you will need to put money on the table once you've got the institutional structures in place until First Nations develop their own economy, their own tax structure and stuff like that. Putting money into the present system I think is at worst a waste of money. At best, it's a small incremental step, which really isn't what we are looking for. I don't believe First Nations are either.

**NP:** Compared to other policy matters, why does there appear to be so little pressure on politicians to budge from the status quo on First Nations issues and come up with policy that might actually help change lives of First Nations people for the better?

**RN:** I honestly believe that people [in politics] tend to accept the argument that somehow First Nations over time will grow out of this and may leave their own homeland, their reserve or their

community. It will solve itself ... The second part of this is that it has always been my belief that there are many people in the bureaucracy, whether it is in the Department of Justice or the Department of Finance or central agencies that don't believe First Nations are governments, that we should not recognize them as such and give them the same accord that you gave other governments in Canada. That becomes a very difficult process ...When you are trying to convince powers that be around central agencies that you need to change direction dramatically, they all kind of look at you like 'Wow, what does that mean for us financially and from a jurisdictional point of view?'

**NP:** But didn't some critics complain that the First Nations Governance Act was a top-down document, that it imposed certain standards on band councils from on high?

**RN:** What we were promoting and proposing was called "enabling legislation." It was a very small bill about 30 pages long and basically it said 'We give you the power to have a financial administration code. We give you the power to have an election code. We give you the power to have an environmental code. Here is what you would have to follow to get there.' It enabled them to go ahead and become a government in a modern sense. We did not say prescriptively here is what we will do from an accountability stand.

**NP:** If you could find a way to skip all the political risk-management and legacy roadblocks that come when trying to change First Nations policy, what policies would you implement first?

**RN:** You have to tackle certain fundamental issues first. One of them is the relationship between governments in the federation. That is first and foremost. That relationship has to be not one of master and servant and/or father and son, [or] First Nation citizen and their protector being the federal government, but equal partners in a federation. . . For the sake of argument, I have always coined the phrase, they would be the third order of government. Now, when I used to use that terminology in Indian country, the boys would say, "No, no. We are the first government. We were here first." Whatever. As a third order of government with constitutional protections, then we would start to define their jurisdiction.

How you define their jurisdiction will certainly be a matter of negotiation between the feds and the provinces because of course both the feds and the provinces would have to give up some jurisdiction in order for First Nations to be successful governments. In [Osoyoos Chief] Clarence Louie's world and my world and [Siksika] Chief [Adrian] Stimson's world and others that I have met with and I have some respect for, what that usually means is that First Nations governments is not totally beholden to the Canadian government for its survival. What it means is that they are economically successful in two ways. They have built an economy. They have the jurisdiction and authority to tax, collect tax and use that tax structure [for development].

I would start with the whole issue of jurisdiction. That includes an equalization formula between the First Nations and the Feds. It also means having a legislative structure that meets the needs of First Nations. People will say, "Why don't we just revamp the self-government [process] and we'll get something?" You can't possibly expect to get somewhere [with that] in the short term . . . Negotiating self-government means just one band at a time. One First Nation at a time. It just is not going to happen. It's too slow.