Indian Act

Mr. Heap: You could have done it last year.

Mr. Penner: I wish we had. I want to talk about that in a moment and about why we did not succeed, because that is the key.

It is not further amputation that is called for, Mr. Speaker, but the giving back to Indian people of all of their legs and feet. It is we who have made them dependent wards, a situation which Indian people are demanding be changed and changed now. How will we do it? We will do it by recognizing in our Constitution, the new Constitution of Canada, their aboriginal right to govern themselves. When we do that, then the entire Indian Act, not just Section 12(1)(b) or the enfranchisement provisions but the entire Indian Act, then becomes unconstitutional.

Our good friend, the Minister of Indian Affairs and Northern Development (Mr. Crombie), is certainly not in charge of the constitutional process. We all recognize that and we are not going to blame him for failures or for discouragement over the future process. We must work as best we can with the Bill which is before us. The Minister has been called upon to work in a very confined space rather than in the large constitutional process. In that very confined space is this dirty nest called the Indian Act. The Indian Act, among other sins, discriminates on the basis of sex.

● (1240)

Let us reflect on the actions taken by the Minister within the narrow parameters imposed upon him and ask how he has done. There are some pluses, to be sure. There are some negative features as well. To the Minister's credit, within the very severe and strict limits of the Indian Act he has quite remarkably recognized the right of Indian bands or Indian nations to determine their own membership, at least in a limited way. Bands must have a non-discriminatory membership code. They must have a mechanism to review decisions they make regarding membership. Those recommendations were contained in the report of the special committee. We are grateful that the Minister is aware of them and responded to them.

We should be aware that full control over membership does not come immediately. The Bill says that we parliamentarians are first going to clean up our own act as best we can. Clause 12(1)(b) is our creation. The Indian people did not seek a statutory provision to impose sex discrimination on their own people. The Minister was quite right in pointing out that in many ways the Indian people of the country have led the rest of us in dealing with sexual discrimination.

As I have said before, I encourage Hon. Members to attend an assembly of the Assembly of First Nations. That is the Indian Parliament of Canada. In many ways it is superior to our own institution, if you will forgive me for saying so and not call me to order, Mr. Speaker. In many ways they conduct their business in a better fashion than we do. There are far more women actively involved in the deliberations of the Assembly of First Nations than there are in the House of Commons.

Band control of membership in this Bill is for the future. The Government is saying that it will impose its will on the Indian people only one more time. It asks to be forgiven and understood because it will not happen again. The Government must clean up those droppings in its dirty little nest but is going to let those droppings fall on the heads of the Indian people.

Every political Party in the House is opposed to sex discrimination. Clause 12(1)(b) must be repealed. But I find the way in which we are forced to proceed distressing. Partly through necessity, we have chosen to be pilgrims in the slough of despond rather than to follow the more noble route of constitutional reform. So it has always been, Mr. Speaker: the high soul takes the high road and the low soul takes the low, and in between on the misty flats the rest drift to and fro. The Minister deserves no condemnation at all for that fact of life. He has done his best within the confines of an almost impossible task. He is seeking to repeal Section 12(1)(b) and the loss of status by unfair enfranchisement. The right to band control of membership is partially recognized. The by-law provisions of the Indian Act are strengthened.

I think the credit for that goes to the standing committee which worked with the previous Bill in the last Parliament. Working with the Minister's officials and the Justice officials we did our best to improve a Bill which was not very good to start with. Given more time, I think we could have improved it. However, time ran out on us, the guillotine fell with severity, and we brought into the House a Bill about which the Hon. Member sitting next to the Minister said: "We'll have to hold our noses and vote for it".

Discrimination remains within the Indian Act. The Bill still categorizes Indians as status and non-status. It still indicates those who are band members by action of this Parliament, and those who are not band members and must seek that status or will in some way be ineligible for it. As an example of how discrimination will continue to exist I will describe two different types of marriage unions. In one marriage union an Indian man marries a non-Indian. If they were married before the Act, both will have Indian status. Their children and their children's children will have status transmitted even if they marry non-Indians. However, if an Indian woman married a non-Indian man their child will have status, but that status will not be transmitted if that child marries a non-Indian. Therefore, we have not solved all our problems. We still have discrimination. That is the tragedy of trying to clean up an Act which really cannot be cleaned up. It is also reminiscent of a very mad play in which all the characters have become disconnected from reality.

What should we be doing? What could we have done? Where have we failed? I think we have failed in the constitutional direction. It is true that we must work this Bill now. We must make it as good as possible. On behalf of my Party I give my commitment to the Minister that we will do that. In the standing committee we will work with other members to make