

It is not enough to tell the Indian people that the status quo will be maintained. In many cases, the status quo is utterly intolerable by any standards used for the rest of Canadian society. Let us not forget that, for the Indian people at this moment, there is no real private sector. There is the government and themselves.

We must make a clear commitment that those currently living under great difficulty will have those difficulties addressed as a priority of this government, completely separate from the obvious assistance required for reinstatement under this bill. It would be tragic, honourable senators, if we in this Parliament endorsed one more measure which placed an additional burden on some of our most disadvantaged Canadians.

There is another avenue that we should also probe. A number of serious questions have been raised concerning the constitutionality of Bill C-31, particularly in terms of section 15 of the Charter of Rights and Freedoms which provides, as you know, that every individual is equal before and under the law, and has the right to the equal protection and equal benefit of the law without discrimination. The government maintains it is confident the bill meets the test of the Charter, but other legal experts have lively doubts.

There is no doubt, however, that, if this bill passes, there will be court cases launched and the costs could be punitive for the Indians and their band councils. University of Lethbridge Professor Leroy Littlebear, speaking for the Indian Association of Alberta, put it in a nutshell when he told our committee:

The people who will feel the impact of these discriminatory situations will be the bands. It will not be the government any more. The people who are going to be brought to court, if anybody is brought to court under the Charter and so on, will be the bands, because they will be the ones who will be blamed for these types of discrimination. It will be the bands who will continually be taken to court for these types of situations.

Honourable senators, perhaps the government should look again at the possibility of placing a reference before the Supreme Court on the discrimination aspects of this legislation in order that there might be a clear-cut opinion without the time and expense involved in the hearing of individual cases. Section 55 of the Supreme Court Act is available, and I challenge the government to use it to refer the question of compliance of Bill C-31 with the Charter of Rights and Freedoms to the Supreme Court of Canada. This is a serious suggestion and I hope it will be given serious consideration. If the government persists in its refusal to do this, I offer an alternative suggestion: Would the government assist Indians in funding court challenges to this bill under the Litigation Support Program, as it has done in other cases in the past?

Honourable senators, I have tried to convey to you some of the concerns surrounding this legislation. They are real concerns, and I hope my words will not fall on barren ground because the hard work now must be done in the real world at the band level, should this piece of paper become law.

I do believe a real effort has been made to correct some injustice through this bill. The fact of discrimination against Indian women is unbelievable in 1985. It has hung like a black cloud over the relationship between the Government of Canada and Indian people during negotiations over the past several years. That is one bottom line in this legislation, and if we cannot erase that line of discrimination forever within Canada, how can we participate with any credibility in world councils?

● (2120)

The second bottom line is that a real step has been taken to quicken the pace of disengagement from the intrusions governments have made in the daily lives of Canada's Indian communities. This step is in the form of recognition of future control of band membership by Indians.

But let us not for a moment think that this bill accomplishes these goals. While ending some old suffering, it unfortunately creates new and difficult situations for our Indian society. All the accumulated wounds of more than a century cannot be healed in the minds and hearts of the Indian people by this bill, or by any bill.

While we attempt to deal with one level of discrimination in this bill, we, as senators, must realistically acknowledge the much greater daily trial of racial discrimination which faces the native peoples of this country from the day they are born until the day they die. It is inescapable, not just a product of laws, but a disease of attitude.

In recent weeks I have had the great privilege of travelling with the Senate Youth Committee across Canada. Everywhere, we have been listening and searching for creative and productive ideas which might help turn discouragement into optimism for the current generation of young people. Nowhere is this discouragement more cruelly evident than in the testimony of native youth and those who work with them. To all the other difficulties that youth now faces is added the soul-destroying element of racial prejudice. It has already tainted the hopes and expectations of many of today's native youth.

In my first speech in this distinguished chamber I urge each of us, in whatever way we can, to launch a personal campaign to rid our society of this destructive attitude, wherever it exists. If we cannot stand side by side in friendship and in honour with the first Canadians, what hope can we offer to the other races from other lands who wish to make their home in Canada.

**Hon. Len Marchand:** Honourable senators, this is the first opportunity I have had to, in a sense, make a formal speech in this chamber. I do not intend this to be of a maiden speech, because, as a parliamentarian, I had that honour back in 1968, when I seconded the motion for an Address in Reply to the Speech from the Throne, along with my esteemed colleague, Senator Corbin, who moved the motion for the Address in Reply on that great occasion. However, I should like to say a few things in a way that might be considered to be along the lines of a maiden speech.