

The Constitution

—it is just and reasonable, and essential to our interest, and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to or purchased by us, are reserved to them... as their hunting grounds.

Mr. Malone: We want George III!

● (0020)

Mr. Manly: We know what George III said. The Indian people of Canada want that proclamation attached to the constitution as a schedule. Recognition of aboriginal rights was one of the causes of the American revolution because protection of Indian lands rankled those Americans who were already afire with the idea of manifest destiny. The American Declaration of Independence objected to the action of George III in raising the conditions applying to new appropriations of lands.

We all recognize that George III was not an original thinker. He was simply following what had been standard practice for European nations since their first encounters with North America. Claims of sovereignty by European powers were really claims to be able to treaty with local Indian nations for the land. It was generally accepted that Indians had aboriginal rights to the land that could not be arbitrarily denied. Three possible methods were established for obtaining title to land. The first was by occupation of vacant lands. Recent studies of hunting, trapping and food gathering patterns across Canada have shown that in spite of the vastness of our country, almost every part of it was used by the native people. There was no empty or unused land in Canada.

The second way was by way of what was called the just war. I do not know of any just war by which Indians in Canada were vanquished and lost their rights or their land. The third method was by purchase with consent of the owners. In many parts of Canada the Crown did enter into treaties with the native people. The Indian peoples granted certain rights to the Crown and in return they were promised certain rights. As recently as July 5, 1973, Queen Elizabeth II told the Indian people:

You may be assured that my Government of Canada recognizes the importance of full compliance with the spirit and terms of your treaties.

The rights of Metis people were also recognized in these treaties and also in the Manitoba act of 1870. Thus, across Canada, native people have both aboriginal rights and treaty rights which, at different times, have been recognized and guaranteed by the Crown. But the proposed charter of rights glosses over this by talking about "any rights or freedoms that pertain to the native peoples of Canada." The charter lists other rights in specific detail. It denies native rights by vague generalities. Because of their minority position in our society, native people have a greater, not a lesser, need to have their rights enshrined.

The government has argued that we need a charter of rights because we cannot entrust rights to the changing whims of legislatures. I ask you: What people have suffered more legislative infringements on their rights than the Indian people?

Amendments to the Indian Act passed by this House of Commons over the past 100 years have hampered the Indian people in every facet of their lives. Freedom of religion was interpreted to mean freedom to decide which church would send in missionaries, and I speak of the former missionaries in Indian villages. Traditional religious and cultural practices, such as the potlatch, native dancing and dancing societies, were forbidden.

Earlier in our century, the act required Indians to get permission from the Indian agent to go to exhibitions, rodeos and dances. They needed permission from the superintendent-general to collect money for their organizations, a way of discouraging those organizations from pressing the government in connection with land claims. Indian people lost their status without their consent. In other situations, people were given Indian status and included in band membership with a share in the meagre resources of the reserve without permission of the band involved.

These are some of the things Canada's Parliament has done to the rights of Indian people. They know full well, therefore, that they cannot depend upon legislatures to maintain their rights. These rights must be recognized and enshrined in the constitution.

Some hon. Members: Hear, hear!

Mr. Manly: The Indian people today still remember the 1969 white paper which would have stripped them of all their rights. This 1969 white paper was the catalyst which brought them together with a great many organizations and helped them to advance to the level of political involvement in which they find themselves today. But as they look at the proposed charter of rights, they see clauses in it which would have the same effect and which would leave them without rights, without protection and without even the basic, minimal recognition which they have at present. The Prime Minister has promised the native people that they could be participants in all constitutional amendments which concern them. What could possibly concern native people more than the entrenchment of their rights? Yet Indian people were not consulted about the charter of rights. In their absence, a vague clause was inserted which does violence to their rights.

Last week, the Prime Minister said that as soon as the constitution is brought back to Canada, native rights will be one of the first items on the agenda. What hypocrisy! The Prime Minister knows full well that by placing Indian rights on a post-patriation agenda, he is denying these people their last chance to obtain justice.

Some hon. Members: Hear, hear!

Mr. Manly: Section 50 states very clearly that any amendment to the Canadian charter of rights and freedoms can only be made in accordance with sections 41 or 42. Obviously the Prime Minister is not willing to trust his cherished language rights to the vagaries of such a process because he knows it would be almost impossible for such rights to be adopted. In the same way, he must know that if Indian rights are not