

*Indian Act*

self-governing Indian nations. They had their various languages, their economies and their political systems. The Royal Proclamation of 1763, which is now referred to in the Canadian Constitution, formalized British colonial policy in North America. It affirmed this reality that Indian nations existed, interrelated, and this proclamation recognized Indian title and rights to land and placed very severe limits on the way that the colonial government could secure land for development. It was the source of the treaty-making process which, by the 1920s, had covered all of Canada with the exception of British Columbia and north of 60.

● (1230)

This original relationship was one to which the Minister has referred in his remarks; it was a government-to-government relationship. We should not idealize it too much; it had all sorts of faults. It was a colonial relationship but it was government-to-government at least. That was the way in which the Crown proceeded to deal with Indian nations.

However, that pattern was not sustained. Early Canadian policy attempted to assimilate and terminate Indian people. For example, the Indian people had no part to play at all in negotiating the Canadian Confederation. They were excluded. They did not have the smallest voice in the terms of the British North America Act of 1867. Yet that same Act, in Section 91(24), assumed legislative authority with respect to Indians and lands reserved for Indians to the federal Government. The federal Government used that section of the Constitution to erode Indian governments. Well, in fact to do away with them. In its place the Government imposed upon Indian nations a colonial regime, and then through the Indian Act of 1876 the Government consolidated its legislative control over the Indian people. Under the Indian Act traditional Indian governments were done away with and replaced with something known as band councils. This was not an invention of Indian people at all. It was not indigenous government but an imposed form of government.

What did these band councils do? They simply functioned as agents of the federal Government. They exercised a very limited range of delegated power, always under federal supervision. The chiefs and councils were given very little real power. All of the important decisions were made by the Department of Indian Affairs here in Ottawa and by the local Indian agent out in the field.

The situation today is not all that much different, Mr. Speaker. Many Canadians, as the Minister has pointed out, are not aware of that. The Indian Act, Sir, is not only paternalistic, not only colonialist in its nature and intent; it regulates fully and in precise detail virtually every aspect of the lives of Indian people living on reserves. The Indian Act is in fact totalitarian. Therefore, Mr. Speaker, with that very brief background in history, it should surprise no Hon. Member in this House that the Indian Act is discriminatory in many respects.

The Minister's Bill before us today deals with sex discrimination in the Indian Act. Parliament, through the Indian Act,

took from Indian nations the right to determine their identity and membership. The Act took away Indian status from Indian women who had decided they were going to marry non-Indian men. That was done through the infamous Section 12(1)(b). Although surprisingly, Mr. Speaker, it permitted Indian men to transmit status to their non-Indian wives. Now, that is a federal statute; hard to believe but it is. The Act also took away Indian status from Indian people, as the Minister has already mentioned; from Indian people who joined the Armed Forces to serve their country, from those who wanted to improve themselves by attending a university and from those who became professional people, be they doctors, lawyers or members of the clergy. The Indian Act, no more and no less, played the role of God in the lives of these people and it was not a benevolent deity either. Not at all. It was an evil, whimsical demon creating Indians out of non-Indians and making non-Indians out of Indian women who married non-Indian men.

I would like to say to my hon. friends that it is not just Section 12(1)(b) which should cause us shame in this House, although sex discrimination wherever we find it is odious, offensive, totally distasteful and unacceptable. However, Section 12(1)(b) and the enfranchisement provisions of the Indian Act were all designed to assimilate or terminate Indians. It is the whole Act which is a disgrace, not just one section.

Members may wonder why, then, has the entire Act not been repealed. Well, there have been attempts in the past to improve it. I have often described it as a leaky, rusty old ship full of barnacles, ready to sink. You try to patch it up but it just does not work. All efforts by very dedicated Indian leaders working with senior Government officials and the most senior members of Cabinet have failed. I do not think you can ever work with the Indian Act and produce something which would be fair and just, no matter what we do to it.

Since the time of the coming of Europeans to this country, Indian people have attempted to obtain the proper recognition of their rights and their place in this country. They have tried to do it, for example, by way of the treaties they concluded with colonial powers. They are trying to do it today in the modern claims negotiations, but so far not very successfully. But I want to commend the Minister for undertaking a wholesale review of the way in which we proceed with the settlement of claims, both comprehensive and specific.

So all of these attempts to recognize the special place of Indian people within the Canadian mosaic have failed. All we have at the present time is this miserable statute called the Indian Act. The Indian people do not want it repealed because, as bad as it is, as little as it is, it is the only thing they have that gives them special recognition within Canada. When you cut off a person's legs at the knees it is not very helpful, Mr. Speaker, to say to that person: "We are now going to go a little further and amputate at the hips". That is in fact what we are doing when we say to Indian people that we should think about repealing all of the Indian Act without according them constitutional recognition of their right to self-government. That is the key.