

The Constitution

The Minister of Indian Affairs and Northern Development, when he was speaking, made reference to the Subcommittee on Indian Self-Government which had been established, and the very fine work which had been done by that subcommittee. He neglected to mention that there was another subcommittee which also had been in operation at the same time, and which had done equally fine work. That was the Subcommittee on Indian Woman and the Indian Act. That subcommittee unanimously made four recommendations, four themes, in their report. They recommended, first, the removal of all discriminatory provisions in the Indian Act, but not so as to remove Indian status from those who gained it on marriage; second, the reinstatement of all Indian women who lost their status on marriage, and their first-generation children. That is a very critical and key recommendation, a unanimous recommendation, of that all-Party subcommittee, to reinstate Indian women who lost their status on marriage and their first-generation children. Third, they recommended that there be no future gain or loss of Indian status, or loss of rights such as band membership on marriage; and fourth, Band control of membership.

I make mention of that report, Mr. Speaker, because it is critical that the Government respond to the report of that subcommittee. That is surely the action which should now ensue from the subcommittee report. Back on July 7, 1980, in response to a question which I raised in the House of Commons directed to the Prime Minister (Mr. Trudeau), he said that he hoped that this matter, that is, the loss of status which had already taken place, would be rectified within one or two years at the most. That one or two years has now passed, and nothing has been done for the women and the children whose rights lie outside the scope of today's resolution.

As we know, there is no retroactivity to the resolution before us. In November, 1981, the Minister responsible for the Status of Women said that she hoped that the necessary steps to redress the situation would take no more than a year to pass. That year has come and gone. Still no action has been taken to deal with the plight of Sandra Lovelace, Mary Two-Axe Early or Jeanette Lavel, or the thousands of other women in circumstances similar to theirs. The Government will be compelled to address this problem once Section 15 of the Charter of Rights becomes fully operative in 1985. However, why not show its good intentions now by taking immediate action rather than risk being dragged into the courts, kicking and screaming, when that three-year grace period elapses?

I know, Mr. Speaker, there will always be argument, and I know there will be reluctance on the part of some to face up to this matter squarely. However, the problem, Sir, is not going to go away and it is not going to become any less acute just because it is being ignored. In passing this resolution, Mr. Speaker, let us resolve that the unfinished business of those individuals who continue to be denied their rightful place, their rightful Indian status, is dealt with and dealt with justly and fairly once and for all.

The Acting Speaker (Mr. Corbin): Order. Questions, comments? Debate.

Mr. Jim Manly (Cowichan-Malahat-The Islands): Mr. Speaker, I welcome this opportunity to speak for my Party with regard to the motion which is before us to amend the Canadian Constitution. As the Hon. Member for Winnipeg-St. James (Mr. Keeper) said on Monday when the motion was introduced, our Party supports the Accord, but we have many concerns about it. When we look at the Accord we see it as a minimal achievement. However, it is an achievement and, therefore, we are supporting it.

• (1710)

In the few minutes I have this afternoon I would like to address the substance of the Accord and then look at the process for future debate. There are several minor improvements which tidy up the language concerning treaty rights and agreements. As the Hon. Member for Kingston and The Islands (Miss MacDonald) has mentioned, there is the clause guaranteeing aboriginal rights equally to males and females. That clause is extremely important to all Members of our Party because all of us are very much aware of the pain and suffering caused by the discriminatory sections of the Indian Act, in particular Section 12(1)(b).

That can be looked at in several ways. First there are those women who lost their status because they married a non-Indian. Then there are their children. There are those women who might have wished to marry a non-Indian person but because they did not wish to lose their status, they gave up the relationship and suffered thereby. There are those women who do not want to give up a relationship and lose their status so they live common law, and they continue to suffer along with their children from whatever social stigma still attaches to that situation. So we see that Indian women have suffered in countless ways.

In addition, Indian women, families and communities have suffered from the division this Section has brought. We believe it is important to recognize that the major source of this discrimination has been non-Indian legislation imposed on the Indian people without consent. Indeed, in many cases it was against their expressed opposition.

The Indian Act reflects a patriarchal, Victorian attitude in both its colonialist assumptions and its racist and sexist assumptions. It is interesting that in the testimony presented before the special joint committee of 1946, 1947 and 1948 which was looking at the revision of the Indian Act, representatives of the Department indicated that one of the reasons for this kind of provision was that they wanted to reduce the number of Indian people. That would lower the federal Government's financial responsibility to them. You can compare Section 12(1)(b) with some of the earlier Sections of the Indian Act which automatically disenfranchised any Indian person who went to university or became a lawyer or clergyman. The whole attitude of the Government was to get as many people away from Indian status as possible, because it was regarded as an inferior status, which Indian people themselves rejected, but mainly because of the financial implications.