

*The Constitution*

Indian policy when the minister stated that aboriginal claims to land were not realistic, was a Prime Minister of this country to say of this question, and I quote the Prime Minister (Mr. Trudeau): Our answer, it may not be the right one and may not be the one which is accepted . . . our answer is no.

That was what triggered the debate at that time. There was a rejection of the concept of aboriginal title. We have come a long way since that day. We have come a long way since that debate and much has been accomplished. The perseverance and determination which has been characteristic of the native peoples of this country throughout their history have once again proven to be the major instrument in bringing about much needed reform. Nowhere was that more evident than in the Conference of First Ministers and native leaders which took place in March this year. The country was able to see how our native people conducted themselves in negotiations of such a critical nature.

As others have said, this is only a beginning; much remains to be done. I hope the conferences in the years ahead which are being provided for in this resolution will fulfil the expectations of our native peoples which have been there since time immemorial.

There is one aspect of this resolution which is of particular importance to me. Section 2, subsection (4) reads as follows:

Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

That is a big step forward. Some of us in the House have been fighting for the removal of Section 12(1)(b) from the Indian Act for a good many years. It calls for the discriminatory aspect that when a woman of Indian status or Indian background marries a non-Indian, she immediately loses her Indian status and so do any children of that marriage. I have a Private Member's Bill in the House of Commons at the present time which would bring about the complete removal of Section 12(1)(b) of the Indian Act. The former Government headed by the Right Hon. Member for Yellowhead (Mr. Clark) undertook to do away with that discriminatory section. I presume that once this amendment to the Constitution is enacted, those who now claim Indian, Métis or Inuit status will be treated equally, whether male or female. That is, those people presently covered by the status of Indian, Métis or Inuit.

I have a concern which does not seem to be addressed in the discussions that have been going on and certainly it was not addressed by the Minister of Justice (Mr. MacGuigan) or by the Minister of Indian Affairs and Northern Development in this debate. It has not been included in any resolution or legislation to date. It is that those who suffered loss of status in the past, as a result of the discriminatory sections of the Indian Act, are still without status. They are outside the pale. They are still non-people as far as the Indian Act is concerned. They are not entitled to claim their share of aboriginal title. They are not entitled to take their place as Indians in an Indian society, either for themselves or for their children. There are many, many people in this category in Canada today. The names of some of those who have lost their Indian status are almost household words, Sir. Jeanette Lavell took her case all

the way through to the Supreme Court of Canada and was still denied justice. Sandra Lovelace of the Tobique Reserve in New Brunswick lost her Indian status in 1970 when she married a non-Indian. Since she knew that the Supreme Court would probably treat her case and render a judgment on her fate in the same way that it had decided upon the fate of Jeanette Lavell, she took another route to try to seek justice. She went to the Human Rights Commission of the United Nations. She appealed to it in saying that her human rights had been denied. Her case is upheld.

• (1700)

In September, 1981, the Human Rights Commission of the United Nations told Canada that it should clean up its act. Indeed, the Prime Minister (Mr. Trudeau) promised at that time that that would be done within a year.

Another case which is very well known is that of Mary Two-Axe Early. A number of us have had occasion to speak to Mary, have listened to her case, have seen her battle over the years for the rights of those women who are denied Indian status. She is a person who has battled long and diligently, not just for her own rights, but for those of all Indian women and children who are denied their rightful status as Indians. Mary told me in one conversation which I had with her some time ago, "It is easier for a dog to be buried on the Caughnawaga Reserve, my Reserve, than it is for me, a full-blooded Indian, who has been stripped of my rights." She is denied burial there. A dog is not.

Those are three cases: Jeanette Lavell, Sandra Lovelace and Mary Two-Axe Early. Their cases are known far and wide and they have been cited often. However, if you look at the number of cases elsewhere in the country, Mr. Speaker, you would find, going back in the records, that it is estimated that since 1920 a total of approximately 15,000 women have lost their status following marriage to a non-Indian. That is an estimate. Since 1965, the Indian Registry has recorded the number of women who have lost their status as a result of marriage to a non-Indian, and I have those figures. I believe in fact they have been produced by the Department of Indian Affairs and Northern Development. The number of women who have lost their status as a result of Section 12(1)(b) "marriage to a non-Indian", since 1965, comes to approximately 8,000. The estimated number of children born to Indian women who lost their status because of marrying non-Indian men is, according to the figures I have before me, 37,700.

There are other women and children who have lost their Indian status not because of Section 12(1)(b) "marriage to a non-Indian", but because the Indian husband and father in each case voluntarily chose to give up his Indian status. As a result, the mother and the children automatically lost their status as well. These injustices are permitted to continue in our society. They are permitted to continue today and we hear nothing about rectifying them in the future. Until they are corrected, we cannot say that the Canadian Charter of Rights is being honoured either in spirit or in practice.