

*Indian Affairs*

the land claims, the hunting rights, and so on, subjects that have been discussed ad nauseam in this house and also by the Indians themselves. The responsible leaders of the Indians will not be satisfied until these fundamental rights, which have been long ignored by successive governments of Canada, are dealt with. Perhaps the greatest error of all was the setting aside of something that had been promised by successive governments, including this government, namely the setting up of a long delayed land claims commission which would be able to deal in an impartial and judicial manner with the fundamental rights of our Indian people. This has raised once again the accusation which appears in the excellently documented briefs of the National Indian Brotherhood and the Manitoba Indian Brotherhood that the white man is once again speaking with forked tongue. The basis of confidence and understanding that had been gradually established over the recent years of negotiation, and a more positive attitude toward the problem, have been destroyed unfortunately in one fell swoop by the arbitrary announcement of the minister.

Perhaps the government should be reminded once again that it can no longer unilaterally impose its will on the Indian people of Canada. Their fundamental rights have been ignored far too long. There is the matter of cultural survival which arises from the policy announcement of the minister. The situation has been aggravated by the government's own attitude of confrontation on these matters of fundamental rights. I think the most fundamental aspect of the minister's announcement is its complete failure to take into consideration the constitutional situation as it relates to our Indian population. It is constitutionally impossible to pass laws in this house conferring special treatment on Indians as Indians except under federal jurisdiction.

In other words, the minister's announcement that he is going to transfer responsibility to the provincial governments rather abruptly in a short period of five years is in complete disagreement with the constitutional provisions which cover our Indian population under section 91 (24) of the B.N.A. Act. This section gives the exclusive grant of authority to the federal government in Ottawa, and only the federal government can single out the Indians as Indians and confer special benefits on them in that capacity. Provincial governments are quite free to give special treatment to any number of other special groups in our society. It can extend all man-

ner and kind of services to the Indians so long as it is done in a way that does not recognize Indians as Indians. But the moment those provincial governments try to help the Indian people as such—and it is up to them to decide of course—they are legislating unconstitutionally. The tragedy is that the minister's announcement completely ignores this basic fact.

There is no way in which this government can ensure that our special obligations to the Indian people are carried out without doing one of three things: First, amending the distribution of powers in the B.N.A. Act; second, delegating administration of federal legislation to provincial agencies which should now be named, and should have been named long before this generalized statement was made; and, third, carrying out these responsibilities themselves through a new and re-invigorated Indian affairs branch in full and complete consultation with the Indian people. I submit that the latter is the only honourable course and the only constitutional way that is open to the government at the present time. Unfortunately, it now seems that this government is in the process of completely shattering its own Indian affairs branch. After some years of painful rebuilding, after taking on some of the most dedicated public servants of the country, this government has, by its latest action, destroyed the only administrative vehicle left to it which might have been capable of rendering a measure of justice to the Indian people. This is the point that is raised in the briefs that have been submitted by the National Indian Brotherhood and the one that has come into my hands as a member from the province of Manitoba from the Manitoba Indian Brotherhood over the signature of Chief David Courchene. Here is what the chief has to say on the point:

—when our opinions are ignored, when we are to be bargained over in federal-provincial negotiations like cattle at an auction mart—

They feel they have no other recourse than to protest. The brief goes on:

The just society that Mr. Trudeau alludes to must be based on mutual respect, mutual consideration, mutual understanding, integrity and good faith. This document, this policy, does not reflect any of this. More important it ignores one fundamental fact that is inescapable and that is that if Indian people are to become equal citizens of this country it must be because they want to, not because they are told to. Mr. Chrétien's policy gives us little reason to want to.

● (4:50 p.m.)

Perhaps I can make an aside in the middle of Chief Courchene's quotation. The point is