

through the courts that are open for all the other inhabitants of Canada. If you were to revert to tribal legal practices, I think that would be a very grave step and injurious to the Indians; but as a matter of fact it would only be theory in any event that you were going on because as far as I am aware there is no clearly defined jurisprudence among the Indians, or legal procedure. The only ones I know who have anything approaching that are the great Indian groups and races of central and south America where you have big Indian populations down there and where they had well defined courts and laws the same as are found in the Navajo country where there are some 50,000 Indians occupying a large area in the southern United States, and where they have a fairly highly organized form of law and procedure of their own and the American government allows them to follow it in a certain measure under supervision. But there is nothing like that to work on in Canada.

Mr. MACNICOL: What about the Iroquois?

The WITNESS: Not in Canada.

Mr. MACNICOL: No, but in New York state.

The WITNESS: In New York state on the Tonawanda reserve, which is a large reserve near Buffalo; I cannot speak with authority of American procedure, but I believe there is some exercise of tribal justice there and that there is a great deal of confusion about it. An American official—I think it was Mr. John Collier, the Indian Commissioner for the United States—told me that it led to a lot of difficulty there because they are under two laws at the same time; that the Indian's friend and protection is the state law when it suits them to claim it, and to operate under their own tribal laws when it suits them. That is why it did not work so very well.

Mr. Ross: In 1934, President Roosevelt, speaking about Indian affairs, used these words:—

Certainly the continuance of autocratic rule by a federal department over the lives of more than 200,000 citizens of this nation is incompatible with American ideals of liberty. It also is destructive of the character and self-respect of a great race.

Then, later on, in 1940 the Commissioner of Indian Affairs in making his report speaks of the Indian way of disciplining their own members, he speaks of working out satisfactorily.

The WITNESS: Well, I am not at liberty, Mr. Chairman, or I am not qualified really to express a definite opinion about the experience in the United States; but I do think I am voicing the opinion of everybody experienced in Indian administration in Canada that it would not be very satisfactory here. For one thing the Indian communities in Canada are very small. There is not the volume of population and organization that could properly set up a self-sustaining separate court or judiciary, and they haven't any real system to go on except possibly among the Iroquois at Brantford and even there it would be very sketchy indeed. Ninety-five per cent of the population would certainly want to go into Brantford to a regular court if they had any litigation to decide rather than to do it by any tribal organization. It is difficult for me to conceive how in the United States in the eastern and more settled parts of the country there can be any advantage to the Indian. As I mentioned before there are large sections in southwestern United States which have very considerable Indian populations, and of course there it would be a different set-up.

The CHAIRMAN: Now, Mr. MacInnes has a set of questions which were supplied to him and he has prepared answers to them. Should he go ahead and give answers to those questions; or, do members of the committee want to ask some other questions as he goes along, what is your wish?