

*Incarceration of Native Persons*

were so, the rates would be declining. I should like to quote from a letter which I received from the Solicitor General (Mr. Kaplan). It reads:

Specific information on the number of charges, convictions and prison sentences before and after the introduction of specific diversion methods are not available. While the common aim of crime prevention and diversion methods is to reduce crime, it is very difficult to show actual reduction in crime rates especially in the short term. Prison population normally fluctuates and this is caused by socio-economic and other conditions and not only as a result of law enforcement.

Or course, there are fluctuations, but there is a very simple way of dealing with them. In a diversion program we should look at the rates for the two or three years preceding, average them, and then look at the rates for the two or three years after the program has been introduced. If there is diversion, the rates will go down. If the rates are not going down, we do not have diversion.

I should like to refer to the following quotation from the Department of Justice:

The existing data on diversion programs is sketchy and firm conclusions cannot be drawn as to the effectiveness of such initiatives in terms of reduced numbers of charges.

Utter nonsense. Diversion programs have not been given priority in Canada. They have not been serious.

[*Translation*]

The excuses of the two departments are pitiful. Either those diversion programs have worked out as expected, or they have not. If a diversion program works out, the number of people sentenced, condemned and jailed will go down. If there is no decrease in the statistics, we must conclude that the program has failed.

We can now understand very readily how it is that our jails contain six times as many native people as other Canadians.

First of all, the number of policemen per capita in the north is twice as high as in the south. Communities, particularly native people communities, are small. Everybody knows everybody else. Whenever an offence is committed, everybody knows who is responsible. The neighbours know the guilty party and so do the police. The police tell us that it is very easy to get a confession when they make an investigation. Indeed, native people are generally more honest than non-native people. Their culture encourages them to tell the truth. They have no idea that it is up to the police or the Crown to prove that a crime or an offence has been committed, that the accused does not have to admit anything. The police tell us that when they ask a native person if he has done something, he answers yes. According to their culture, that answer is not a confession but only a way of admitting what one has done while waiting for an investigation into the circumstances. However, in the non-native culture, the culture of the majority, it is nothing less than a confession, an admission of one's guilt. Property rights are not interpreted the same way in both cultures. In the culture of the majority, the emphasis is on individual rights, the rights of owners of private property. In the native culture, private property is less important. The land

belonged to society as a whole. The sharing of property was more widely acknowledged, and that is a source of difficulties in enforcing the Criminal Code. Now then, there are more policemen in the north than in the south and communities are smaller, with the result that the number of crimes and offences reported to the police is much higher in the north than in the south of Canada. In major cities, most crimes and offences are not reported to the police. People tell us that it is a waste of time because the police will not find the criminal or because the police station is too far. Besides, they do not want to lose a day's work to testify in court. None of those excuses is valid in northern regions. Like everybody else, the police know who is responsible and that person admits his guilt. The police are there on the spot.

• (1710)

[*English*]

I have to point out that we have a veritable caste system in the enforcement of law, a system run by non-native people. Overwhelmingly, the judges, prosecutors and police are southerners of white European origin and not particularly familiar with native customs. We have the participation of native peoples largely as court workers and special constables. That means they are paid less, do not have full status, or are justices of the peace and not real judges. While we deplore this caste system, let me make very clear I am not arguing simply for the replacement of native people in the white southern system where we would have a native person sent to jail by a native judge with a native prosecutor. That is hardly the answer to the question.

The Ontario Native Council on Justice pointed out the broader social and economic questions involved. We must be mindful of these. If talks about a meaningful redistribution of income, wealth, economic opportunity and political power from those who have to those who have not. In other words, it concludes that there will be a change in the ratio of natives and non-natives inside the prisons when there is a fundamental change in their relationship outside. Yes, but let us not wait and do nothing about the criminal justice system while we are waiting for economic and social change. We must work to change the system. Clearly we must understand that broader social and economic context, but we must not wait for a hundred reforms to be made before we work on one, which is our responsibility, which we could be working on very directly.

What I propose is very simple, direct, frontal action. We do not need more conferences. A major conference was held on this subject, organized by the then Solicitor General in 1975 with participation from the territories and provinces. A whole list of recommendations came out of that conference. Some have been implemented, some have not. The ones that have been implemented tended to be those which make the system more heavy. Since that documentation of the problem, the problem has become worse. In the Yukon, the increase in the incarceration rate from 1972 to 1982 was in the order of 9 per cent. In the Northwest Territories, the increase in that same period was a disgraceful 57 per cent.