

them, and I have proceeded on the basis of fundamental respect for the desire of people to know what is happening in connection with their affairs.

**Mr. Walter Deakon (High Park):** Mr. Speaker, I am sure the hon. member for Skeena (Mr. Howard) is well aware that all members of this House are just as concerned as he is about the welfare of the Indian and other native peoples. I will restrict my contribution to consideration of the claims of the aboriginal peoples for legal rights to land whether by treaty or by hereditary claim.

There are in Canada today approximately 450,000 people who are descendants of the aboriginal peoples who occupied this land before its discovery by Europeans. The law divides these groups into status Indians and non-status Indians and Eskimos. The status Indians, in turn, are divided into treaty Indians and non-treaty Indians and both of these groups are in turn divided into reserve Indians and non-reserve Indians. Historically, these people were divided into 11 linguistic groups and spoke at least 50 different languages. The settlements, reserves and bands are located in areas over the vast expanse of Canada. This is one of the reasons it is so difficult to get a true perspective of the place of Indians in Canada.

To consider the present objectively we must understand the past. The history of Indian relationships with the white man has not altered appreciably during the years, even with the emergence of new Indian leadership. The descendants of the aboriginal peoples are at least as concerned with the issues of treaty and aboriginal rights as were their predecessors.

Initially the Indians were friends and helpers of the white explorers who were small in number and unfamiliar with the land. As the land was colonized the Indians became restive because of the growing encroachments on their preserves. The Indians also assisted the white settlers in the fur and agricultural trades, but as settlements further advanced the more valuable lands held by the Indians were coveted and acquired by the whites. The Indians were therefore left with pockets of land frequently far distant from the rapidly settled and industrialized society.

Before the discovery of Canada, land was held communally; family ownership of certain resource areas existed within certain tribes, but land was not sold outside the tribal unit. The only method of obtaining land from others was by conquest. The concept of the sale of tribal lands by treaty or any other formal means to people outside the band or tribe was not within the native legal concept. This is a concept of European law, not a recognition of native law.

• (5:30 p.m.)

Undisputed possession and native concepts of land ownership were sufficiently developed in Canada that we must consider the legal aspect of aboriginal title. The native peoples did have clear possession and, therefore, at least a moral right; but legal right existed only in lands in settled occupation. The history of laws relating

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to Indians in North America, and their interpretation, shows the gradual extension of the new legal system and the parallel diminution of native rights based upon aboriginal occupation.

It has been submitted that aboriginal rights are part of international law, recognizing that territorial title is based on long and undisputed possession. This concept of aboriginal title and the adoption of it as a legal doctrine by the Privy Council leaves no question or doubt that it is part of Canadian law, although it may be that this concept does not apply to all parts of Canada, with all respect to the submission of the hon. member for Skeena. This leads us to examine the historical pattern of dealings with natives in this country. If aboriginal title has been extinguished where it existed, then we are in the right; but if it has not been extinguished we must, I submit, consider what legal claims, if any, can now be made by the native peoples.

I am sure hon. members on all sides of the House will agree that a solution to this problem must be reached soon and has long been overdue. For our treatment of the Indian population in Canada I do not believe we have any cause to be proud. Our native peoples are set aside from other citizens. The government for at least half a century has been encouraging Indians to leave their reserves. This movement has weakened the social and economic potential of reserve lands and now, because of this policy, the government is embarrassed by the backward nature and character of some of these peoples. The government finds itself in a paternalistic role. The Indians may be citizens of any particular province in which they may have settled, but they are also wards of the federal government; they are financially, economically and socially dependent upon the federal government.

The government found this role distasteful and realized that paternalism has not resolved the problem but has resulted only in heavy criticism of the government. The government would appreciate a change. On the other hand, Indian leaders are equivocal about change and have not a clear mandate from their people for such change. To them a change is frustrating and even threatening. The Indians are striving to ascertain just who they actually are, and are looking for their true identity to the past.

A government study in 1967 made the following comment:

It was the conclusion of the field workers that the question of treaty rights pervades the field of Indian/non-Indian relationships to such an extent that resolution of these differences is a precondition to acceptance by the Indian people of most programs for their benefit and advancement.

The evidence from this survey, from that of the Hawthorne group, and others, suggests that treaty rights are increasing in importance as more Indian people become better organized and develop a more vocal approach to government.

A brief to the joint committee of the House of Commons and Senate on Indian Affairs in 1960, by the Indian-Eskimo Association, stated in part as follows:

We know also that those Indians who, on one ground or another, mistrust the white man, tend to focus their bitterness on some treaty right, the alleged violation of which becomes a