

Indian Affairs

why it is so deceiving for other countries to denounce the scandal which allegedly exists in Rhodesia.

I recently read an article on the agreement between the British Commonwealth and the Rhodesian government. Having imposed ineffective sanctions against Rhodesia in 1961, England must change its decision.

Strangely enough, the leaders of the communist countries are in agreement with those of many other countries to denounce the alleged dictatorship which exists in Rhodesia.

Mr. Speaker, if the communist governments denounce Rhodesia, it is because they do not have the opportunity of creating discord and upsetting the government in view of the economic stability, the order and the discipline which are prevailing. Far from lecturing Rhodesia, we would have lessons to learn from that country provided we would go over there and find out what is going on. It cannot be that the government, with its white minority, will indefinitely control a black majority if it is as bad as it has been intimated, from the time Rhodesia has committed the sin of leaving the Commonwealth.

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[English]

INDIAN AFFAIRS

STATUS OF WOMEN WHO MARRY NON-INDIANS— ANNOUNCEMENT OF REVIEW OF LAVELL CASE BY SUPREME COURT OF CANADA

Hon. John N. Turner (Minister of Justice): Mr. Speaker, several questions have been raised in the House about the disposition of the Lavell decision of the Federal Court of Appeal of Canada. On October 8 of this year the Federal Court of Appeal pronounced judgment in the case of Jeanette Vivian (Corbiere) Lavell against the Attorney General of Canada. The three-man court, speaking through Mr. Justice Thurlow, ruled unanimously in favour of Mrs. Lavell's contention that the Canadian Bill of Rights rendered inoperative those provisions of the Indian Act pursuant to which Mrs. Lavell's name had been struck from the register of the Wikwemikong Band upon her marriage to a non-Indian.

Under the Indian Act, where an Indian woman marries outside her band she is no longer entitled to be registered with that band, but if her husband is an Indian belonging to another band she may be entitled to be registered with that other band. However, if she marries a non-Indian she loses completely her status as an Indian and her name is automatically struck off the register. On the other hand, where an Indian male marries he continues to belong to his band and his wife, whether she is an Indian belonging to another band or a non-Indian, is entitled to be registered with his band.

The Federal Court of Appeal found these provisions discriminatory by reason of sex, and that they denied the right of an Indian woman as an individual to equality before the law because they did not accord Indian women the same rights and privileges on marriage as Indian men.

This is a most important case, Mr. Speaker. It is important with respect to women's rights and the status of women upon marriage; it is an important case with

respect to Indians as a group and as a people; and it is an important case because it places a further interpretation on the application of the Canadian Bill of Rights with regard to the concept of "equality before the law." It is also the first case dealing with "discrimination . . . by reason of sex."

Because of the importance of the Lavell case with respect to the very important issues I have mentioned, and because it will be necessary for the government, with the assistance of the Indian people, to devise policies and laws that will respect the legitimate claims of all concerned, I have concluded that it is my duty as Attorney General of Canada to ask the highest court in the land, the Supreme Court of Canada, to review the judgment of the Federal Court of Appeal. In this regard I think that the women of this country, the Indians and, indeed, all Canadians who may be affected at some time by the interpretation that has been placed on the Canadian Bill of Rights are entitled to have the judgment of the court of last resort on the important issues that are involved.

In the course of these remarks I should make it clear that it would be imprudent, indeed improper, for me as Attorney General to express any views about the merits of the judgment of the Federal Court of Appeal, particularly as the issues involved can still be regarded as sub judice. However, I do believe it to be important to have the court's judgment reviewed by the Supreme Court of Canada and affirmed, if it was correctly decided, or reversed or modified, if it is found to be in error. I have therefore instructed my counsel to make certain that all of the important issues and arguments in the case are fully canvassed before the Supreme Court of Canada.

Mr. Eldon M. Woolliams (Calgary North): Mr. Speaker, I want to thank the minister for sending me a copy of his statement at about one o'clock today. I appreciate having had the opportunity to read it and to review the decision in the case.

At the outset I may say that the first question with respect to this matter was asked by the hon. member for Oxford (Mr. Nesbitt) on April 20, 1971. I am advised that the husband's father and mother live in his constituency.

Briefly may I say that the facts of the case are very simple. The appeal court of the new Federal Court created by the Minister of Justice (Mr. Turner) ruled unanimously, by a judgment of Mr. Justice Thurlow, in favour of Mrs. Lavell's contention that the Canadian Bill of Rights rendered inoperative those provisions of the Indian Act which, as interpreted by the Department of Indian Affairs, meant that when an Indian woman marries and at the time of her marriage is a member of an Indian band living on a reservation, then because she marries a white man she loses all her rights as an Indian and ceases to be a treaty Indian. However, if the facts are reversed and an Indian man romances a white girl then that man does not lose his rights. The situation seems very strange in view of the fact that when we have pressed the Minister of Justice from time to time to institute an appeal in reference to the constitutionality of Bill C-176 he has refused.