

an accelerated programme of claims settlement and has set aside several hundred million dollars for possible awards.

### **Opposition to patriation**

Many Indian groups consider progress in claims settlement inadequate however, and contending that the British Monarch and government continue to retain responsibility for Indian welfare in Canada, mounted an extensive lobbying campaign among British parliamentarians, in an attempt to have patriation of the constitution blocked or at least have its guarantees on native rights substantially strengthened.

The Indians demanded a clear delineation of aboriginal and treaty rights and of the right to virtually independent self-government, explicit guarantees of the distinct cultural, economic and linguistic identities of Canadian native peoples, and a much more substantial role in the constitutional amendment process. Many Indians believed that native peoples in Canada as a whole should be considered a separate and distinct nation and dealt with by the federal government on the same basis of equality that the federal government would accord a foreign country.

In the absence of these guarantees many Indian leaders contended that patriation would 'lead to the final destruction of the ways of life' of their peoples. The federal government replied that the concept of aboriginal rights was so vague and the variations of the definitions of these rights so wide among the various Indian bands themselves, that their resolution would take years of negotiations, and should properly be isolated from the more urgent question of constitutional patriation.

Moreover, some resource-rich provinces refused to consider an 'open-ended' endorsement of native rights in the Constitution lest these rights be interpreted to substantiate Indian claims to lands not occupied by Indians but discovered to be rich in petroleum or mineral resources. A final compromise was reached which includes in the declaration of rights a confirmation that all existing treaty and other rights or freedoms of the aboriginal people of Canada are recognised, including those established by Royal Proclamation, or which may be acquired in future by way of land claims settlement.

Where this provision conflicts with other provisions in the Bill of Rights it will override them, eg the guarantee of mobility rights will not allow other Canadians to move on to reserves, education rights will not alter established Indian rights to have their children educated in their own language, and hunting and fishing rights will be safeguarded, which accord special privileges to Indians not granted to other Canadians.

### **Indian social conditions**

Behind Indian complaints are social conditions which in spite of the federal government's efforts trail badly behind national standards. Federal government efforts to improve these conditions have assumed herculean proportions, particularly

in the last twenty years. In the 1981-82 fiscal year expenditures on Indian programmes reached \$926.8 million (£410 million). Increased government spending has been accompanied by an increased determination to avoid past practice, whether conscious or unconscious, of expecting Indians to accommodate to white man's ways. Determined efforts are being made to pass as high a proportion as possible of these federal funds to the Indians themselves to administer, as fast as they can acquire the education and ability to do so.

Indians of potential talent are being sought out and their education assured to the highest levels which they are capable of attaining. Indians' attendance at universities, for example, has increased ten times in the last ten years. Indians now occupy important positions in virtually every profession in Canada; one has recently served as a provincial Lieutenant-governor, another as a cabinet minister.

Within the last fifteen years a concerted effort has been made to train Indian teachers, not only to teach in Indian schools but to teach modern courses in Indian Languages, such that the proportion able to speak, write and express themselves in their own Indian Language has at least remained stable. Various Indian programmes designed to re-inforce traditional cultures have been initiated and government assistance has been offered to bring manifestations of Indian artistic expression to international standards and attention (Britain has recently seen three touring exhibits of Indian art, and two visits of Indian dance and folklore groups).

Although much remains to be done, Indian living conditions are steadily improving in most material ways. Financial assistance alone, however, will not provide the answers to Indian problems any more than it would to the problems of developing countries. Lifestyles and values remain the vital consideration, coupled with a willingness to accept education and an appreciation of the virtues of training and experience.

### **Canadian Indians and the British Courts**

The Canadian Indians took their plea for British intervention in the constitutional debate all the way to the British Court of Appeal. The Royal Proclamation of 1763 was like a Magna Carta for the Indians, Lord Denning, the Master of the Rolls, declared in passing judgement on 28 January 1982, and promises given to the Indians over their land rights and freedoms must be honoured 'so long as the sun rises and the river flows'. But he added, the obligations of the crown were divisible between those owed by the Queen of Britain and those owed by the Queen of Canada, and responsibility for the Indians of Canada clearly rested with the government of Canada. The British parliament could not therefore pass judgement.

Lord Denning noted that the Canada Bill contained a charter of rights and freedoms which would in itself guarantee aboriginal rights, and that the constitution also provided for the initiation of a conference within one year to begin consideration of Indian concerns 'including the identification and definition of the rights of those peoples'.