

Why End Race Based Law?

Canadians believe in equality, that all men and women have equal rights. We have determined that all shall be treated fairly and that no one shall be shut out of Canadian life, and especially that no one shall be shut out because of his, or her, race.

Only a policy based on this belief can enable Canadians of Aboriginal heritage to realize their needs and aspirations.

Native Aboriginal relations with other Canadians began with special treatment by government and society, and special treatment has been the rule since Europeans first settled in Canada. Special treatment has made of the Aborigines a community disadvantaged and apart.

Obviously, the course of history must be changed.

The changes proposed recognize the simple reality that the separate legal status of Aborigines, and the policies which have flowed from it, have kept the Aboriginal people apart from, and behind, other Canadians. The treatment resulting from their different status has often been worse, sometimes equal and occasionally better than that accorded to their fellow citizens.

What matters is that it has been different.

We can no longer perpetuate the separation of Canadians.

Now is the time to change.

The Government should be prepared to take the following steps to create this framework:

–Propose to Parliament that the ‘Indian Act’ be repealed and take such legislative steps as may be necessary to enable Indians to control Indian reserve lands and to acquire title to them;

-Start the Constitutional amendment procedures necessary to remove the specific references to 'Indians' from the Constitution;

-Propose to the governments of the provinces that they take over the same responsibility for Canadian Aboriginals that they have for other citizens in their provinces. The takeover would be accompanied by the transfer to the provinces of federal funds normally provided for Aboriginal programs, augmented as may be necessary;

-Wind up that part of the Federal Government which deals with Indian/Aboriginal/'First Nation'/'Indigenous' Affairs. The residual responsibilities of the Federal Government for programs in the field of Aboriginal affairs would be transferred to other appropriate federal departments.

Canada cannot seek the just society and keep discriminatory legislation on its statute books. The ultimate aim of removing the specific references to 'Indians' from the Constitution may take some time, but it is a goal to be kept constantly in view.

In the meantime, barriers created by special legislation can generally be struck down.

Under the authority of Heading 24, Section 91 of the 'Constitution Act, (1867)', the Parliament of Canada has enacted the 'Indian Act'. Various federal-provincial agreements and some other statutes {i.e. Section 718.2(e) of the Criminal Code (R.S.C., 1985, c. C-46)} also affect Aboriginal policies.

Removal of this, and other, references in the Constitution {i.e. Sections 35 and 25 of the Constitution Act (1982)} is necessary to end the legal distinction between Aboriginals and other Canadians.

In the short term, repeal of the Indian Act and enactment of

transitional legislation to ensure the orderly management of Aboriginal land would do much to mitigate the problem.

Services must come through the same channels and from the same government agencies for all Canadians. This is an undeniable part of equality. It has been shown many times that separation of people follows from separate services.

There can be no argument about the principle of common services.

It is right.

It cannot be accepted now that Aboriginals should be constitutionally excluded from the right to be treated within their province as full and equal citizens, with all the responsibilities and all the privileges that this might entail. It is in the provincial sphere where social remedies are structured and applied, and the Aboriginal people, by and large, have been non-participating members of provincial society.

Canadians receive a wide range of services through provincial and local governments, but the Aboriginal people and their communities are mostly outside that framework.

It is no longer acceptable that the Aboriginal people should be outside and apart. The Government must ensure that services are available on an equitable basis, except for temporary differentiation based on need.

Services ought not to flow from separate agencies established to serve particular groups, especially not to groups that are identified ethnically.

Therefore, the traditional method of providing separate services to Canadian Aboriginals must be ended. All Aboriginals should have access to all programs and services of all levels of government equally with other Canadians.

The terms and effects of the Treaties between the Canadian Aboriginal people and the Government are widely misunderstood. A plain reading of the words used in the treaties reveals the limited and minimal promises which were included in them.

The significance of the Treaties in meeting the economic, educational, health and welfare needs of the Aboriginal people has always been limited and will continue to decline. The services that have been provided go far beyond what could have been foreseen by those who signed the Treaties.

A policy can achieve no more than is desired by the people it is intended to serve. The essential role of a new approach is that it acknowledges that truth by recognizing the central and essential role of the Aboriginal people in solving their own problems. It will provide, for the first time, a non-discriminatory framework within which, in an atmosphere of freedom, the Aboriginal people could, with other Canadians, work out their own destiny.

Government policies must lead to the full, free and non-discriminatory participation of the Aboriginal people in Canadian society. Such a goal requires a break with the past. It requires that the Aboriginal people's role of dependence be replaced by a role of equal status, opportunity and responsibility, a role they can share with all other Canadians.

We must not perpetuate policies which carry with them the seeds of disharmony and disunity, policies which prevent Canadians from fulfilling themselves and contributing to their society.

Governments can set examples, but they cannot change the hearts of men. Canadians stand at the crossroads.

For Canadian society, the issue is whether a growing element

of its population will become full participants, contributing in a positive way to the general well-being or whether, conversely, the present social and economic gap will lead to their increasing frustration and isolation, a threat to the general well-being of society.

For the Aboriginal people, the only road that existed since Confederation and before was the road of different status, a road which has led to a blind alley of deprivation and frustration. This road, because it is a separate road, cannot lead to full participation – to equality in practice, as well as in theory.

This belief is the basis for our determination to open the doors of opportunity to all Canadians, to remove the barriers which impede the development of people, of regions, and of the country.

–paraphrased from “Statement of the Government of Canada on Indian policy (The White Paper, 1969)”:

<http://www.aadnc-aandc.gc.ca/eng/1100100010189/1100100010191>

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