Introduction and Conclusion Paragraphs

Introduction

On June 28, 1985 Canada's federal government passed Bill C-31, "An Act to Amend the Indian Act." The Honourable (cdn)David Crombie, then Minister of Indian Affairs and Northern Development, stated that the government's intended purpose in passing this legislation was to address "two historic wrongs in Canada's legislation regarding Indian people." The first of these injustices was the Indian Act's discriminatory treatment of women, and the second was the control it granted government as regards membership in Indian communities. In order to right these wrongs, the final configuration of the Bill sought to ensure three fundamental principles: first, that all discrimination be removed from the Indian Act; second, that Indian Status and band membership rights denied by previous Indian Acts be restored to persons who lost them; and third, that Indian bands have the right to control their own band membership.

Events that occurred in the 1970s and 1980s were the impetus for Bill C-31. In 1969, a government publication called *The 1969 White Paper* had recommended that equality for First Nations persons be pursued through the elimination of government policies which marginalized Aboriginals from mainstream society, particularly those pertaining to: status registration; reserve lands; and special privileges. This publication marked the emergence of a wave of political activism among Canada's Aboriginal population. During the next two decades the National Indian Brotherhood became vocal proponents of Aboriginal Rights and negotiated with the federal government to revise the Indian Act. It was also during this era that First Nations women first began to voice their disapproval of the Act's provisions for gender discrimination. This sentiment was voiced by individual women such as Mary Two-Axe Early and was also

mentioned by the Federal Government's 1970 Royal Commission on the Status of Women, which condemned sex discrimination in the Indian Act. Court cases forwarded by Jeannette Corbiere-Lavell and Yvonne Bedard brought further attention to this issue in Canada. Both Corbiere-Lavell and Bedard challenged Section 12(1)(b) of the Indian Act on the basis of its discrimination against women: the act allowed status men to confer status to non-aboriginal women through marriage, but required Aboriginal women to relinquish their status upon marriage to a non-Aboriginal man. While the Federal Court ruled in favour of both Bedard and Lavell's petitions, the Supreme Court overturned their case on the rationale that Aboriginal women who lost their status because of Section 12 were compensated by accruing the protections conferred to all non-Aboriginal women. In other words, they gained status and privilege within Canadian society previously denied them as Aboriginal women.

Since the Canadian state was not willing to resolve this issue, Sandra Lovelace, another Aboriginal woman with the same grievance, instead took her case to the UN Human Rights Committee in 1977. There she alleged that Section 12(1)(b) was a violation of her civil and political rights under the *International Covenant on Civil and Political Rights (ICCPR)*. In a decision released in 1981, the Committee held that Canada had violated Section 27 of the Covenant by denying Lovelace of one of her legal entitlements as an ethnic minority, the right to participate in her culture, religion and language. This denial occurred because the loss of her Indian status legally severed her and her children's ties to their reserve. This ruling reflected the political discourses of the time in creating international pressure for Canada to amend the Indian Act. Canada, too, was changing, and its creation of the *Charter of Rights* would profoundly influence the government's decision to amend the Indian Act in 1985. Fulfilling the Charter's provisions to entrench constitutional rights for Aboriginal People (Section 35) and sexual

equality for all Canadians (Section 15) required that the Indian Act be changed; the Charter's mandate could not accept the explicit discrimination it put forth.

On the surface, the 1985 *Act to Amend the Indian Act* is laudable. It appears to express the Canadian State's sincere attempt to make restitution for some of the historic injustices it has inflicted on Aboriginals. However, a closer examination of the act's configuration and the circumstances surrounding its application suggest otherwise. The questionable outcomes revealed therein indicate that Bill C-31 was just another attempt to deal with what has been coined the "Indian Problem" through legislative means. To demonstrate that this Bill was not designed to enable the successful achievement of its fundamental principles, this essay will investigate its impact on Aboriginals in four areas: 1) barriers to registration and the registration process; (2) revised provisions to confer status; 3) provisions for benefits associated with band membership, and 4) unity within reserve communities. In the course of this investigation it will become increasingly evident that—as stated by Smokey Bruyere, one-time President of the Native Council of Canada—the Canadian Government's intention with Bill C-31 was to create "a mechanism designed to execute a policy of ethnocide and assimilation."

Conclusion:

The catch-22s and stumbling blocks that characterize Bill C-31 reveal that this legislation was deliberately deceptive as regards the principles it put forth for Canada s First Nations. The alternative ways in which the government could have provided for Aboriginals and their future are many; the final configuration it adopted for Bill C-31 and the outcomes thereby generated demonstrate that Canada is flagrantly indifferent to the promises that it as a nation was beholden to keep. These outcomes further suggest that the government has violated those very ideals and

goals on which the bill was founded. Ultimately, the value which Canada places on its First Nation peoples has changed very little in 200 years; through Bill C- 31 the survival of Canada's Aboriginals remains threatened as the historic goal of assimilation continues to be pursued. That the government has not made any amendments to Bill C-31 or taken action to resolve the problems associated it only reinforces this impression. As many mainstream Aboriginals (as well as a non-Aboriginal Canadians) remain unaware of the implications of this bill beyond its original re-instatement provisions, the fight against it is therefore left to political First Nations organizations—and they are clearly subordinate to the Canadian government.

In maintaining its deception, the Canadian government can point out that by December 31, 2000, 114,512 people had gained Indian status based on Bill C-31 amendments. They need not volunteer the fact that 44,199 had been denied, nor estimate the numbers of those eligible for status who failed to apply for or secure the proper documentation. The government can further defend the bill on the following bases: the Status-Indian population rose 19% because of the bill from 1985 to 1990; registrants of Bill C-31 made up 17% of the Indian register in 2000; 13% (79) of Aboriginal bands faced a 100%+ increase in band membership after the bill, while 62% (379) saw an increase of 10-30%; and the off-reserve Status Indian population more than doubled between 1981 and 1991. They need not make it known that whereas seven out of ten Status-Indians lived on reserve prior to the re-instatement, in 2000 the population was fewer than six out of ten Canadian Aboriginals. Nor have they been required to project numbers of Status individuals among future generations of Aboriginals, which—as has been shown—are guaranteed to decline substantially.

Thus, Canada can maintain it course of “Abocide”. As Cree writer and activist Harold Cardinal wrote in 1971: “In the United Sates the only good Indian is a Dead Indian. In Canada, the only good Indian is a Non-Indian.”