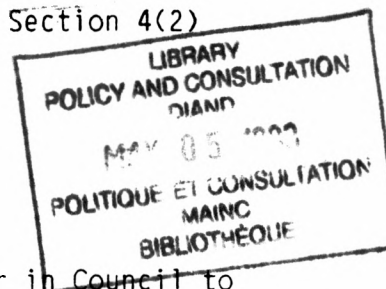


Legislative History &
Parliamentary Intent
Behind Section 4(2)...

E92
L43
c.1

1990.

The Legislative History and Parliamentary Intent Behind Section 4(2)
of the Indian Act.



Indian legislation since 1873 has allowed the Governor in Council to exempt Indians, Indian Bands and/or reserves from the application of certain aspects of the Act. Most recently, from 1951 until Bill 31 was proclaimed (deemed in force April 17, 1985), the relevant version of the section read as follows:

4.(2) the Governor in Council may by proclamation declare that this Act or any portion thereof, except sections 37 to 41, shall not apply to
(a) any Indians or any group or band of Indians,
or
(b) any reserve or any surrendered lands or any part thereof,
and may by proclamation revoke any such declaration.'

The Standing Joint Committee on Regulations and Other Statutory Instruments cited the previous government for its use of section 4(2) especially in the area of band membership. It doubted that Parliament's intention could have been that the Governor in Council could make exemptions that went right to the heart of the application of Indian legislation. The debate concerns whether the word "portion" above could be properly extended to something smaller than a section, such as a phrase or a word, and whether Parliament could have intended the possibility of exemptions which might alter the definition sections of

the Act. An example would be a proclamation deleting the word "male" from section 11(1)(d), a membership provision.

Recent amendments to the Indian Act (Bill C-31) put membership sections out of the reach of section 4(2), however debate still continues with respect to the practice of lifting other words such as "ordinarily resident" from voter eligibility provisions.

This paper will argue that Parliament's intent with respect to section 4(2) and its predecessors was to provide for flexibility within Indian legislation, and therefore "portion thereof" may include something less than a section.

A provision allowing the Governor in Council to exempt Indians or reserves from the application of legislation governing Indians by proclamation first appeared in 1873.² It read:

9. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this act, and of the said Act,... or of any one or more of the clauses thereof, the Indians, or any tribe of them, or the Indian Lands, or any portion of them, in the North West Territories, or in the Province of Manitoba, or in the Province of British Columbia, and may again, by like proclamation, from time to time, remove such exemption.

While no direct reference to this provision appears in Hansard's [for 1873-74, "The Scrap Book Debates"], it may have been viewed as a mechanism to promote the government's incipient assimilationist policy as

reflected in "An Act for the Gradual Enfranchisement of Indians..." [1869].³

It seems that initially the purpose of the section was to help the Western Bands, newly under the Act, to fit more easily into the regime governing Eastern Bands. However in 1876 the ambit of the section was widened to include any province, the Northwest Territories and the territory of Keewatin.⁴

Comments made 70 years apart by two Ministers of Indian affairs regarding the early version of the Act and the latest overhaul (1951) respectively, indicate that the government retained a great deal of control and responsibility for Indian well being. In 1880, Sir John A. Macdonald stated that government Indian policy was

to wean them by slow degrees, from their nomadic habits, which have almost become an instinct, and by slow degrees absorb them or settle them on the land. Meantime they must be fairly protected.⁵

In 1950, W.E. Harris reviewed past policy and announced the new:

The ultimate goal of our Indian policy is the integration of the Indian into the general life and economy of the country. It is recognized, however, that during a temporary transition period of varying length, depending upon the circumstances and stage of development of different bands, special treatments and legislation are necessary.⁶

// These comment stress 'fair protection' and 'special treatments and legislation'. In terms of section 4(2) the inference to draw is for a wide scope and flexible construction. Furthermore, the evolution of

the section's language from "any one or more of the clauses (sections) thereof " in the earlier versions, to the 1951 amendment "this Act or any portion thereof" is consistent with this interpretation.

The following Indian criticism of section 4(2) reflects their general dissatisfaction with Indian legislation generally.

The first and most obvious criticism of the Indian Act derives from the extremely wide powers which are invested thereunder, in the Governor General in Council, and more particularly, in the Superintendent-General. Although Part I of the Indian Act purports to be of wide and general application, section 3 [the predecessor to s. 4(2)] endows the Governor in Council with power to "Exempt from the operation of this Part ... Indians or non-treaty Indians, or any of them, or any band or irregular band of the(m) or the reserves or special reserves, or Indian lands or any portion of them...". Thus upon mere proclamation, the efficacy of Part I of the Act may be abrogated, and the statutory legislative intent set at naught.⁷

Thus the proclamation section in the early Act embodied Indian fears that unilateral action might be taken by the government to their detriment. The concern over government policy is reflected by this comment in the House of Commons during debates of proposed amendments to the Act in 1894:

One of the great difficulties in framing an Indian Act is the different stages of advancement of the various tribes....It seems to me that in the case of the more advanced bands, we should legislate to give them greater control of their own affairs and not take away from them the limited powers that they already have. It seems to me we should not take away from the Indians and centre more power in the Superintendent General.⁸

Later amendments to the Act, however, increased the authority of the government and the discretionary power of its officials. The Indian community of the era felt the degree of government interference oppressive. The complexities of the administrative system caused frustration for Indians. The Indian Act system undermined the foundations of Indian government and created a unique dependency upon the Department of Indian Affairs. The anomalous situation arose where the Superintendent General had the dual role of government representative and guardian of Indian rights.⁹

This situation subsisted until shortly after WW II when the public recognized the inherent inequities in the Indian Act.¹⁰ A Special Joint Committee of the Senate and the House of Commons (S.J.C.) was created with the mandate to review the relationship between Indians and the government and to make recommendations for revising the Indian Act and Canada's Indian administration. It sat for three years, 1946-48, and promised "to ensure that the forthcoming revision of the Indian Act will, in every sense, be the Magna Carta of Canadian Indians".¹¹

The S.J.C. hearings 1946-48 are instructive in terms of section 4(2) in many aspects. Firstly, evidence to the Committee reflected the Indians universal opposition to the vast powers in the preceding versions that the government might exercise over their "wards". Secondly, the public was made aware of many of the discriminatory provisions of the Act and other inequities in the Indian-government relationship.

Andrew Paull, President of the North American Indian Brotherhood, condemned the Indian Act before the Committee as "an imposition, the carrying out of the most bureaucratic and autocratic system that was ever imposed upon any people in this world of ours".¹² He also accused the government of having abrogated the treaties and of having dealt with Indians as less than equals. Paull told the Committee that what was most important in improving the Indian situation was "to lift the morale of the Indians in Canada".¹³ The feelings of Indians can be summed up in this statement to the Special Joint Committee from the Six Nations:

The Act retards the progress of our nation, and as it stands today can be criticized from beginning to end, every section of the Act. It is too dictatorial and the powers invested in the Indian Agent and the Superintendent General are too arbitrary and autocratic.¹⁴

And from the Indian Association of Alberta:

We believe...that the revised Indian Act must be based upon broad principles of human justice. It must, we know, provide for the development of the Indian peoples of Canada. In the development of the people we believe that the new Act must place more and more responsibility upon our chiefs and Councils to act as governing bodies.¹⁵

Generally, Indian submissions to the Committee reflected the concern that Indian administration simply wasn't working. The Committee made recommendations to Parliament that certain immediate administrative improvements would likely remedy many of the problems in Indian Affairs without the need for legislative revisions. This indicates the Committee's view that the administrative process rather than any fundamental philosophical difference between Indians and government was at the root of the problem, despite the Indian argument for self government. The Committee perhaps envisaged that section 4(2), as an executive power to exempt from the application of the Act from time to time as required, could ameliorate the administrative process and expedite matters without the necessity of the legislative process. This hypothesis for the purpose of section 4(2) would later be supported by the comments of Parliamentarians during debates over Bill 79, ultimately the revised version of the Act (1951).¹⁶

The interpretation of section 4(2) is aided by a witness, Mr. Justice Macdonald of the Supreme Court of Alberta, who had these comments for the 1947 Committee regarding the Indian Act.

An Indian treaty ... should not be construed according to strict or technical rules of construction. So far as it is reasonably possible, it should be read in the sense in which it is understood by the Indians themselves.

The Indian Act is loosely drawn and is replete with inconsistencies. I venture to say that flexibility rather than rigidity, and elasticity rather than a strict and narrow view should govern its interpretation.¹⁷

Compare the above judicial pronouncement on the interpretation of the Indian Act with this quotation from Mr. Justice Brian Dickson, as he then was, in the Nowegijick case involving an Indian's claim to a tax exemption in the Indian Act:

It is legal lore that, to be valid, exemptions to tax laws should be clearly expressed. It seems to me, however, that treaties and statutes relating to Indians should be liberally construed and doubtful expressions resolved in favour of the Indians. If the statute contains language which can reasonably be construed to confer tax exemption that construction, in my view, is to be favoured over a more technical construction which might be available to deny exemption. In Jones V. Meehan, 175 U.S. 1, it was held that "Indian treaties must be construed, not according to the technical meaning of their words, but in the sense in which they would naturally be understood by the Indians."

The first bill placed before Parliament in 1950 to revise the Indian Act, Bill 267, failed. In what was termed 'a historic' conference by the Hon. W.E. Harris, Minister of Citizenship and Immigration, Indian representatives from across the country gathered in Ottawa to discuss Bill 79 the new proposed legislation. Minutes of this conference, held Feb. 28 - March 3, 1951, indicate that while all the sections were explained to the representatives and most of the sections drew at least some opposition, section 4 is mentioned only as having been accepted by all present¹⁹. From this we can surmise that the section was presented as remedial in nature. In the House, Harris explained government

policy. He said the underlying principles of Indian legislation through the years had been the protection and advancement of the Indian population, and that more emphasis was being laid on greater participation and responsibility by Indians in the conduct of their own affairs.²⁰ Their status was "of having privileges, duties and responsibilities equal to those of Canadians and exercising them in the same manner we do."²¹ Of section 4(2) Harris said "This section was designed to relieve the Indian from what might appear to be restrictive provisions...."²² When the opposition suggested that the government might try to avoid its responsibilities to Indians and that the section might be used to destroy treaties, Harris countered with:

the problem is to maintain the balance of administration of the Indian Act in such a way as to give self determination and self government as the circumstances may warrant to all Indians in Canada, but that in the meantime we should have legislative authority to afford any protection and assistance.²³

He further stated that "our policy should be to extend self government to all reserves as soon as possible", and asked the House to recognize "that the Indian has arrived at that point, in many instances, where he not only can but should have control of his own affairs".²⁴

The Hon. J.A. Charlton, a strong Indian rights advocate in Opposition, pointed out that faced with previous versions of Indian legislation it had become the goal of Indians to avoid assimilation.²⁵

He noted that Indians were opposed to section 4(2) because "the Governor in Council has power to do almost anything it wishes to any reserve or to any Indian on a reservation".²⁶ He went on to express his "faith that the Minister would not do anything detrimental to the Indians. Nevertheless, as I read the subsection and note the power it contains I am led to the conclusion that it is an absolute contradiction of the democratic principles of British justice".²⁷ Charlton contended that section 4(2) "does not give justice to the Indians. It would not be considered justice for white people; why should it be so considered for the Indians of Canada?"²⁸

Later, in discussions of the Special Committee Appointed to Consider Bill 79: An Act Respecting Indians, the Minister Mr. Harris raised the concerns of Indians respecting section 4(2).

The understanding of this section by The Six Nations is that the Governor in Council has the right to exercise unlimited power without the Indians being consulted, making it possible to abolish their reserve lands and privileges made by treaty. They consider this section is a gross injustice..."²⁹

The Minister then read the following presentation into the record:

As it stands now clause 4(2) of the bill is a two edged sword. While it gives the Governor in Council the right to declare parts of the Act inapplicable to an Indian or a band, thus opening the way for the Indian to gain progressively greater control over their own affairs, it could

also open the way to losing some of the rights they already have. An amendment should be written into this clause so that the present rights and status of the Indians shall be in no way interfered with.

The delegation from the Six Nations Council called on me and expressed their disapproval of the section on the ground that it could be used to take away from them the provisions of the Indian Act itself.

I said that was precisely what the section was intended to do. If they were to agree with me there were advantages in the Indian bill for them we could perhaps proceed on another basis.³⁰

In response to queries that the section might be used in a retrogressive manner, Mr. Harris assured the Committee that "(T)he purpose of the section is to relieve the Indians and the band council of any onerous provisions of the Act All I can say is that we have tried to draft this in a manner that would cover the power the Governor in Council would have. I think we will have to leave it to the Governor in Council that the power will be exercised in light of Parliament trying to get on with the job."³¹

Although the Minister rejected a proposed amendment to the section calling for consent of the band before a proclamation could issue, Mr. Harris responded to Indian concerns related to land by exempting sections 37-41 from application of section 4(2). In the House the Minister had explained the section:

It is designed to assist the administration of the Indian Act, and to assist in removing those restrictions in the Indian Act from an Indian or a band from time to time, as circumstances may require. It is action taken by the Governor in Council, which would be on recommendation of course of the Minister, and we do not feel that it is necessary to have the consent of the bands in all cases.³²

Another Honourable Member Mr. Fulton, future Minister of Justice and Attorney General for Canada, said:

...it is not legislation, it is a proclamation of the Governor in Council. In view of the fact that there are so many administrative matters which must be dealt with under this statute, I think it is quite appropriate to have the matter dealt with by the Governor in Council, and not to require legislation before anything can be done."³³

The Honourable Mr. Blackmore added:

...in the Indian Act there were powers which if used by an administration genuinely interested in the welfare of the Indians, could be instruments of benefit...³⁴

In response the Minister reiterated:

The section is designed to aid in the flexible administration of Indian Affairs so that the Indians may have the benefit of being removed from some of the restrictions in the Act. If you did not have a section of this kind you would not be able to relieve the Indians from some of the restrictions unless the Act was brought back to

the House and it was done by way of amendment so that a particular section would not apply to a particular band. This is a salutary provision in the interest of the Indians and will be used for that purpose."³⁵

He further clarified the intent of the section:

If the time should come when a band would be benefited under certain circumstances by the action of the Governor in Council taken under this section then I think Parliament would hold the Governor in Council responsible if he did not exercise his judgement at that time as to what was in the interest of the band.³⁶

Thus it is clear that section 4(2) was intended to deal with Indian grievances expediently and without requiring amendments to the legislation. In emphasizing the Indian concern to safeguard their rights and to have a say in decisions affecting their status, Hon. Mr. Fulton regretted that section 4(2) did not provide for prior consultation with the band and urged "(T)his House of Commons must direct its mind to the question whether or not we are giving justice to these Indians, whether we are doing everything we can to place them on a basis of equality and in a position to protect their rights.....I wish to emphasize that it is not argued that the process by which these changes are made should be altered. It is not argued that it should require a further bill or further legislation to make the changes which the Minister now contemplates will be made by proclamation."³⁷

Section 4(2) remained unchanged from its 1951 version until Bill 31 (1985). The section was used most notably with respect to those inequities in membership portions of the Indian Act. Proclamations issued at the request of Band Councils to exempt a given band from the application of certain sections as the requirements and social conditions of the diverse Indian population had dictated. The proclamations recognized the reality of administrative restrictions and legislative restrictions that might have become anachronistic for some bands, for instance, residency requirements for electors. Proclamations have also been made, at the instance of Band Councils, to bring membership provisions applicable to the requesting band into conformity with human rights legislation, particularly s. 15 of the Charter of Rights and Freedoms guaranteeing equality and freedom from discrimination. Bill C-31 put membership beyond the reach of the Governor in Council's exempting power after discrimination was removed from the Act for all Bands.

Furthermore, Parliament has recently, through its passage of Bill C-31, sanctioned retroactively the most controversial prior use of section 4(2). Regarding the amendments to section 4(2), the Minister, Mr. David Crombie told the House:

These lines provide that previous proclamations made under section 4(2) of the Indian Act, which dealt with various membership issues as well as other matters, would be deemed valid. As Hon. Members may recall, over the past several years the Governor in Council has used section

4(2) to exempt bands, if they so requested, from discriminatory provisions in the Indian Act. This procedure was seen as a stopgap measure for those bands wishing to eliminate discrimination without having to wait for the sometimes lengthy process of legislative change.³⁸

The evolution of government's Indian policy to afford increased self government and the evolution of the exemption provision from "clause", "section", to "portion thereof", support the proposition that section 4(2)'s intended purpose has been one of expedience.

While there is an argument that on the language of section 4(2) an exemption from the application of the Act may only apply to a section of the Act as the smallest "portion thereof", and that to delete less than that portion amounts to an amendment of the Act, this would not be the approach of liberal and remedial construction of the Act as expounded by the learned Justices quoted above (see page 7).

The Indian Act through the decades has been widely acknowledged as restrictive and perhaps has not kept pace with advances in the Indian community and with society as a whole. The statements and commentary in the House, in the various committees and by representatives of Indian Nations have all indicated that section 4(2), in light of today's precepts, is a mechanism for speedy redress of Indian grievances. This use of section 4(2) is consistent with the policy of increased self

government at the band level, and with the goal of bringing the Indian Act up to date with actual political, economic and social developments in Indian communities across Canada.

Prepared by: Joe Yassi
Statutory Requirements
Reserves and Trusts
Indian and Inuit Affairs Program
997-9800

FOOTNOTES

1. Indian Act, R.S.C. 1970, c. I-6, s. 4(2).
2. An Act to provide for the establishment of "The Department of the Interior", S.C. 1873, c. 4 (36 Vict.), s. 9.
3. 32 - 33 Vict. c. 6
4. S.C. 1876, c. 18 (39 Vict.), s. 97.
5. House of Commons Debates 1880 : p. 1991
6. House of Commons Debates 1950 : p. 1350
7. Recommendations Respecting the Indian Act, R.S.C. 1927, Chapter 98.
Brief of the Protective Association for Indians and Their Treaties
to the Minister, 1945.
8. House of Commons Debates 1894 : p. 5546, Paterson (Brant)
9. Treaties and Historical Research Centre, Indian and Northern Affairs
Canada. Various papers.
10. Treaties and Historical Research Centre, "The Historical Development
of the Indian Act", 1978.
11. Special Joint Committee (S.J.C.) 1946 : p. 418
12. S.J.C. 1946 : p. 422
13. S.J.C. 1946 : p. 427
14. S.J.C. 1946 : p. 845
15. S.J.C. 1947 : p. 541
16. S.J.C. 1948: 186-190.
17. S.J.C. 1947 : p. 559
18. [1983] 1 S.C.R. 29; 46 N.R. 41 at 48.

19. Public Archives of Canada, RG26, Vol. 71, Misc. Indian Administration file.
20. House of Commons Debates 1951 : p. 1350
21. Ibid
22. House of Commons Debates 1951 : p. 1352
23. Ibid
24. Ibid
25. House of Commons Debates 1951 : p. 1356
26. House of Commons Debates 1951 : p. 1357
27. Ibid
28. Ibid.
29. Special Committee on Bill 79, p. 29
30. Special Committee on Bill 79, p. 30, Mr. Welbourn of the Students Christian Movement, University of Alberta
31. Special Committee on Bill 79, p. 30
32. House of Commons Debates 1951 : p. 3060
33. House of Commons Debates 1951 : p. 3061
34. Ibid
35. House of Commons Debates 1951 : p. 3062
36. Ibid
37. House of Commons Debates 1951 : p. 3106
38. House of Commons Debates 1985 : p. 5618

BIBLIOGRAPHY

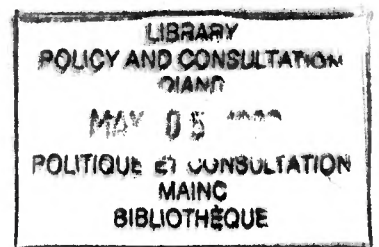
- The Basics of the Indian Act, Michelle Rocheleau, 1980.
- Discussion Notes on the Indian Act, DINA, 1971.
- National Conference on the Indian Act - Ottawa, DINA, 1969
- Federal Indian Policy and Indian Self Government in Canada: An Analysis at a Current Proposal, Long J.A. Little Bear and Boldt M., 1982.
- History of Indian Policy, Policy Planning and Research, 1975.
- Some Aspects of Governmental Indian Policy and Administration, Dunning R.W., 1962.
- Study of the Hawthorn Report, Treaties and Historical Research, 1976.
- Indian Government under Indian Act Legislation 1868-1951, Daugherty W. and Madill D., 1980.
- The Historical Development of the Indian Act, Treaties and Historical Research, 1978.
- Helping Indians to Help Themselves - A Committee to Investigate Itself; The 1951 Indian Act Consultation Process, Johnson Ian, 1984.
- Minutes of Proceedings and Evidence at a Special Committee Appointed to Consider Bill 79, An Act Respecting Indians.
- Minutes of the Special Joint Committee of the Senate and the House of Commons, on Indian Legislation, 1946-48.
- House of Commons Debates, 1869-1985.
- Recent Directions in Canadian Indian Policy, Weaver, Sally, 1978.
- Group Rights - The Constitutional Position of the Canadian Indian, Sanders D., 1972.
- Public Archives of Canada RG 10 and RG 26 various files on Indian Administration.
- Indian Act History, Treaties and Historical Research, 1975
- Indian Bill - Preliminary discussions, Dep't of Mines and Resources, 1949-50
- Canadian Indian Policy: A Critical Bibliography, Surtees R.J. 1980

A commentary on the Penner Report: The House of Commons special Committee Report on Indian Self Government, October 1983, Weaver Sully M., 1984.

Indian Self government: Progress or stalemate? Tennant, Paul, 1984.

The Paradoxical Nature of the Penner Report, Gibbons R. and Panting R.J., 1984.

- Most of the above are available at Treaties and Historical Research Centre, Department of Indian Affairs and Northern Development, 10 Wellington Street, 19th Floor, Hull, Québec.



DRAFT RESPONSE

Subsection 4(2) of the Indian Act provides that the Governor General in Council may declare that a portion of the Indian Act (except sections 5 to 14.3 - Registration and Band Membership and sections 37 to 41 - surrenders) shall not apply to any Indians or any group or Band of Indians.

Subsection 77(1) of the Indian Act provides that "a member of a Band who has attained the age of eighteen years and is ordinarily resident on the reserve is qualified to vote for a person nominated to be Chief of the Band."

The situation that exists today is that Band members may reside off the reserve; however, they still wish to participate in the decision making process of the Band and in particular, the elections of Councils which control, to a large extent, the assets of the Band in which off-reserve Band members share. In addition, the on-reserve members agree with this involvement.

In order to alleviate this difficulty, the Minister of Indian Affairs and Northern Development has on certain occasions recommended that the Governor General in Council invoke the powers of subsection 4(2) of the Indian Act. The use of subsection 4(2) of the Indian Act was recommended to declare inapplicable to certain Bands the portion of subsection 77(1) which requires that the member be "ordinarily resident on the reserve" which those bands through their Band Councils requested not apply to them.

It is the government's position that:

1. The Governor General in Council has the authority to declare portions of the Indian Act not to apply to Bands and the particular provisions of subsection 77(1) of the Indian Act referred to above are portions of the Indian Act which may be declared not to apply by proclamation under subsection 4(2).
2. It is not the use of subsection 4(2) but the subsection itself which is unusual. However, its wording is very broad and by clear language is only not capable of being used with respect to sections 5 to 14.3 and 37 to 41 of the Indian Act.
3. Any use of subsection 4(2) of the Indian Act alters in some manner the relationship of Indians who may be the subject of a proclamation to the statutory scheme under the Indian Act. It, therefore, is not unexpected that subsection 4(2) could be used to declare that the portion of the Indian Act relating to electoral qualifications not apply to certain Bands with the result that certain Band members who would not otherwise be eligible to vote in band elections would now be eligible.
4. The portion of the Indian Act can be declared not to apply to a Band while still maintaining a logical interpretation of section 77 of the Indian Act.

5. The making of a proclamation does not result in persons being qualified to vote who do not have the same degree of Band membership as others specifically entitled to vote by reason of their residence on a reserve, but ensures in those cases where a request for change has been received from a Band Council, that all persons who may be affected by the decisions of the Band Council are able to participate in the election of the Band Council.

6. In the absence of a judicial decision which would prohibit the use of subsection 4(2) to declare inapplicable to Bands the portion of the Indian Act referred to above, the government has done all that is possible to ensure that its actions are within statutory authority and that it has acted responsibly in acceding to the request for change from Band Councils.

It is the government's policy to be as responsive as possible to the requests of Band Councils to remove the aspects of the Indian Act which disentitle certain persons from voting in Band elections on the basis of residence.

MAR 13 1990

DISTRIBUTION: R. Quiney
B. Bennion
(subject)
Chrono
P.A.
Pending

François - R. Bernier
General Counsel
Standing Joint Committee for
the Scrutiny of Regulations
c/o The Senate
OTTAWA, Ontario
K1A 0A4

Dear Mr. Bernier:

Sixth Report (Report No. 40 - Indian Act)

I refer to your letter of December 14, 1989, and am pleased to provide a status report.

In my letter of October 31, 1988, I indicated to you that the Department of Indian Affairs and Northern Development was working toward amending the Indian Act to allow bands to extend voting privileges to off-reserve band members by means of a band by-law. Since that time, however, the comprehensive Lands, Revenues and Trusts Review, a process that commenced in 1987 has, through extensive consultations with Indian bands and organizations, identified a number of problem areas, including the extension of voting privileges to off-reserve band members. Indian people are currently examining DIAND's consultants' reports on options for legislative change and they will develop more specific proposals in the area of voting privileges (as well as many others).

The timing of the Review is open-ended, because the issues are so many and complex. Ministers have stated that the process can not be rushed and that the time for imposing legislation on Indians is past. The approach is to make no changes to the Indian Act until

.../2

these changes are clearly what Indian people want. While this may not see current legislative issues addressed expeditiously, the final result will, we hope, be more satisfactory to all parties.

Should you wish to have more information on the LRT Review process and its findings to date, please let me know.

Yours sincerely,

Original
Signed By: R. Quiney

R.G. Quiney
Director General
Executive Support Services



MEMORANDUM/NOTE DE SERVICE

TO/À:

Pamela Keating, A/Executive Director
Lands, Revenues and Trusts Review, DIAND

FROM/DE:

Claude Soucie, Legal Services, DIAND

SUBJECT/OBJET:

Use of section 4(2) of the Indian Act

Comments/Remarques

Following your August 7, 1990, letter to Donna C. McGillis and our meeting of today, please find attached a copy of the documents you requested concerning the above noted matter.

If you should have any further questions, please do not hesitate to contact me at your convenience. I can be reached at 994-2633.

Claude Soucie
Counsel

/CS