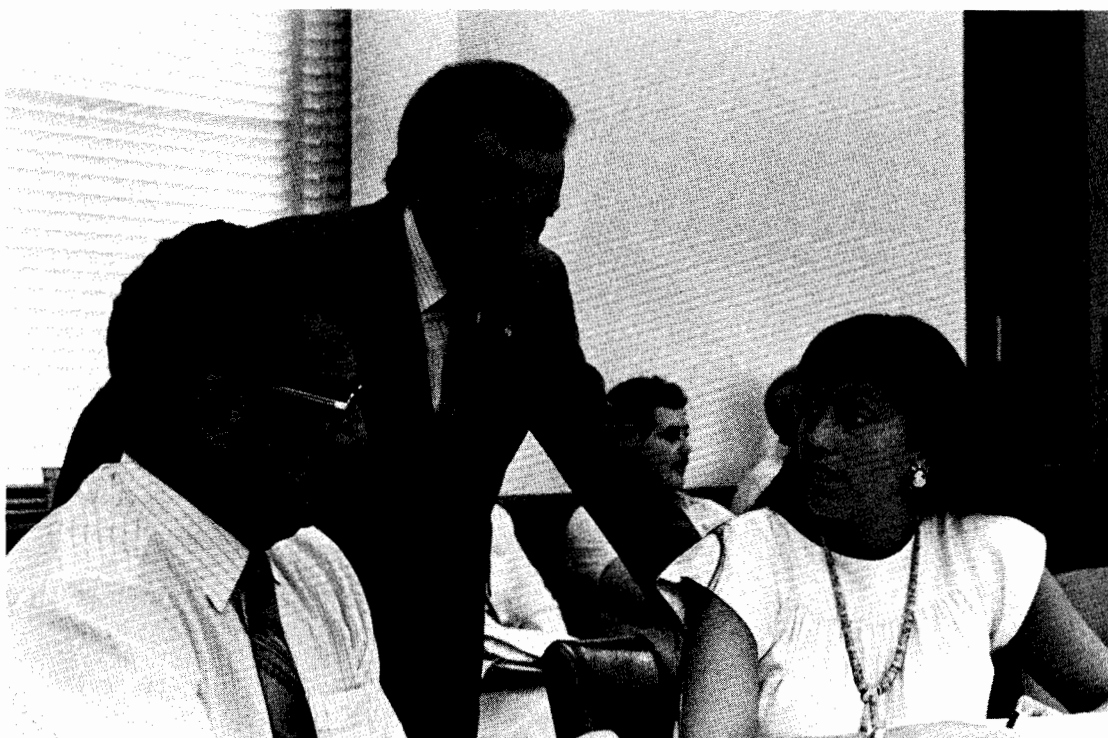


Twelve Days with the Sub-Committee on Women and the Indian Act

Barbara Plant Reynolds



Chairman, Jack Burghardt, MP, Ray Chenier, MP and Marlyn Kane, ex-officio member from the Native Women's Association of Canada (Photo by Hayleestees)

On August 4, 1982, the House of Commons directed the Standing Committee on Indian Affairs and Northern Development to examine "the provisions of the *Indian Act* dealing with band membership and Indian status, with a view to recommending how the Act might be amended to remove those provisions that discriminate against women on the basis of sex." The most blatant example, of course, is the clause which removes all benefits and rights provided by the *Indian Act* to any woman who married a non-Indian. At the same time the Standing Committee also received an order of reference to study the subject of Indian

self-government. This second study could not begin until the first one had been completed. Some committee members felt that the subjects of band membership and Indian status could not be studied in isolation from the wider context of Indian self-government. They therefore urged a short, concise study of the first subject so that the second study could begin. A deadline of September 20, 1982 was imposed upon the Sub-committee. From September 8-20, a period of just twelve days the Subcommittee heard 27 deputations with 44 witnesses. It hammered out a 45-page report which recommended elimination of sexual discrimination against Indian women in the *Indian Act*.

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Throughout the hectic, intense, exciting and perhaps historic period, I recorded some of my experiences.

Wednesday, September 8, 1982

The first public meeting took place this morning in Room 371 of the West Block. As we took our places around the table, I noticed the room very quickly filling up. Soon all chairs were taken and it was standing room only. I looked at faces in the audience, wondering how many had attended similar meetings on changes to the *Indian Act*. Do they see us as yet another committee whose report will gather dust on the shelf? I hope it will be different this time. One always feels optimistic at the start of a committee.

The Sub-committee is chaired by Jack Burghardt (Liberal-London West). The other Liberal members are Céline Hervieux-Payette (Montreal Mercier), J. Raymond Chénier (Timmins-Chapleau) and Ursula Appolloni (York-South Weston). Three MPs share the two seats allocated to the Progressive Conservative Party: they are Stan Schellenberger (Wetaskiwan), Frank Oberle (Prince George-Peace River) and Lorne Greenaway (Cariboo-Chilcotin). Jim Manly (Cowichan-Malahat-The Islands) is the sole New Democratic Party member. The Sub-committee has also invited three ex-officio members to participate in the hearings, Roberta Jamieson from the Assembly of First Nations (AFN), Gary Gould from the National Council of Canada (NCC) and Marilyn Kane from the Native Women's Association of Canada (NWAC). It is unusual to have ex-officio members participating side-by-side with MPs and I wonder how it will work.

In deciding to invite ex-officio members to participate, the Sub-committee was trying to show that it was not carrying out its investigative function in isolation from the very people being studied. It was an attempt to show good faith by bringing those most directly involved into the decision-making process. At the same time, the committee wanted to use the expertise and knowledge of the three organizations in planning the hearings, in selecting and questioning witnesses and in drafting the report. The practice of having ex-officio members afforded an opportunity to benefit from the insights of those individuals who were directly involved in the subject under study. As a side effect this also allowed the ex-officio members a chance to see and appreciate both the strengths and frailties of the parliamentary system.

During the actual hearings the ex-officio members participated fully in the deliberations. There were no special seating arrangements and the ex-officio members were free to sit at any side of the table. In fact only one ex-officio member changed seats throughout the hearings, sitting at various times with members of all three parties.

With respect to questioning of witnesses, the ex-officio members had the same opportunity as Members of Parliament. Each indicated to the Chairman when he/she wanted to be placed on the list of questioners; ex-officio members were not required to wait until all MPs had had a turn as they could ask to be on the list at any point. Likewise, ex-officio members were free to ask supplementary questions at any stage.

The first hearing began with a strongly-worded speech by the Honourable John Munro, Minister of Indian Affairs and Northern Development. He was unhappy about the decision to study this subject in such a short period. He called for a thorough and complete report. Emotions ran high as various MPs and ex-officio

members made their positions clearly known. The Chairman exercised great diplomacy which helped to cool tempers.

We waited half an hour for our first Indian witness to appear this afternoon. As Chief David Ahenekeew of the Assembly of First Nations read his presentation I realized that parts of it had been written after hearing the Minister's comments this morning.

When the meeting ended, I met quickly with my research team. Just as there are ex-officio members from each of the three aboriginal organizations, so too there are researchers from each. Gerry Gambill from the Assembly of First Nations, Alan Semple from the Native Council of Canada and Sandra Isaac from the Native Women's Council of Canada are working with Kate Dunkley, a colleague from the Library of Parliament, and myself. The research team has been directed to consult with each other at all stages to ensure that the viewpoints of the aboriginal associations are fairly represented. Kate and I gave them a crash course on the type of research assistance required by parliamentary committees. Rather than analytical papers on various topics, we must concentrate our efforts on preparing summaries of briefs and a collation of evidence. Our research colleagues seemed to be surprised to learn about other aspects of committee work such as the need for bilingual material. In addition to serving as researchers to the Sub-committee they are also assisting their associations in writing submissions and in preparing questions for their ex-officio members.

The Standing Committee had specifically directed that any researchers be selected in consultation with the aboriginal organizations. As research co-ordinator I run a fine line in ensuring that everyone has access to all information and that it is presented in a non-partisan manner. I hope Kate and I will be able to obtain the confidence of the aboriginal groups.

Thursday, September 9, 1982

This morning the Sub-committee listened to the Canadian Human Rights Commissioner who told them that the *Indian Act* is not subject to the provision of the *Canadian Human Rights Act*. Mr. Gordon Fairweather reminded the members that as a former Member of Parliament he had sat, several years earlier, in that very room discussing whether the *Indian Act* should be excluded from the protection of the proposed legislation. He then challenged the Sub-committee to get on with the process of eliminating discrimination against Indian women.

In the afternoon the Sub-committee heard the Native Women's Association of Canada. During its presentation I watched the faces of the Indian women who encircled the room, faces that waited and watched eagerly for the end of discrimination. There were occasional bursts of applause which punctuated an otherwise formal committee meeting. Marion Sheldon, a young Indian woman who has chosen to live common-law rather than lose her status, made an impassioned plea: "What do I tell my daughter when she says, 'Who are you Mommy, are you an Indian?'"

Ernie Benedict, an elder from the St. Regis Reserve, told us about the history of Indian people. We stood as he offered a prayer in the Mohawk language. His testimony was in a very different style from Mr. Fairweather! He said:

"... this is a good day for us to deliberate on these matters. The Creator has taken his blanket from in front of the sun and we may now see clearly that all the elements and forces and creatures of the nature are performing their duties as instructed by the Creator. Only the society of humans must constantly work to bring their minds together so that not only may we be at peace with one another but with the natural forces of creation."

The meeting ended with comments from Professor Donald Fleming who represented Sandra Lovelace, an Indian woman who had lost her status through marriage to a non-Indian. Mrs. Lovelace had taken her case before the United Nations Human Rights Committee.

By the end of the day my head was turning from listening to the variety of testimony. We had heard both scholarly comments on human rights and also very moving personal stories from people at the grass roots. How can we take this assortment and work it into a report? And yet out of this melange I begin to see the issues involved. After only two days the main areas of tension are becoming much clearer. We are immersed in the intricacies of individual versus collective rights complicated by historical and sociological problems and international conventions!

Friday, September 10, 1982

Committees do not usually sit on Fridays but we have no time to lose. Today we heard from the Native Council of Canada. They represent persons who have been excluded from the provisions of the *Indian Act*, many of whom were excluded because of the discriminatory sections. Donna Tyndell of the United Nations nervously told us her story. I was deeply affected by her comments about her mother's upcoming fourth and final potlatch ceremony and her desire to be buried on her reserve. I began to realize what is at stake for some of these women who are sitting and watching the Sub-committee at work. The various Native and Métis associations made numerous references to the definition of aboriginal rights and to the future constitutional conference on the subject. It is sometimes difficult to separate our study from the wider implications of the conference.

After the meeting ended there was plenty of work waiting for the research team as the "blues" or preliminary copies of the verbatim transcripts had arrived. Because of the short period of the study, we must work from these bulky transcripts rather than waiting for the neat little printed copies of the proceedings. We mapped out our duties for the weekend. Kate and I are going to prepare summaries of testimony and a collation of evidence. I went home to watch a movie, realizing that this might be my last chance for television for some time.

Saturday, September 11, 1982

I went to the office today to begin writing the summary of testimony and evidence. The Sub-committee has decided to conclude its public hearings on Tuesday and they want a summary ready for Wednesday morning when they begin to thrash out their report. Time is a precious commodity and I must get as much done as possible during the weekend. Preparing the initial summary is always time-consuming. One must decide upon the major points. Working from the "blues" took more time, but under the circum-

stances was a necessary procedure. Kate, my colleague from the Library, joined me as we kept a Saturday vigil in the office.

Sunday, September 12, 1982

I didn't go to the office today. It was bright, sunny and warm so I sat on my deck at home reading and summarizing more submissions. Even the "blues" were not available from Friday's meeting, so I had to rely upon the written statements and my notes. I enjoyed sitting in the sun but I realize that this relaxed pace will soon be replaced by a hectic workload. I wonder what will happen on Tuesday, the last scheduled day of public hearings? I understand the Chairman has been receiving telegrams from many groups, all asking to appear before the Sub-committee. Everything is so tranquil now, but I expect my week will be quite different.

Monday, September 13, 1982

The secretaries at the Library must have loved us this morning as we unloaded all the material we had written over the weekend. Denise looked at me as if to say, "How long did you work?" But I know she will handle everything efficiently. She has already started assembling the binders for Wednesday.

There were no meetings scheduled until 4:00 o'clock. I took advantage of the "free time" to answer the phone messages that had been piling up on my desk. It's hard to return calls when you're in meetings from 9:00 until 6:00. I had asked the Library's clipping service to prepare newspaper clippings on the Sub-committee and they had arrived so I assembled them for the MPs. Members were pleased to see they were getting a fair amount of press coverage. The Native press has been at all meetings. Over the weekend there were also a couple of radio specials on the Sub-committee's work.

The Inuit are explicitly excluded from provisions of the *Indian Act*. Nevertheless, today we heard from an Inuit woman who had married a *qualunnat* or non-Inuit. Speaking through an interpreter, she told us that some of her medical bills were not paid since the *Indian Act* had been used as an administrative guide in providing services. After several complaints, the practice was stopped.

The cafeteria on Parliament Hill closes at four o'clock during recess, so it is difficult to get a quick bite to eat. I went to a nearby restaurant where I saw our witnesses from the Inuit committee. We exchanged glances and they smiled as they saw I was writing a summary of their presentation while I was eating my sandwich. In a few minutes, Kate joined me, also clutching notes and papers to read during supper.

"Indian Rights for Indian Women," an organization specifically organized to push for the elimination of the discriminatory sections of the *Indian Act* were our witnesses this evening. The six women told us they had travelled a long way to meet the Sub-committee. They were prepared to sit all night. Despite gentle suggestions that a summary of their lengthy prepared statements would be sufficient, they insisted upon reading these statements into the record, including a 22-page history of the *Indian Act*. The formal presentation took two and one quarter hours! Yet, despite these prolonged formal statements, there was an intensity in the voices of these women. They had laboured so long for a cause one simply had to admire their perseverance. I was particularly im-



Jack Burghardt, MP, Smokey Bruyère of the Native Council of Canada and Clerks, François Prigent and Eugene Morawski. (Photo by Hayleestees)

pressed by the testimony of Mary Two-Axe Earley, well-known leader in the Native women's movement:

"I feel I must cry out, as a voice in the darkness of despair, I share every day of my life with this message — we need you to reach out with your heart, your support, your strength as we begin to weaken. Our only hope is that the Parliament of this great democratic society, reared in an atmosphere of freedom and justice, dedicated to the eradication of injustice toward Canadian women, will heed our cry."

Despite the late hour, the questioning was extensive. When the meeting finally ended at 12:15, the Chairman, Clerk, ex-officio members and myself met to map out the events for the final day of public hearings. It had previously been agreed that each aboriginal organization would have time on the final day for a summation. I learned, however, that two of the groups planned to use their time to present additional deputations. Tomorrow is going to be an extremely busy day as all evidence must be summarized by Wednesday morning. I drove home and worked on tonight's material until 3 o'clock.

Tuesday, September 14, 1982

Our morning hearing began at nine on a tense note since there was some confusion about the order of witnesses and the amount of time each was allotted. Finally, it was settled. Professor Douglas Sanders of the University of British Columbia gave us an erudite commentary on the membership provisions of the *Indian Act*. This was followed by a visual demonstration of what some Indian bands are doing to circumvent the *Indian Act*. Chief Bob Manuel, whose band has not removed the names of women who marry non-Indians, appeared with two women from his band whose identity was concealed by veils over their faces. They were only identified as Shuswap 1 and Shuswap 2.

Lunch was a hurried event as Kate and I rushed to write summaries of the morning's evidence in the fifty minute break between hearings. I managed to pick up a box of Kentucky Fried Chicken en route to the office and offered to share it with Kate. We



Two members of Shuswap Band with Chief, Bob Manuel, British Columbia (Photo by Hayleestees)

worked munching drumsticks and french fries, and managed to get the material finished before the afternoon session.

The Dene Nation was next. We listened as Celestine Gillday told us how she lost her status by marrying an "all-round Canadian boy" from London, Ontario. We smiled because our Chairman represents a London riding, but I sensed a sadness among Committee members when she told about the humiliation of losing her status:

"I cannot explain to you what it feels like. It is the ultimate humiliation of a human being. I do not know how else to put it. The Government of Canada was denying me the fundamental human right to be who I am. That is the fundamental human right, as far as I am concerned. I was humiliated, embarrassed.

I did not tell my husband . . . because I was ashamed of what his government was doing. His father fought in the last world war, and they are proud to be good all-around Canadians. And I was proud to be a Dene. It was only in the eyes of the Canadian government that we were doing something we should not be doing."

The hearing concluded with presentations from numerous affiliated groups of the national organizations. Kate and I took turns attending the hearings so that we could start working on summaries of the twelve new submissions from the afternoon. We have also arranged for a typist to begin early tomorrow morning in order to have everything ready for 10 o'clock. When the material was finally finished, I went out for a late roast beef dinner. I dined at a fashionably late hour!

Wednesday, September 15, 1982

I arrived at the office at 7:30 a.m. to find Jean typing. Several support staff worked diligently to get those binders for the 10:00 a.m. deadline. One often tends to forget the role played by the support staff in an exercise such as this one. Kate and I are visible to the Committee members because we sit at the hearings every day; but behind us is a team of dedicated individuals. I was impressed by their cooperation and determination to have everything ready on time. The last summary was literally finished at ten-minutes-to-ten. We had made our first deadline!

But our work had only begun. The Sub-committee now had the onerous task of deciding upon the direction of the report. Such deliberations are difficult and it usually takes considerable time before a committee can focus on exactly what is desired. The members debated and debated. We used a flip chart in order to sketch out the positions. There was no lunch break, but at 1:30 we sent out for sandwiches. As the deliberations continued, the Sub-committee began to give us some directions about certain parts of the report. By late afternoon it was obvious the Sub-committee had not covered all the topics it wished in the report. It had originally intended to meet on Wednesday to discuss the content of the report, leaving Thursday free so the researchers could prepare a draft report for discussion on Friday. Unfortunately, the Sub-committee will need to meet tomorrow. That does not leave much time.

The research team met to map out the major components of the report and to decide who will write each part. In order to fulfil the

direction given by the Sub-committee, we must consult before a draft is presented to the Sub-committee. I am beginning to see this as a group writing experience. Time was of the essence so Kate and I once again dined on chicken and proceeded to write our respective sections. We worked until nearly midnight.

Thursday, September 16, 1982

The Sub-committee wants a glossary of terms in its report so I spent a fair amount of time this morning tracking down the best definition of individual and collective rights. They are such key terms that I wanted to have the best possible definition. I consulted my colleagues in the Legal Division of the Parliamentary Library and also the Research Branch of the Canadian Human Rights Commission. I read the recent decision on language rights in the Quebec Court. Finally, I chose the definitions used in the Pepin-Robarts Report on National Unity.

At 2:00 o'clock the Sub-committee met to work out the final details for its draft report. During the next four hours we received further instructions from all directions. Then at 6:00 o'clock they turned it over to us saying: "Please prepare a draft for tomorrow at 9:00 a.m."

At this point, the researcher from one of the aboriginal organizations withdrew because he felt his organization would not support the main thrust of the report. Another researcher indicated she was not available tonight because of family responsibilities. That left three of us, Gerry from the Assembly of First Nations, Kate and myself. Together with the Committee Clerk, François, we walked over to the Committees Branch in the Wellington Building to write the draft report. We had some parts sketched out, but we needed to go over it together.

The support services there were excellent. Two typists and one photocopy operator were ready to work all night. François kept us supplied with food and innumerable cups of coffee. When the now familiar chicken boxes arrived for supper, Kate and I could hardly stop laughing. As the night wore on, we were appreciative of the many cups of coffee and doughnuts.

We had a rough outline of the parts of the report but we had to fill in the sections with short commentaries and quotes from the various meetings and submissions. Our summaries of evidence proved to be invaluable as an aid in locating information and quotes. As we worked I was surprised to find I did not get tired — I guess one has a reserve of energy for situations such as this. We wrote and wrote and they typed and typed. Then at three o'clock we were finished.

Friday, September 17, 1982

Would you believe the Sub-committee members actually applauded when we passed out a 60 page draft at nine o'clock this morning? Needless to say they needed time to read it, so they adjourned for a couple of hours. This gave me some time to eat breakfast as I had slept in until the last possible moment.

We reconvened at 11:00 to begin examining the draft outline. I was pleased to see the Sub-committee agreed with a substantial part of our outline. The aboriginal organizations also seemed to feel that we had presented their viewpoints accurately. Once again lunch was sent in so that all our time could be devoted

to the task at hand. In an air of joviality we celebrated the Chairman's birthday by presenting him with a cinnamon bun in which a candle had been inserted.

All our thoughts were on the draft report. We moved at a regular pace through the preamble, historical background and the general themes from the testimony. Then we started the analysis of the various sections of the *Indian Act*. Here the Sub-committee could not agree; several options were suggested. Our steady pace of the earlier parts decreased to a crawl. Various viewpoints were vigorously debated. Throughout the hearings I had carried mint candies to ease a tickle in my throat; from time to time I passed them around to Committee members, particularly as meetings wore on. I soon discovered these candies were a very popular and useful distraction during tense moments. We went through a lot of candies today!

It was agreed that the staff would draft several recommendations outlining the different options. The Sub-committee would choose on Monday. We realized a busy week lay ahead, so I decided to go home early tonight and get some well deserved rest. Would you believe I was in bed before eight o'clock?

Saturday, September 18, 1982

It was almost like a picnic as the staff assembled again in the Committees Branch. We were six: Gerry from the Assembly of First Nations, François, The Committee Clerk, Lynn and Sharon, the typists, and Kate and myself from the Parliamentary Library. Knowing that we were buckling down for a long writing session, everyone arrived with tea, coffee and food. Our larder included bagels and cream cheese, fruit, peanuts, cookies, chocolate bars and sandwiches. A real sense of camaraderie prevailed. We were in this together and by working as a group we would succeed. Interpersonal relationships make a great difference in getting a job done under pressure.

A very positive part of our work environment was the tremendous support personnel. I cannot offer enough praise for their work, particularly the two secretaries. Furthermore I was spared the tedious task of proof-reading our material as François agreed to do this. What a generous offer!

We got down to the business of writing final copy by putting an outline of the sections on a giant flip-chart. Whenever we finished a section, we would triumphantly cross it out on our chart. Not only could we judge our progress, but the sight of the chart seemed to push us on. Today we were joined by Alan from the Native Council of Canada whose association had decided that its position would not be compromised by participation on the research team.

Still we munched on. Chocolate bars and bagels were devoured as we slowly crossed out the items on our flip-chart. By one o'clock the next morning we had finished everything except the analysis of the various sections of the *Indian Act*. It had been a productive day!

Sunday, September 19, 1982

Translation is part of life on Parliament Hill but I am always amazed at the short deadlines given to translators and even more surprised by their ability to meet them. Three translators arrived at 9:00 o'clock to begin translating our material in French. There will be

almost no time between the Sub-committee's meeting and presentation of the report to the full committee so we must have the report available simultaneously in both official languages.

I hope the Sub-committee does not make too many changes. We decided to write all of the material supporting each option into the main report and to put the recommendations outlining the various options in little boxes labelled A, B, C, or D. Once the Sub-committee has selected the option we will print it in the report. The translators will have to translate all options including those which are eventually eliminated, but it is the only way to get everything finished on time.

Most of today was spent analyzing various sections of the *Indian Act*. As we studied the discriminatory provisions, I was very glad to have Kate who is a lawyer on the staff. Suggesting amendments is such a complex business. A change in one subsection immediately requires a subsequent change in another subsection. The question is larger than simply making a recommendation to eliminate the discriminatory provisions for one must consider what should happen to those who have suffered over the years as a result of sex discrimination. On Friday the Sub-committee had trouble deciding who should be reinstated to Indian status and band membership and they suggested three options. We spent six hours examining these options and came up with twenty different possibilities!

Around 8:30 p.m., the final draft was ready. Triumphant, we crossed out the last section on our flip-chart.

Monday, September 20, 1982

September 20th has loomed before us and now at last it has arrived. At 11:00 o'clock the Sub-committee sat down to read the 60 pink pages of final text. In order to distinguish the various drafts, we used coloured paper, yellow for first draft, pink for second and white for final. One of my consultant friends once told me it was preferable to use pink and yellow because it keeps people's attention rather than blue and green which tend to be restful colours. This morning we needed to be wide awake!

The descriptive parts of the report were quickly accepted. The stumbling block was still the proposed amendments to the *Indian Act*.

Once again lunch arrived as a welcome diversion, and then it was back to the draft recommendations. Viewpoints and positions were clearly articulated. There were attempts to achieve a consensus, but finally it became obvious that the deadlock could only be decided by a vote. At that moment not all Sub-committee members were present, so the Chairman called a short recess. I used the break to write out the new wording for the proposed recommendations and to make any small changes on the master copy. Time was critical as the Sub-committee had to complete its work and present a correct copy of its report to the Standing Committee by four o'clock. As soon as our meeting ended, a messenger would rush the master copy to the duplicating services.

In a few minutes the members had gathered and the voting began. Then suddenly it was over and the report had been accepted. In it, the Sub-committee recommended elimination of sex discrimination in the *Indian Act*. Furthermore, it recommended a program of reinstatement so that Indian women and their first



Jim Manly MP with Gerry Gambill, Researcher, Assembly of First Nations (Photo by Hayleestees)

generation children would regain status and band membership. In addition, the Sub-committee recommended that Parliament appropriate sufficient funds to provide services and programs currently available to status Indians, and other resources, as needed, to those persons who would be reinstated.

After the voting the Sub-committee members rose quickly and began to chat with each other. I sat making the last minute corrections to the master copy. A messenger stood ready to rush our precious text to the photocopier. Our earlier planning had paid off. With a pair of scissors I simply snipped out the options that had not been accepted. At 4:15 the report was finished!

We literally moved from one meeting to the next. The other members of the Standing Committee were already assembled as the parade of MPs, ex-officio members and staff walked in. There was a good deal of back-slapping and comments about finishing such a large report so quickly. The meeting was called to order and within minutes the still warm copies of the report arrived from the

duplicating services. Mr. Burghardt gave his opening remarks followed by various members of the Sub-committee as well as the ex-officio members. After a short discussion the Standing Committee accepted the report.

It was all over — a full and complete report covering 5 days of hearings, 27 depositions and 44 witnesses in only 12 days! It was difficult to describe my feelings. You work so hard, not really sure how you are doing it and not really thinking about what is left, and then suddenly, it's over!

As I picked up the remnants of my research work — briefing books, notes, paper and left-over candies, I thought about what had occurred during the past few days, and I remembered the faces of the Indian women who had attended the public sessions. There was one delightful older lady who sat quite close to the front. I never did find out her name, I only recall the intensity of the expression on her face and the way she followed all the questioning. I wonder how she will react to the report?