



Leroy Smoke and bride (now widowed) are seen at their marriage feast.

## ADMINISTRATION ATTACKED:

# Controversy On Marriage Follows Indian's Death

By Peter Whelan

The accidental death of a Six Nations Indian and the resulting controversial status of the 16-year-old girl he had married in a Longhouse rite has sparked a Six Nations Confederacy attack on government administration of Indian affairs.

The girl, in the eyes of the Indians, is Mrs. Leroy Smoke, widow of a 20-year-old man who was killed Dec. 12 in a quarry accident near Hamilton.

Their daughter, born five days earlier, is legitimate, the confederacy claims.

But, according to the Ontario government's interpretation of the province's Marriage Act, the couple were never married, and the girl is still Pearl Doris Kick—her maiden name—and their child illegitimate.

### No Right to Legislate?

The confederacy charges that under the Indians' treaty rights, the Ontario government has no right to legislate on Indian affairs.

Administering of Indian matters rests with the Indian affairs branch of the federal Department of Citizenship and Immigration, Indian representatives say.

Even the Federal government is barred from passing new Indian legislation, under treaty terms, the confederacy contends.

From there the case descends into a turmoil of law and tradition stretching back to the British North America Act of 1867.

It shapes up as a test case of the stand the confederacy has maintained for decades—that the Six Nations are an independent entity, equal, not subject, to the Dominion of Canada.

### Traditional Ceremony

The couple were married last June 23 by Joseph Logan, Sr., chief of the Onondaga tribe, in the traditional Longhouse ceremony.

Chief Logan, however, was not registered with the Ontario Government as a person authorized to solemnize a marriage.

The Marriage Act was revised in 1956 to accept the Longhouse religion as a bonafide religion for the first time.

To register, says the act, a person must be ordained, appointed, and recognized as entitled by his religious body to perform a marriage.

Chief Logan fills those qualifications with the Longhouse people—but the Onondaga Longhouse will not recognize any provincial right to pass laws concerning the Six Nations.

For Chief Logan, Sr. to register

the province's right to pass laws for Indians and would set a precedent for future "encroachments" on the Indians' rights.

### The County Next?

"The first thing you know, if we accept this, the county will be passing laws for us," he said.

Chief Logan Jr., and Acting Chief Emerson Hill, representing the confederacy, and the couple's relatives Monday spent two hours arguing the case with the local Indian superintendent, R. J. Stallwood.

The upshot of the meeting was that the registrar of vital sta-

tistics for the Indian affairs branch, M. McCrimmons, will come here from Ottawa on Feb. 14 to talk over the matter.

### "Just Starting"

As far as actual progress was concerned, there was none. Chief Logan, Jr., said they did not expect any—they were just starting the case.

Are the Longhouse marriages of former years also regarded by the government as illegal?

Mr. Stallwood said he could not venture a guess as to the status of the marriages prior to the Marriage Act revision.

He suggested that each would have to be decided "on its own merits"—and possibly could not be settled short of the law courts.

Before the revision, he said, standard forms giving details of marriage had been registered with the Indian affairs branch.

Since the revision, however, the branch had refused to accept them.

In the centre of the dispute is the quiet young widow.

### Listed as Single

Leroy Smoke's death certificate made out in Burlington after his death at the Nelson Crushed Stone Company, listed him as single—saying in effect that the girl is an unmarried mother, and that her child is illegitimate.

Her listing as a member of the Indian band—the official Indian affairs branch listing—says she is Pearl Doris Kick, Number 292 in the Lower Cayuga Band.

Her baby is listed under her number and name, not that of the man she considers she was married to.

There is no mention of marriage in the band listing.

On one side of her is the Indian affairs branch—which has drawn the enmity of the Longhouse people by trying to integrate them with the white people—and the Ontario government, which her people believe cannot affect her.

### Allies Not Subjects"

On the other side are her people, who are in full sympathy with her predicament, but feel that they must use her plight as a test case to prove their rights.

"We have never been subjects," said Emerson Hill.

"History will bear that out. We are allies, not subjects. The province has no right. . ."