

*Indian Act*

● (1610)

In the voting yesterday we realized one of the reasons for which there were four years of procrastination by the Liberal Government. The Liberals could not make up their minds where they stood on the issue. The Hon. Member for Notre-Dame-de-Grâce-Lachine East abstained from voting yesterday. He said that he did not like the process which had been followed. I remember some years ago when an issue arose which no one in the New Democratic Party liked. I suggested that we might abstain from voting. Stanley Knowles looked at me and said: "Failure to vote when you have the opportunity to vote is a sin against the Holy Ghost for which there is no forgiveness." At the time I thought it was one of Stanley's little jokes. However, I think there was a serious intent behind what he said. When we stand for election, we are taking responsibility to make certain basic decisions. We do not have the option to opt out.

All of us who have been involved in the issue which deals with Section 12(1)(b) and the complex issues which surround it, know that it is not a great issue in which to be involved, especially if we are sensitive to charges of colonialism, meddling, racism and genocide. I think it was General Westmorland who once said about the Vietnam war that it was the wrong war, at the wrong place, at the wrong time. But that is the war in which the United States fought. The question of Section 12(1)(b) is the issue on which we must decide. We cannot simply opt out on it like Hamlet, who said: "The time is out of joint o cursed spite that ever I was born to set it right".

We cannot pick and choose our issues. Section 12(1)(b) and Section 12(1)(a)(iv) are on the agenda because they were left as a bitter legacy by the previous Government. Those in the House who want to complain that Bill C-31 meddles with the rights of bands to determine their membership must remember that every day of procrastination which we had under the previous Government meant that Canadian law was meddling with the right of Indian bands to determine their membership. We were meddling in Section 12(1)(b) which infringed on the right of Indian people to belong to their own nation. To attempt to clean that up should not be characterized as meddling. We are attempting to remove a very meddlesome law, and that removal is long overdue.

I agree with the basic compromise which is attempted by Bill C-31 between the right of bands to determine their membership and the right of people to be returned to band membership, if they had lost it unjustly through Section 12(1)(b) or through Section 12(1)(a)(iv). I agree with the compromise which recognizes the right of bands to develop their membership criteria and to seek ways in which other people can be brought into membership, or to provide for the future for people to be excluded from membership, if that is what the bands feel is required.

During the course of the Bill, the Minister made a number of changes which reflect the concerns which were expressed by witnesses who appeared before the Standing Committee on Indian Affairs and Northern Development. The changes also reflect the concerns of the members of the committee. I

proposed an amendment in committee which was in line with a great deal of the testimony which we heard. The amendment would have provided for the reinstatement of all Indian people who had been enfranchised, regardless of the reason. While the amendment was defeated in committee, the Minister later introduced a similar amendment. I believe it is a measure which improves the Bill, and I commend him for it.

Unfortunately, the Government did not act upon another amendment which would have opened up the process of registration to those who were missed by Indian agents a number of years ago. Particularly in the northern sections of the provinces, there are many Indian people who were out on the trap line, hunting or food gathering when the process of registration took place. Therefore, entire families were missed in the registration process. While the Minister has the power to register them under the present Act, I think it would have been an important step if Bill C-31 had recognized that power explicitly and had given the Minister the encouragement to register the people who were unjustly missed in times past. The same amendment would have allowed all who have band membership, under Indian band membership codes, to be considered status Indians under Canadian law. The recognition of the right of Indian nations to determine who is a status Indian would have been an important addition to the Bill. I regret that the Government did not see fit to move on that matter.

The Bill provides for the Registrar to accept oral testimony, at his discretion, which would not normally be acceptable in a court of law, in regard to registration cases. That is an important step in allowing those who should rightfully be registered to get their name on the status list. I am pleased that the amendment was accepted.

We can see how complex the issue is from the effect which removing discrimination would have on different generations. If the children of reinstated women marry non-status Indians, they will not be able to transmit status to their children, even though their cousins will be able to do so. That is unacceptable. The Government should have accepted amendments which would have removed that continuing discrimination by generation.

I set out a number of amendments which attempted to establish basic criteria for accountability. I believe that most Indian bands want to include an appeal process in their membership criteria. In addition, I believe that all Indian bands want to include all members of their community in the formation of membership rules. The Nuu-chah-nulth Tribal Council spoke for a great many Indian nations across Canada when it said:

Our position is that there are no non-status Nuu-chah-nulth. Only death can bring an end to Nuu-chah-nulth blood. This of course conflicts with Canadian law, and will continue to do so as long as we do not have our own governments, with their own resource base.

They definitely want to include all people in the process. I am confident that most bands will want to do that. While I regret that we did not protect the minority who might belong to bands which do not choose to do that, I am glad that the