

Indian Act

tives. First, it would increase the maximum fine for breach of a band by-law from \$100 to \$1,000. Second, it would create a power to enforce by-laws in the courts identical to that given to all towns and municipalities in many provinces, including Ontario. You will understand in a moment why I underline Ontario. Finally, it would remove the power presently enjoyed by the Minister of Indian Affairs and Northern Development (Mr. Crombie) to veto legal and valid band by-laws.

Under Section 81 of the present Act, bands have a power similar to towns and municipalities elsewhere in Canada to enact by-laws over a great number of matters, including traffic, zoning and construction, residential health, regulation of business concerns, and the preservation of wildlife on reserve lands. Section 81(r) of the present Act provides that the maximum fine for breaching a band by-law is \$100. This is obviously inadequate, thus the proposed amendment would leave Section 81(4) as it is except for the replacement of the words "one hundred" with the words "one thousand".

The second part of the amendment would give to bands the power to seek injunctions from the courts where their by-laws have been breached. The proposed amendments, which would add new Subsections 81(2) and (3), are taken word for word from Ontario's Municipal Act, with which the Minister is most familiar. Let me say as an aside, that I think the Minister, when he was mayor of the City of Toronto, helped push this through to Queen's Park. I am given to understand that, indeed, he may have had some involvement in obtaining these amendments from the Ontario Legislature to assist municipal Government in Toronto, and he would therefore understand why these powers are necessary for the bands. It is impractical for the bands to be laying charges every day when there is a persistent violation of the by-laws. These by-law making powers would apply to all bands and would reinforce band control over band matters, which is one of the principles of the Bill and something dear to my heart.

Finally, the new Subsection 82(2) would delete the present power of the Minister to disallow valid band by-laws. I emphasize that, at present, even if a band makes a perfectly legal and completely valid by-law, the Minister has an unfettered discretion to veto it. With the amendment, we will still allow the Minister to have some say in that area. The amendment would also apply to all bands and would reinforce the principle of band control.

Mr. Deputy Speaker: The Chair rules that the amendment to Motion No. 33 moved by the Hon. Member for Timiskaming (Mr. MacDougall) is in order.

Hon. David Crombie (Minister of Indian Affairs and Northern Development): Mr. Speaker, I would like to speak with respect to Motion No. 33 and the amendment, as well as to Motion No. 33A, which deals with an entirely different matter, but the two are grouped for purposes of debate and the vote.

● (1230)

I am pleased to speak in favour of Motion 33, subject to the subamendment moved by the Hon. Member for Timiskaming (Mr. MacDougall). This motion will very clearly strengthen the power of the bands to enforce their own by-laws. This was not included in the original Bill, but all Members who have dealt with this at the committee level understand the importance of the motion of the Hon. Member for Athabasca (Mr. Shields). The motion will strengthen the power of the bands by raising the maximum fine for violation of by-laws from \$100 to \$1,000. That is only reasonable given the fact that the original \$100 was fixed in the 1950s. It will strengthen the power of bands to enforce their by-laws by permitting court orders to be sought to prevent the continued violation of band by-laws.

Anyone who understands the administration of Indian communities at the band level understands the frustration of by-laws being continually broken while bands are unable to enforce them. Increasing the fine to \$1,000 and giving bands the power to apply to the court for injunctions in order to stop the continued violation of the by-laws is clearly in the interest of bands. It clearly ought to have the support of all Hon. Members.

I am pleased with the subamendment as well, Mr. Speaker, because it was impossible for me to agree to that part of the original motion which would have done away with the Minister's power of disallowance regarding certain by-laws. Given the normal understanding of how we ought to proceed with Indian self-government, I would have liked to agree to that, but at this time, and within the context of this Bill, it seemed to me inadvisable. It is an awkward power for the Minister to have, but in some cases, in the interest of everyone, it may be necessary. That is why I did not want to have that power cut out at this point within the context of this Bill. I am very pleased with the good work done by the Hon. Member for Athabasca. I urge all Members to support Motion No. 33 as amended.

I will now turn to an entirely different matter. It relates to by-laws but the subject matter is of greater moment and immediacy. I would like to take this opportunity to deal with a matter that has come up which is of pressing concern to Indian communities across the country. I would like to deal with the issue of the use of intoxicants on reserves.

Several recent court decisions in Manitoba have brought into doubt the validity of key sections in the Indian Act which deal with intoxication. The sections may contravene both the Bill of Rights and the Charter of Rights and Freedoms. Many bands, particularly those in remote areas, are very concerned that if these sections are not valid, they will have no means to control the serious alcohol problems which unfortunately exist on many reserves.

These motions are intended to give bands the means to control this serious problem in a way that is consistent with both the Bill of Rights and the Charter of Rights and Freedoms. We cannot wait for the outcome of appeals on these court cases as in the interim, during which prohibition could