

Indian Act

appointed would not be a Liberal. I understand that he was really concerned about not treading on the toes of the Royal prerogative, so I can understand the reason for putting in that clause. This is a worthy amendment and one that I hope will receive the support of the Government.

● (1650)

Mr. Speaker: Could I interrupt the proceedings just for one second, before recognizing the Parliamentary Secretary, to clear up the remaining procedural matters and get them out of the way.

I have had the opportunity to review the Hon. Member's contribution to the procedural debate on Bill C-31 and I am now ready to make a definitive ruling.

The President of the Privy Council (Mr. Hnatyshyn) has suggested that if unanimous consent were sought, Motion No. 3 could be debated and voted on separately if such is the will of the House. Since this amendment does not infringe upon the prerogative of the Crown, I would therefore seek the consent of the House for Motion No. 3 to be deemed in order. Is there unanimous consent?

Some Hon. Members: Agreed.

Mr. Speaker: It is so ordered.

The President of the Privy Council also suggested that the House would be disposed to debate together Motions Nos. 33 and 33A but would vote upon the motions separately. Again, is there unanimous consent to deem Motions Nos. 33 and 33A in order and to be proposed to the House?

Some Hon. Members: Agreed.

Mr. Speaker: It is so ordered.

The Hon. Member for Cowichan-Malahat-The Islands (Mr. Manly) has argued for a separate vote on Motions Nos. 13 and 14. I have listened to his argument and reviewed both motions. Motions Nos. 13 and 14 both seek to amend line 30 at page 6 of the Bill and must be dealt with as previously announced. Therefore, an affirmative vote on Motion No. 13 will dispose of Motion No. 14. If Motion No. 13 however is negated, then and only then will the question be put on Motion No. 14.

The Hon. Member for Cowichan-Malahat-The Islands has also submitted argument to the Chair on Motion No. 36. On reviewing that motion, once again I regret to inform the Hon. Member that this amendment clearly infringes upon the financial initiative of the Crown and therefore cannot be put before the House.

For the benefit of the House I would therefore recapitulate the motions which have been ruled out of order. They are Motions Nos. 2, 3, 4, 5, 6A, 8, 9, 10, 11, 12, 19, 22, 23, 26, 28A, 30, 31, 34, 35 and 36.

As soon as we have finished with the current grouping now before the House, the Chair will return and propose the question on Motion No. 3. When Motion No. 3 has been disposed of, Motions Nos. 13 and 14 will be proposed.

Mr. Manly: Mr. Speaker, when you were reading the list of motions that had been definitely ruled out of order, you mentioned Motion No. 3 but then you later said that it was in order.

Mr. Speaker: Thank you. The Hon. Member is absolutely correct. I did read Motion No. 3 and should not have. I thank the Hon. Member for his attention.

Mr. Girve Fretz (Parliamentary Secretary to Minister of Indian Affairs and Northern Development): Mr. Speaker, I want to speak briefly to Motion No. 27. As the Indian Act now reads, the Minister of Indian Affairs and Northern Development (Mr. Crombie) has complete discretion in Subsection 17(1) to constitute new bands from existing band lists, in effect to split bands. In Subsection 17(2) he also has discretion to divide reserve lands and funds accordingly. Bill C-31 originally provided for future band splits to require approval of a majority of band electors.

In reviewing the Bill, however, it became clear that this approach would indeed be impractical. In fact, it might even make band splits impossible. This is because such splits normally involve a minority group, frequently one that lives apart from the majority of the band. There may be good reasons for acting on the desire of such minorities to split away, but it is unlikely that a majority of the whole band would agree.

During the standing committee's clause by clause review, the Bill was revised to require that those persons proposing to form a new band make a request to the Minister, rather than that a majority of all band electors approve. Any split would still be subject to the Minister's discretion, so inappropriate cases can be rejected. If a decision is taken to split a band, it is only logical to split the band's land and resources accordingly. The members of the new band obviously have a right to a fair share of the assets of the whole band. It would be inconsistent to give a group within a band a right to request the Minister to constitute a new band without also giving them effective access to a reasonable portion of band assets.

The present motion does not seek to amend Subsection 17(1) as reported by the standing committee. To be consistent, and indeed in fairness to those who may seek to form a new band, we cannot accept the change proposed in this motion to Subsection 17(2). In fact, probably the fairest way to share band assets in the case of band splits would be to leave the matter to an independent third party, namely the Minister. Such decisions would only be taken after consultation with all those affected. I might also point out, Mr. Speaker, that we are not talking about a frequent problem. In the past 10 years, for example, there have only been approximately two dozen cases of band splits under Subsection 17(1).

In conclusion, I urge all Members to vote to defeat this motion. Thank you, Mr. Speaker.

Hon. David Crombie (Minister of Indian Affairs and Northern Development): Mr. Speaker, I simply want to make a few comments with respect not to Motion No. 27 but, in the