

Indian Act

House wishes. The Hon. Member for Cowichan-Malahat-The Islands has the floor.

Mr. Jim Manly (Cowichan-Malahat-The Islands): Mr. Speaker, I would like to make a few comments on this grouping of motions because I think that this particular series of amendments is of absolute importance to this Bill. Motion No. 14A standing in the name of the Minister falls short of what is required for the Bill. Motion No. 14A makes it permissible for band councils to recognize the right of all people over the age of 18 to take part in determining any membership rules that the band wishes to develop. I think that this is a fundamental right that should be recognized in this Bill.

In committee, we heard a great deal of testimony from some of the native women's groups, from the Native Council of Canada and from its affiliates, indicating that there is a necessity for the people to be heard. They pointed out that they should not be shut out of the political process. We are dealing with a situation in which people have lost their Indian status and their band membership. As a result, they do not have residency on the reserve. In the Indian Act as it reads now, the band electorate are those who are normally resident on the reserve, unless it is handled by band custom. That means that in many cases, people who are non-resident are not able to vote. That also means that people who are reinstated will not be able to take part in making membership decisions.

The women who are about to be reinstated would like to be able to take full part in all band political processes. I think an argument can be made on the other side indicating that perhaps non-residents should not be involved in making decisions regarding the chief or council, although I think a very good argument can be made that they should have a voice there. Perhaps an argument can be made that non-residents should not have the right to take part in making decisions with respect to the amendment that the Minister would like to bring in regarding the sale, possession or consumption of alcohol. This kind of decision is something that should be left to those who are resident in the community.

In this motion, we are talking about the basic rules for band membership. Band membership has not been exclusively limited to those who live and are ordinarily resident on the reserve. It is a very broad question and I think that all people who are members of a band should have the opportunity to take part in that decision. On that basis, I would urge the House to support Motion No. 17 rather than Motion No. 14A because Motion No. 17 would amend Clause 4 to read:

In this section, "elector" includes every person whose name is included on the band list and is of the full age of eighteen years.

I think some rights must be guaranteed the people who are being reinstated to band membership.

With regard to Motion No. 15, I was a bit surprised to hear the Hon. Member for Cochrane-Superior (Mr. Penner) say that he was prepared to support that motion. Motion No. 55 gives bands the right to deprive membership from people who have been reinstated. In other words, it indicates that Bill C-31

can be disregarded by some bands if they so choose. I do not think that that is something about which this House has been talking for the last four, five and even 10 years when we were speaking of Indian women who lost status and band membership under Section 12(1)(b) having those rights restored. I do not see how the Hon. Member for Cochrane-Superior can give his support to Motion No. 15.

The Minister has said that there is no need for Motion No. 16. I do not see too many problems with that motion, but I do not see any great merit in it either.

Motion No. 18, submitted by the Hon. Member for Athabasca (Mr. Shields), attempts to deal with the question of high impact bands. I find this motion quite unacceptable because it enables bands to circumvent the intent of this Act by placing the names of people who would be reinstated on a so-called transitional list. This would be a limbo list and one that would have no real meaning. People would be put on this transitional list and left there forever and a day if the band so wished. Those on the list would not really have their rights restored in the way Bill C-31 attempts to restore them.

Motion No. 20 establishes a time line such that people must apply for their band membership by 1990 if they want to be accepted under this legislation. I do not think that is realistic. I think the situation should be much more open. As the Minister pointed out, there are people who may have lost their Indian status and their band membership who are out of the country and who will not hear of the legislation in time to apply by 1990. If we are attempting to reinstate people, we should leave the situation wide open.

● (1550)

Mr. Blenkarn: Oh, come on.

Mr. Manly: If the Hon. Member for Mississauga South (Mr. Blenkarn) does not like the Minister's argument, he can talk to the Minister about it. I happen to agree with the Minister.

Motion No. 21 would restrict the type of testimony which could be used by the Registrar in hearing evidence as to who should or who should not be accepted for membership. The part of the Clause which the Hon. Member for Athabasca wants to remove reads as follows:

For the purposes of this section, the Registrar may receive such evidence on oath, on affidavit or in any other manner, whether or not admissible in a court of law, as in his discretion he sees fit or deems just.

We are dealing with a situation in which many people were deprived of their band membership and Indian status in ways which were quite unjust and not always properly documented. It is sometimes very difficult to get proper legal documents. The committee, in its wisdom, opened it up by adding the Clause which I have just read, in order that the Registrar would be able to hear a wider variety of evidence than would normally be admissible in court. Motion No. 21 would remove that. I believe it is a retrogressive motion and we will oppose it.

Motion No. 24, which stands in my name, is very similar to Motion No. 35A, which was moved by the Minister. As has