Section 48(16) of the Indian Act, on the subject of "distribution of property on intestacy", already recognizes children adopted in accordance with Indian custom as having the same rights as a naturally born child or a legally adopted child. Surely, an Indian parent does not have to die intestate for his or her children to be recognized as equals by the federal Government. The amendment to the definition of "child" as outlined in Bill C-31, simply complements the right already recognized in Section 48. Even more important, this Bill would remove that feature of Bill C-31, which would ensure that in future all children will be treated equally whether born in or out of wedlock.

• (1115)

In 1985, what used to be called "illegitimacy" should not affect the registration of children with Indian parents. To adopt this motion would be a step backward in treating all Indians fairly, and I urge this House, with great respect, to reject it for the reasons I have given.

Mr. Jim Manly (Cowichan-Malahat-The Islands): Mr. Speaker, I also would oppose this first motion. The Hon. Member said that it only expanded the definition of who is an elector. That is not so. As the Minister pointed out, in effect it drops the new definition of "child", and the definition of "child" as we have it here is, "Child includes a child born in or out of wedlock, a legally adopted child and a child adopted in accordance with Indian custom". When the committee held hearings on Bill C-31, there were a fair number of witnesses who pointed out that it was necessary to expand the definition of "child" to include those children who are adopted in accordance with Indian customs, and as the Minister pointed out, in 1985 it is completely incongruous and anachronistic to maintain a distinction between children born in or out of wedlock. On that basis, Mr. Speaker, we will not support Motion No. 1, which would have the effect of removing this expanded definition of "child" from Bill C-31.

Mr. Keith Penner (Cochrane-Superior): Mr. Speaker, it is clear that the motion which is now before us demonstrates the difficulty we are facing in this Bill. The Minister was correct in pointing out that decolonization is never a simple process, and the reason that we are into this difficulty is that we have involved ourselves to such an extent in the lives of the Indian people of this country that we must come down to the fine distinction as to who can be properly considered a "child" within the context of an Indian First Nation.

Since the Minister began with a rather general statement about the thrust of Bill C-31, perhaps I can briefly comment on that as well. When I consider the provisions, including this first motion, it seems to me that the situation we are faced with is not unlike that of two passenger aircraft which are flying in opposite directions and have a separation between them. That separation is usually a thousand feet or so. That is the difficulty we have in Canada. There is a desire in this country, particularly now that we have the Charter of Rights and Freedoms, for individual or personal rights to be emphasized. At the same time, we have Indian First Nations which have never relinquished their autonomy. They have never turned over the control of their lives to the Government of Canada, to the Parliament of Canada. A long time ago, before any of us were here, that responsibility was assumed by the Government of Canada, and the rest of us have had to live with that ever since. As long as those aircraft are separated by 1,000 feet and flying in opposite directions, there is no difficulty. However, if that separation disappears, we have a clash.

• (1120)

That is the difficulty with Bill C-31, no matter which motion we debate. There is a cultural clash. We have individual rights which are a part of the Anglo Saxon tradition and part of the American tradition falling from the American Bill of Rights. Part of our traditions come from the French Revolution. All of that is dear to us who live in western democracies.

At the same time, in Canada we have another tradition which is equally valid but different, that is, the concept of collectivity, the concept of a group of people working together to protect their cultural integrity. The fact that we have assumed control over their lives to such a degree means that, inevitably, there will be a cultural clash. We are the ones who have the power, authority, and numbers. Therefore, the stage is set for grave injustices.

I know that the Minister is aware of this. All Hon. Members who served on the committee are aware of it. No matter what we do, when we involve ourselves in the lives of these people to such a degree as we are in clause 1 and in Motion No. 1 by defining who is a child, we find ourselves in an awkward, embarrassing, and difficult situation from which we cannot extricate ourselves with any grace. There is no answer to the problem.

As Members of Parliament we must constantly bear in mind that while we are engaged in this exercise our goal must be to put the emphasis on decision-making with the First Nations themselves. That is the direction in which we want to move. We cannot do that today with Bill C-31. We need too many other things. We need a constitutional amendment, if we can get it. We need agreements between Canada and Indian First Nations if and when we can get them. At the moment, no matter which motion we deal with today, we are going to be faced with this awkward and difficult situation.

Having said that, I must confess that it is confusing to know which way to go on Motion No. 1. In what way will we be interfering more or interfering less? The arguments of the Minister regarding illegitimate children and those who are adopted into the Indian First Nation ought to prevail. That would be the position of my Party.

Mr. Shields: Mr. Speaker, I have a point of order.

Mr. Deputy Speaker: The Hon. Member for Athabasca (Mr. Shields) on a point of order.

Mr. Shields: I have a few remarks I would like to make. When we started debate on Motion No. 1 I was looking for my