

Indian Act

colleague, the Hon. Member for Thunder Bay-Nipigon (Mr. Epp), so that the membership sections will not be open to suspension by the Governor in Council.

Mr. Ernie Epp (Thunder Bay-Nipigon): Mr. Speaker, as my colleague, the Hon. Member for Cowichan-Malahat-The Islands (Mr. Manly) has indicated, a technical amendment to his motion is in order. I would read it as follows:

That motion No. 3 to amend Clause 2 of Bill C-31, dated May 9, 1985, be amended by substituting for the reference to "lines 5 to 15" in the second line of the motion, a reference to "lines 5 and 6".

The Hon. Member for Cowichan-Malahat-The Islands has given the reasons for presenting this amendment which I put before the House.

Mr. Deputy Speaker: Could we have a seconder for the motion? Mr. Robinson. The Chair will take the amendment under advisement for a few moments and will make a ruling shortly. In the meantime, I will recognize the Minister of Indian Affairs and Northern Development (Mr. Crombie).

Hon. David Crombie (Minister of Indian Affairs and Northern Development): Mr. Speaker, I would like to speak on the matter which is contained in Motion No. 3 standing in the name of the Hon. Member for Cowichan-Malahat-The Islands (Mr. Manly) and the minor amendment put forward by the Hon. Member for Thunder Bay-Nipigon (Mr. Epp).

I agreed with the general intent of this motion as originally drafted. However, at that time it had, in my view, a serious flaw which would have prevented me from supporting it. This problem, I believe, has been corrected by the proposed sub-amendment. Section 4(2) of the Indian Act could be used to frustrate the will of Parliament if, at some time in the future, a proclamation were issued exempting some bands from the application of the provisions in this Bill regarding registration and membership. Such an action would be clearly undesirable and could result in unfairness to people seeking membership or the restoration of rights. The Hon. Member's motion would ensure that this would not occur.

The aspect of the motion which gave me some trouble before was that the original motion struck out lines 5 to 15 of Clause 2 of the Bill as reported. These lines provide that previous proclamations made under Section 4(2) of the Indian Act, which dealt with various membership issues as well as other matters, would be deemed valid. As Hon. Members may recall, over the past several years the Governor in Council has used Section 4(2) to exempt bands, if they so requested, from discriminatory provisions in the Indian Act. This procedure was seen as a stopgap measure for those bands wishing to eliminate discrimination without having to wait for the sometimes lengthy process of legislative change.

I might say, Mr. Speaker, that since 1980, 111 bands have been granted exemptions from Section 12(1)(b) and 313 bands from Section 12(1)(a)(iv). The use of this procedure was not without dispute. The Standing Joint Committee on Regulations and Other Statutory Instruments raised serious questions as to the propriety and validity of using Section 4(2) in this

manner. Motion No. 3, which was offered by my friend, the Hon. Member from Cowichan-Malahat-The Islands, and is now before the House, is one which, therefore, the Government can clearly support.

I might say, Mr. Speaker, before I leave this issue, that the fact that a considerable number of bands, on their own, without any pressure whatsoever from anyone, utilized Section 42(a), is a very good record. And those who are concerned about whether or not the bands will act in an appropriate manner in dealing with their own people and those people coming back to their community should look at that record; 111 bands were granted exemption from Section 12(1)(b) and 313 bands from Section 12(1)(a)(iv).

• (1115)

Having said that, I would like to thank the Hon. Member for his Motion No. 3 and indicate that the Government will support it.

Mr. Deputy Speaker: The Chair has received the amendment to Motion No. 3 and finds it to be in order.

Mr. Svend J. Robinson (Burnaby): Mr. Speaker, I just wanted to rise very briefly to indicate, as a member of the Standing Joint Committee on Regulations and Other Statutory Instruments for the past six years, that it is with a great deal of pleasure that I see the Minister accept the amendment proposed by my colleague from Cowichan-Malahat-The Islands. Certainly we had a number of very serious concerns with the process under the existing provisions of the Indian Act, and I hope the Minister's colleagues might be as willing to consider seriously the recommendations of that rather obscure committee as has the Minister himself today.

Mr. Jack Shields (Athabasca): Mr. Speaker, I just wanted to say briefly that I have no problem supporting this amendment either, but I want to pick up on the remarks made by the Minister of Indian Affairs and Northern Development (Mr. Crombie) when he said that the record of Indian bands in employing the Order in Council provision to allow women under Section 12(1)(b) to retain status prior to this Act going through is probably one of the best arguments one could make for allowing bands to control their own membership. Recognizing the discrimination in the Indian Act, an Act imposed by this House of Commons, recognizing the injustice to their female band members who married non-Indians and subsequently lost their treaty rights and band membership, 112 bands took the initiative to come forward to seek an exemption. One of those bands was the Fort McKay band north of Fort McMurray, my home town. Chief Dorothy Macdonald of that band supports the principle that the bands should control band membership. She supports this principle 100 per cent. In effect, that is what she, a woman chief, did when she made representations to Cabinet for special exclusion from the Indian Act as it presently reads. I still firmly believe we are making a mistake by not allowing the bands to control their own membership and I want to elaborate on that for a moment.