

*Indian Act*

One of those constitutional conferences will succeed and will say either that an aboriginal right in this country is the right to be self-governing or, through the courts, that the right to self-government already exists in the Constitution as a primary and basic aboriginal right even though it is not spelled out in the Constitution for greater certainty and clarity. Once that decision is made, we will not need to focus our attention on this endeavour into which the efforts of the committee, the Minister and his officials have gone. We all know that no matter what we come up with at the end of this day or the next, none of us will be fully satisfied.

Every amendment that we approve or reject must be done in recognition of the fact that at some point, and let it not be too far down the road, we will have to take the big leap forward so that in the next Parliament and the Parliament after that we will not be engaged in the same kind of exercise. It is long overdue that we cease this constant meddling and interfering and turn over matters like this to the proper authorities, namely, the Indian First Nations themselves.

**Mr. Jim Manly (Cowichan-Malahat-The Islands):** Mr. Speaker, first I would like to indicate that we will be supporting the Minister's Motions Nos. 5A and 18A. As well, I would like to make a few comments about my own amendment, Motion No. 6. Perhaps I could make a few preparatory comments.

For the first time, Bill C-31 is drawing a fairly sharp distinction between band membership on the one hand and Indian status on the other. Perhaps it is inevitable and necessary that we take this step as an interim one. I think it is important to remember that, going back in history, the Governments of Great Britain and later Canada dealt with Indian peoples primarily as peoples.

The whole concept of Indian status whereby the Government deals particularly with Indians as individuals is something new. We are now refining that definition to some extent. While in the past, Indian status and band membership had been largely coterminous, now they are not nearly so much so. In fact, in the future we will see for the first time band members who will not have Indian status and we will see an increasing number of people who will have Indian status without band membership. I do not think any of us in this House are fully aware of all of the ramifications of that.

As we move toward a system of Indian self-government and recognition of the basic rights of Indian people, I think it is incumbent upon us to move away from the concept of recognizing Indian status as pertaining to individual Indian people. We should be dealing more and more with the recognition of the rights of Indian nations as nations so that we will recognize their rights as a people.

We heard testimony before the committee indicating that there should be no such concept as Indian status and that the Government should be dealing only with Indian nations and nations. Others came before us to say that what the Government wants to do in terms of Indian status for individuals is the Government's own business, that their business is with

their people as a people, and that the whole concept of Indian status is a bit irrelevant. However, I think there was the overwhelming feeling that if we are to have the concept of Indian status, anyone recognized by the Indian people as being a band member should also be recognized as having Indian status in the eyes of the Government. I regret to say that the amendments brought forth by the Minister do not yet satisfy that requirement. This is a serious shortcoming in the Bill and one that continues to exist.

Clause 4 of the Bill contains a number of subclauses and basically repeals Sections V to XIV of the Indian Act. Those are the sections that deal with who is entitled to be registered as an Indian and who is entitled to have band membership. They develop a new system of determining who will be entitled to be registered as an Indian and who will have band membership.

## ● (1210)

Clause 6 of the Bill determines who is entitled to be registered. Basically it says that those who are entitled to be registered are those who already have such entitlement, those who lost status under paragraph 12(1)(b) or paragraph 12(1)(a)(iv) of the old Indian Act, and, subject to certain conditions, those who were enfranchised. The conditions are outlined in Clause 6(d)(i) for people who were enfranchised are as follows:

(A) as the result of the enlistment of that person in the Canadian Forces, the armed forces of Her Majesty wherever raised or the armed forces of any state allied or associated with Canada, or

(B) so that that person might obtain or maintain employment—

People who were enfranchised under those conditions will once again be eligible for Indian status. The testimony which the committee heard time and again pointed out that that distinction was completely arbitrary and absolutely unfair.

We were asked in committee hearings about the people who wanted the basic right to vote. Until the Right Hon. John Diefenbaker recognized that right for Indian people, they had to be enfranchised in order to obtain that basic right. What an affront that was to democracy! The basic right to consume alcohol, to go into a beer parlour or a liquor store, was something which status Indians did not have. For many young Indian people, that was discrimination. That is when they first realized that to be an Indian was to be discriminated against. Some Indian people became enfranchised to obtain liquor rights. Sometimes that is looked down upon by other Indian and non-Indian people. They feel that those Indians sold their birthright to have the ability to drink. Every Member in the House was once 18 or 19. Most of us remember how important it was to be able to have the right to go into a beer parlour and buy liquor.

Enfranchisement took place for a number of reasons. I am pleased to see that the Minister has recognized that to limit reinstatement to those who were enfranchised for the purpose of getting employment or for the purpose of serving in the Armed Forces, is a completely arbitrary situation. The Minister has proposed that the people should have the right to be