

Indian Act

Mr. Speaker: Shall the remaining questions be allowed to stand?

Some Hon. Members: Agreed.

GOVERNMENT ORDERS

[English]

INDIAN ACT

MEASURE TO AMEND

Hon. David Crombie (Minister of Indian Affairs and Northern Development) moved that Bill C-31, an Act to amend the Indian Act, be read the second time and referred to the Standing Committee on Indian Affairs and Northern Development.

He said: Mr. Speaker, today I am asking Hon. Members to consider legislation which will eliminate two historic wrongs in Canada's legislation regarding Indian people. These wrongs are discriminatory treatment based on sex and the control by Government of membership in Indian communities.

In the early days of Confederation, Canada consisted only of the Maritime Provinces, parts of Ontario and parts of Quebec. The balance of the great land was the territory of the aboriginal people. At that time, the Parliament of Canada took upon itself to define through the Indian Act who it would recognize as having Indian status. As Canada took over those Indian lands, hundreds of thousands of people and their descendants fell unknowingly into a category of people whose lives would become dominated almost totally by the federal Government.

The legal definition of who was an Indian reflected the nature of Canadian society at the time. A woman followed her husband's status. He alone had civil and political rights and he alone could pass them to his children. This 19th century view was reflected throughout the Indian Act. An Indian woman would, parliamentarians of the day reasoned, be taken care of by her white man and therefore would no longer need to be an Indian. She was enfranchised, to use the terminology of the Act. For her, the price of marriage was her status as an Indian.

It is sad to say that these legal definitions continue to the present day. The result is a lengthy list of hotly debated issues. These include questions like who is an Indian, who determines who belongs to a band, who should be registered as having Indian status, what should be done with people who lost status unfairly and with their children, and what is enfranchisement and why do we still have it. All of these issues mean little to most Canadians but they are critical, urgent and important questions to Indian people. That is why the federal Government has been under pressure from many fronts for many years, both in and out of Parliament, to remove sexual discrimination from the Indian Act.

In the legislation which I am tabling today, that removal is being effected. If this was all that had to be done, it would be done simply. However, removing discrimination raises two other questions: what about those who have lost their rights as a result of discriminatory legislation, and who really should control the membership in the bands? To discuss these questions, I need to step back a moment and explain certain facts.

I might say parenthetically, Mr. Speaker, that you would find as I did, if you were to travel throughout Indian communities and deal with organizations that deal with matters related to Indian people, that the amount of ignorance which exists about certain facts with respect to these definitions is striking. That is why I wish to spend a short time dealing with them.

The Indian Act deals with three basic things: who is considered to be an Indian within the meaning of the Act; who can be a member of a particular Indian nation; and who can live on reserves. Status defines those individuals whom the federal Government wishes to include within the meaning of the Indian Act. It is the right of the federal Government to make that decision. As a result of certain government policies, these individuals who have status are eligible as individuals for certain programs, most particularly those in the fields of education and health.

Band membership is a qualitatively different matter. Band membership is a collective right because it gives access to the common assets and the decision-making process of the band. Residency on the reserve goes to the heart of the participation in the daily life of Indian people in Indian communities. That is why flowing to those resident people is access to housing and other community services. That is also why it has been clear to me for some time that the intimate decisions regarding membership and residency must be made by the people most concerned and most affected.

I know that some people have felt that the resistance of some Indian people to having discrimination removed from the Indian Act was nothing more than male chauvinism. I wish to take this opportunity to explain that in all of my hours and days of meeting with Indian people on this and other subjects, I have not found that to be true. Many First Nations have long preceded Canada in the creation of egalitarian, non-discriminatory societies, and the recognition of the rights of women. Many Indian women had strong political rights in their nations long before non-Indian Canadian women had the right to vote. Indian people have long been on record as being in support of the principle of sexual equality and have joined with others in condemning discriminatory federal actions which have deprived persons of their rights without their consent or without the consent of their communities.

● (1210)

Indian people have consistently objected to the federal Government intruding into the governing of their communities and nations. What greater intrusion can there be than the arrogance of assuming the right to tell another people of another culture and tradition who is and who is not a member of their