

# HOUSE OF COMMONS

Tuesday, June 11, 1985

The House met at 11 a.m.

● (1105)

## GOVERNMENT ORDERS

[English]

### INDIAN ACT

#### MEASURE TO AMEND

The House resumed from Monday, June 10, consideration of Bill C-31, an Act to amend the Indian Act, as reported (with amendments) from the Standing Committee on Indian Affairs and Northern Development.

**Mr. Jim Manly (Cowichan-Malahat-The Islands)** moved:

Motion No. 3

That Bill C-31, be amended in Clause 2 by striking out lines 5 to 15 at page 2 and substituting the following therefor:

"striking out subsection (2) and substituting the following therefor:

"(2) The Governor in Council may by proclamation declare that this Act or any portion thereof, except sections 5 to 14.3 or sections 37 to 41, shall not apply to:

(a) any Indians or any group of band of Indians or

(b) any reserve or any surrendered lands or any part thereof,

and may by proclamation revoke any such declaration." "

He said: Mr. Speaker, I would first like to have a clarification on a point of order. I understand that if I make a minor amendment, the motion will probably be acceptable. Am I entitled to move that amendment, or must it be moved by someone else?

**Mr. Speaker:** Given that the motion is in the Member's name, the amendment must be moved by someone else. Technically, the Member is now rising to move and to speak on Motion No. 3. Therefore, The Hon. Member must seek someone else to move the amendment, other than the seconder of Motion No. 3. Therefore, I will change the seconder of the main motion. With the unanimous consent of the House, the seconder of the main motion shall be Mr. Deans.

**Mr. Manly:** Mr. Speaker, I would first like to make a few comments and perhaps after that my colleague could move the amendment.

Basically, the motion suggests that the suspension of power by the Governor in Council should include the membership restrictions which we are dealing with in Bill C-31. The power to suspend certain sections of the Act goes back to the first federal Indian Act which was implemented in 1876. The only

restrictions which presently exist upon that power apply to Sections 37 to 41 of the Act. As Hon. Members will know, Sections 37 to 41 deal with the surrender of land. I believe the reason that these sections are restricted is the great importance of land to Indian people and to their existence as a nation. The Government, in its wisdom, hedged the surrender of land with a fair number of procedures that were intended to protect Indian people from fraud or from alienation of their land without very careful consideration being given by the people of the band and by the band council. Those procedures are set out in Sections 37 to 41.

Section 4(2) of the Act states that the Governor in Council may exempt certain bands from certain sections of the Act, except those sections dealing with land surrenders.

For the past several days we have been debating Bill C-31, which is attempting to restore one of the most basic rights to Indian people, that being the right to belong to their own people. I believe that right should also be protected from any arbitrary action on the part of the Governor in Council. For that reason, I believe that Bill C-31 should be amended, in line with Motion No. 3, so that Section 4(2) of the Indian Act will specifically exempt the new membership sections from the power of the Governor in Council over certain bands.

My colleague will move an amendment which will change line 15 to line 6 in the motion. That will leave the "greater certainty" clause which is already in the Bill. I did not intend to remove that clause. It was an error on my part that line 15 remained rather than line 6. Therefore, my colleague will be moving a minor amendment which I hope will correct the situation.

● (1110)

In the last Parliament, Mr. Speaker, the Standing Joint Committee on Regulations and Other Statutory Instruments has some very negative comments about the whole use of Section 4(2) by the then Minister of Indian Affairs and Northern Development in trying to circumvent the problems we all recognized with Sections 12(1)(b) and 12(1)(a)(iv) of the Indian Act. The Committee on Regulations and other Statutory Instruments pointed out quite rightly that the Government should not try to do by proclamation what should properly be done by legislation.

As I listen to this debate, it seems to me to be the clear will of the House of Commons that those people who lost status through Sections 12(1)(b) and 12(1)(a)(iv) should have their status and their band membership restored. We want to see this happen without exception. Therefore, I feel we should build that protection into the Act and request that this motion be accepted, with the amendment which will be moved by my