maternal grandmothers were non-Indians and who lost their band membership at the age of 21. In addition, those people who enfranchised voluntarily under subsection 109(1)—that is, those who themselves applied to give up their rights, as well as their wives and children who were enfranchised with them—will be entitled to regain registration under the act. Band membership for this group, which numbers about 8,000, will be decided according to band membership rules.

The first generation descendants of all of these people, both the victims of sexual discrimination and the families that enfranchised voluntarily, will be eligible for first-time registration as status Indians under the Indian Act. This group of descendants is estimated to number about 50,000. Again, band membership for this group will be a matter for the bands to decide.

If a band does not act within two years of Royal Assent to Bill C-31 to assume control of its own membership, then band membership for that band will be administered by the federal government. In such cases, Indian status will confer band membership, as has been the long-standing federal policy. People granted status under this bill would be among those gaining band membership in those circumstances. The government expects, however, that most bands will act within the two years to assume control of their own memberships.

The final key element that I would like to mention is the abolition of this term "enfranchisement." This curious term is used in the present act in just about the reverse of what people would assume it to mean. It is used to describe the process of giving up Indian status. It dates from a time when the only way Indians could obtain the vote—that is, to become "enfranchised," according to the meaning we might give the term—would be to renounce their "Indian-ness." This assimilationist policy has been an anachronism since 1961, when the Diefenbaker government gave Indians the right to vote in federal elections. I am pleased to confirm that Bill C-31 eliminates this offensive concept from the act.

The principal elements of Bill C-31, then, are: the removal of sexual discrimination for the future, band control of band membership, restoration of rights for those who lost them through sexual discrimination and elimination of the concept of enfranchisement.

Major changes have been made to the original Bill C-31 by the Standing Committee of the House of Commons on Indian Affairs and Northern Development. The elements I have just described to honourable senators were, for the most part, contained in the original version of Bill C-31. Members of the Standing Senate Committee on Legal and Constitutional Affairs will be familiar with these points. I have gone over this in some detail for the benefit of all honourable senators, and I would now like to summarize the major amendments made to the bill during the course of its consideration in the House of Commons.

I have already dealt with one such change relating to those who were enfranchised under subsection 109(1). In the bill, as it was tabled in the House of Commons, only certain categories of those so enfranchised were defined as "unfair," examples of which included including persons enfranchised as a result of joining the Canadian Armed Forces, as absurd as that may sound, or those enfranchised in order to obtain or maintain employment. During the hearings of the House of Commons committee, it became clear that the distinction between fair and unfair enfranchisement was tenuous. Accordingly, the minister moved to amend the bill as I described earlier. All those enfranchised under subsection 109(1) of the former Indian Act will regain Indian status if they so wish. On the other hand, to restore band membership directly for this group will intrude too far on the principle of band control, so the amendments also provided for band rules to determine whether those enfranchised regained band membership. This change has been well received by most observers and by both opposition parties in the House of Commons.

• (2040)

Amendments led to a further strengthening of band control. The original bill provided for an explicit bylaw power pursuant to which bands would regulate residence on reserves. One amendment gives bands the power to prohibit intoxicants or regulate their use on the reserve. The provision was included in the bill to plug a gap created by a series of cases in the courts, and in particular two cases that were heard in my home province of Manitoba, one being *The Queen vs. Edwin Bear,* which was a judgment of the Court of Queen's Bench in Manitoba, and the second being *The Queen vs. Hayden,* which was a decision of the Manitoba Court of Appeal in October of 1983.

Both cases concerned individuals apprehended with intoxicants on a reserve, and the court held, in both cases, that the section of the Indian Act which prohibits intoxicants on reserves is in violation of the Canadian Charter of Rights and Freedoms. To apply its provisions is to discriminate on the basis of race.

That was section 97 of the former act. There was an Alberta case as well.

I should mention, also, that, in respect of the judgment of the Manitoba Court of Appeal, the federal Department of Justice attempted to obtain leave of the Supreme Court of Canada to have the matter heard by that court, and leave was not granted. I assume, therefore, that there is some ground to believe that the court, in hearing the application for leave, either found the judgment of the Manitoba Court of Appeal to be sound, or saw no reason why it would reverse such a finding—

Senator Frith: Or that it had no pan-Canadian significance. However, I would not think that would be a good ground for refusing the application in this case.

Senator Nurgitz: I think not. In any event, section 97, which deals with the possession of intoxicants on reserves, has been removed. In essence, the changes made through these amendments provide for something akin to municipal bylaws in this respect. I am sure all honourable senators are familiar with the fact that there are municipalities in our country that are still