



**Standing Committee on Aboriginal Affairs and Northern Development**

**Comité permanent des affaires autochtones et du développement du Grand Nord**

**EVIDENCE NUMBER 19,  
TÉMOIGNAGES DU COMITÉ NUMÉRO 19**

**UNEDITED COPY - COPIE NON ÉDITÉE**

**Thursday, April 3, 2014 - Le jeudi 3 avril 2014**

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⊕ (1530)

[*English*]

**The Chair (Mr. Chris Warkentin (Peace River, CPC)):** Order.

This is the 19<sup>th</sup> meeting of the Standing Committee on Aboriginal Affairs and Northern Development.

Today we are completing our study of Bill C-25, An Act respecting the Qalipu Mi'kmaq First Nation Band Order in reference to this legislation. We will be going clause by clause.

Before we do that we have a question for our departmental officials.

Ms. Crowder, we'll turn to you.

**Ms. Jean Crowder (Nanaimo—Cowichan, NDP):** Thanks, Mr. Chair. I want to thank the department for coming before us. I think you are aware that when we had testimony on Tuesday that one of the witnesses raised some questions about how the protest provision would apply. I wonder if you could clarify for the committee because my understanding is that there is still provision for the protest provision to apply once something else happens. I wonder if you could explain that for us?

**Mr. Andrew Saranchuk (Assistant Deputy Minister, Resolution and Individual Affairs Sector, Department of Indian Affairs and Northern Development):** I'll let Mr. Reiher field that question it's an inherently legal one.

**Mr. Martin Reiher (Acting General Counsel, Director, Operations and Programs, Legal Services, Department of Justice):** Thank you.

Indeed in the Indian Act an individual whose name is removed from the Indian Register or a band list has the opportunity to protest that removal. Thereafter they have the opportunity to appeal to a provincial court from a decision on a protest.

This recourse will apply in this situation in the following manner: the first step in this process is that there is an enrolment process conducted by the enrolment committee which produces a list of names which will be recommended for addition to the schedule to the order creating the band. Once this first step is completed therefore the schedule to the Qalipu Mi'kmaq First Nation Band will be amended and names will be added. Individuals from that point on will have an entitlement to registration and their name will be added to the Indian Register and to the band list of the first nation.

At that point there will be a right to protest the addition or removal or the name by the registrar. What the registrar will do upon such a protest is to look at whether or not the individual is entitled to be registered. In this context the entitlement to registration flows from section 6.1(b) of the Indian Act, that is that the individual is actually a member of the body of Indians that has been declared to be a band. In other words, in this context the fact that the name of the individual is on the schedule to the order.

The registrar does not exercise his discretion in such a situation. He simply determines whether or not the name is on the schedule. The registrar will not look behind the schedule. If the name is not on the schedule the registrar will not reconsider what the enrolment committee has determined.

I think that would be the answer. I hope that's complete.

**The Chair:** Ms. Crowder.

**Ms. Jean Crowder:** There was one other point with regard to the recourse to courts. My understanding is that clause 4 is about liability but it doesn't prevent individuals from appealing the enrolment committee determination or to challenge in court through a judicial review application their exclusion from the schedule. Is that correct?

**Mr. Martin Reiher:** That is correct.

**The Chair:** Mr. Saranchuk, and Mr. Reiher, we want to thank you for being here.

I'm not sure. Are there any other questions that anybody has before we move into clause by clause?

Thank you for this clarification.

Colleagues, we'll skip the preamble and the short title.

We will now consider clause 2.

I don't see anybody looking to debate clause 2.

We'll go to a vote.

All those in favour? Anyone opposed?

(Clause 2 agreed to)

**The Chair:** On clause 3.

Not seeing any individuals looking to speak to that we'll move to a vote.

All those in favour of clause 3? Anyone opposed?

(Clause 3 agreed to)

**The Chair:** On clause 4.

All those in favour? Anyone opposed?

(Clause 4 agreed to)

**The Chair:** I will move then to the short title.

All those in favour? Anyone opposed?

**Some hon. members:** Agreed.

**The Chair:** On the full bill.

All those in favour?

Did I miss the preamble? I do apologize.

We'll go back to the preamble.

All those in favour of the preamble? Anyone opposed?

**Some hon. members:** Agreed.

**The Chair:** I do apologize, colleagues.

The bill in its entirety, unamended.

All those in favour? Anyone opposed?

**Some hon. members:** Agreed.

**The Chair:** Shall I report this to the House?

**Some hon. members:** Agreed.

**The Chair:** Colleagues, that completes our deliberations on Bill C-25.

Colleagues, our next meeting will be with the briefing on wills and estates. There will be a background document that will be circulated to you as members as soon as it's through translation. We will have a briefing on Tuesday with regard to wills and estates.

If there's nothing further, colleagues, we'll adjourn.

Meeting adjourned.