

Indian Act isn't easy to understand, according to chief

By Terry Fleurie
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Pikwakanagan -- The Chief of the Algonquins of Pikwakanagan is very concerned about the future of the First Nation under some of the provisions of the Indian Act.

Chief Kirby Whiteduck sat down with the *Leader* last week and tried to explain the status provisions under the act, saying they are very complex.

The Act began as provisions in around 1851 and it became an official Act in 1876. It has seen numerous changes over the years.

Prior to April 1985, if a status "Indian" male married a "non-Indian" woman without status, she would be given full status.

"On the other hand, if that "Indian" man's sister who was a status Indian married a non-Indian man, she lost her status," he noted.

Prior to April 1985 when the status man had a child with the woman, who is now status, that child received 6 (1) status. If the status woman, who lost her status by marrying the non-status man had a child, that child was also not status prior to April 1985.

"So it went to court on the challenge that it was discriminatory and the court overturned the provision and changed the act," Chief Whiteduck explained.

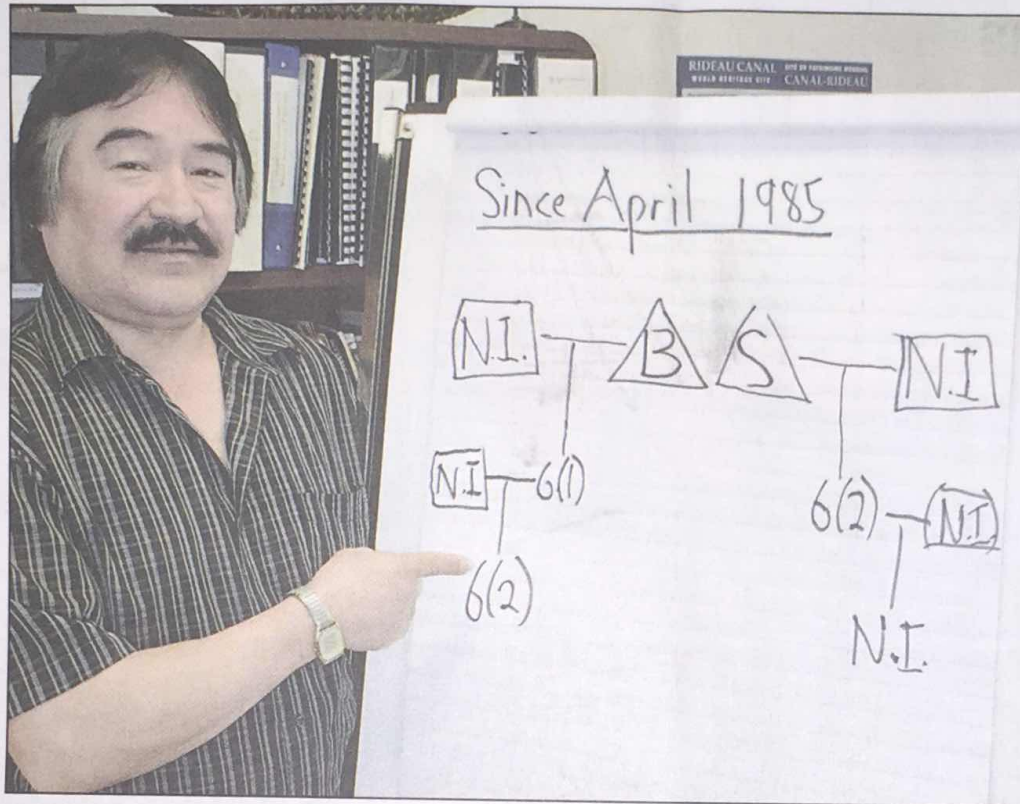
After 1985, the woman who married the non-status male was given her status back but the non-status male received no status and their offspring were considered 6 (2) status.

"Whereas her brother's child would be a 6 (1) status," he noted.

The Act was challenged once again because it was felt it was still discriminatory and it was overturned and the government changed the act in the past three or four years, the chief noted.

With the new changes, the woman's child would now be 6 (1) status.

"It would be helpful to further explore self-government and see if we can negotiate and get support for our own constitution under a self-government agreement and determine our own citizenship criteria," he said.



Chief Kirby Whiteduck of the Algonquins of Pikwakanagan First Nation explained the status provisions under the Indian Act to the *Leader*. He fears the future of the First Nation may be in jeopardy because of provisions in the Indian Act.

Chief Whiteduck said at least 22 other First Nations have signed self-government agreements and another 90 are in negotiations.

"So there is interest there," he remarked. "And I think we have to have a look at some of their constitutions and look at their membership codes."

Chief Whiteduck said there are quite a number of 6 (2) members in the Algonquins of Pikwakanagan First Nation membership and should they have children with a "non-Indian" then their children don't have any status and are not members of the First Nation. He added members with 6 (1) and 6 (2) status do have voting privileges as members of the First

Nation once they turn 18.

"That's how the Indian Act works and I don't think some people understand it in a lot of detail," he stated. "I'm getting the feeling that a lot of members just assume they're full status and their children are going to be status automatically."

"But that's not the case," he added. Chief Whiteduck said a few years ago the band's membership manager did an analysis of the First Nation members.

"She predicts, based on that analysis and the stats of the membership, that in 60 or 70 years there might be no status Indians of Pikwakanagan," he said. "That might change a little

bit because of the recent changes to the act because it gives another generation status, but the way it's going, eventually at some point, and it might not be too long in the future, there might not be any status Indians.

"So then they're not eligible for the programs and the services and I guess there won't be any members," he added. "So I'm not sure what's going to happen with the First Nation, if it will cease to exist as a legal entity."

Chief Whiteduck said if it gets to the point where there are no status Indians, he is unsure what the federal government might do with the

reserve, because the reserve is set aside under the Indian Act for Indians.

"Council is well aware of that and we'd like to somehow try and prevent that because we do not want that to happen," he stated. "So one alternative is to explore and look at self-government."

Chief Whiteduck said if council must withdraw from the AIP negotiations as a result of the vote or as demanded by some members of the community, he feels the option of achieving self-government would be threatened.

"If we formally withdraw then there is no formal negotiations," he said. "The government could say we formally withdrew so they can't really talk to us on a formal basis."

"Then we'd have to try and go through normal channels and talk to the Department of Indian Affairs under the same system we're under now," he explained. "I know a lot of people would like to have a better agreement and so would myself and council, so the intent is to try and negotiate a better package and explore self-government to see if it would improve things for the medium and long-term for the First Nation."

Chief Whiteduck said under self-government the First Nation could still be recognized as a legal entity.

"So while the Indian Act is a piece of legislation, a self-government agreement would be recognized under a different piece of legislation, but they're both legislation," he said.

Chief Whiteduck believes achieving self-government would be a positive step for his community.

"It holds better promise than what the current situation is under the Indian Act, because if the projections are right, in 60 or 70 years there will be no First Nation members or status Indians or no First Nation, as a legal entity," he stressed. "Council doesn't want that to happen and we're looking for alternatives that we could provide a better future for our children and their children."

Better Communication Needed

Chief Whiteduck said as he talks to some community members he is

discovering they do not understand the wording of the AIP or the complexities of the Indian Act and how it impacts them.

The chief is hearing some members are becoming very concerned because they are finding out their families are being impacted by the Act.

He admits he is somewhat surprised by the degree of unrest in the community where some members called on council to either withdraw or resign, saying he knew there would be some opposition.

"There's always opposition when you have a major issue, but I was surprised to the degree of it," he stated. "I guess people do not have a good enough understanding of the process going forward."

"I think we have to accept some of the responsibility," he added. "It wasn't intentional; we thought we were doing a good job and we tried to. We've had quite a number of community meetings and family meetings to explain the pros and cons."

He said the situation has been an eye-opener of sorts for council and as they move forward they will attempt to see things explained in a more understandable manner.

"Some of the terms are really technical or legalistic and a lot of the people don't understand that," he said. "I've been in this process for more than 30 years so I have a pretty good understanding of it so I was assuming, too much, that people also have a good understanding of things."

"If that's the case, we're going to have to change the way we communicate and how we say things."

Chief Whiteduck said if a strong percentage votes no, it may not be a successful negotiation. Period.

"In that case, the negotiations will likely end," he stated.

The results of the vote on the AIP by the nine non-status communities and by the Pikwakanagan First Nation are scheduled to be released on March 17. He said the results of the vote will be analyzed and where they see there are concerns, they would like to take those concerns back to the table.