

SIX NATIONS OF THE GRAND RIVER CITIZENSHIP CODE

The first attempt by the federal government to rectify the discriminatory sections of the *Indian Act* against Indian women occurred in 1985 with the passage of Bill C-31. This amendment was necessary because the *Canadian Charter of Rights of Rights and Freedoms* was part of Canada's Constitution that had been repatriated from Great Britain in 1982. It was now illegal to discriminate against people on the basis of their sex. Clearly, the membership sections in the *Indian Act* had discriminated against Indian women since its inception in 1876.

Bill C-31 allowed First Nations to take control of their membership from the federal government if the majority of the eligible voters of a First Nations approved of it. This is called the "Majority of the Majority Rule".

Six Nations of the Grand River attempted to take control of its membership in 1986. Although a significant number of the members voted in favour it was still well short of the majority.

There are many reasons why people at Six Nations do not vote. The principal reason is a significant number support the traditional government, the Haudenosaunee Confederacy Chiefs Council (the exact number who support the Council is unknown) and not the Elected Council and therefore refuse to vote in any Elected Council initiatives. Also, many are dissatisfied with the acrimony between the two councils and do not participate in any undertaking of either Council as long as their station in life will not change in any way by the actions of either Council.

Bill C-31 was not a panacea for all discrimination against Indian women. While it allowed female children to gain status of those women who had lost status through marriage, it did not allow their children (in effect the grandchildren) to obtain status although it did not inhibit the male grandchildren.

As a result of the *Mclvor* court case from British Columbia the *Indian Act* membership provisions were changed in 2011 by Bill C-3. Apparently the changes did not go far enough and as a result of the *Descheneaux* court case emanating from the Province of Quebec Bill S-3 was enacted and was proclaimed in force in December, 2017. This was to be the final cure for the membership provisions of the *Indian Act*.

Essentially Bill S-3 said that all those people who are descendants of those women who lost their status by marriage to non-Indian men pursuant to the 1951 *Indian Act* (the last time there were major revisions to all of the Act) are entitled to status. This includes grandchildren and great grandchildren, seemingly continuing endlessly down the line. Anyone who lost status under previous editions of the *Indian Act* could not regain status. This is referred to as the "1951 Cut-Off Date."

Under Bill S-3 the Minister of Indigenous Affairs had two years to consult with First Nations concerning the removal of the 1951 Cut-Off Date. This Consultation ended in June of 2019. In August of 2019 the Minister announced that the 1951 Cut-Off Date was no longer a part of Bill S-3.

Six Nations is the most populous First Nation in Canada, with approximately 28,400 members. Bill S-3, with the 1951 Cut-Off Date in place, already added a substantial amount of people to the membership

list. With the Cut-Off Date removed, people could now trace their parental genealogy as far back as the year 1869 and be entitled to be added to the list. This means that potentially 60,000 to 100,000 people could be added to the Six Nations of the Grand River Membership. Six Nations does not have the lands or the resources to provide for such a huge increase in numbers.

Six Nations began the process of taking control of its membership in consultation with INAC in November of 2018. It was discussed at the Exploratory Table that Six Nations has been engaging with Canada since June of 2016.

Six Nations began drafting the Six Nations of the Grand River Citizenship Code in January of 2019. A final version was completed at the end of March, 2019. The final version was tweaked by legal counsel for Six Nations and Indigenous Affairs Canada. By mid-April the final draft was completed for presentation to the community.

Community consultation on the Code occurred from April to May of 2019. Voting to accept or reject the Code occurred on May 5 and June 1. On-line voting was also available from April to June 1.

A total of 612 people voted of which 414 voted in favour of the Code. There was no appeal by anyone concerning the manner and results of the referendum.

The Report and Results of the Referendum were submitted to Canada in June of 2019. To date Six Nations has heard nothing from Canada as to whether it is now in control of its membership.

If Six Nations does take control of its membership, then all of those people who obtained status with the 1951 Cut-Off Date in place would remain entitled to be on the Six Nations Membership List. However, all those people who might be able to claim membership because they have a Six Nations ancestor going back as far as 1869 are excluded.