

Résumé
of
Reports of the
Indian Act Consultation Meetings

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

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FOREWORD

The recent consultation meetings held with the Indian people across Canada produced many expressions of the needs of the Indians with respect to the Indian Act. The papers which follow are an attempt to collate these views by broad subject area, so that there might be an indication in capsule form of what was said at the meetings and reported upon at much greater length in the Reports of the Consultation Meetings. The papers are not meant, however, to represent a formal summary of the proceedings of the regional meetings as any formal summary necessarily will await the conclusions reached by the delegates at the National Meeting.

As many of the regional meetings did not choose to follow the order of questions in the handbook "Choosing a Path" the papers have been based upon "subject areas" rather than directly on the questions in the booklet. For convenience, where possible, reference is made to the questions throughout the text and a complete list of the questions is set out as an appendix.

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BAND MEMBERSHIP

Children of unmarried mothers (Question 4)

Although some delegates felt that the relevant section of the Indian Act should remain unchanged in order to give Band Councils an opportunity to protest the inclusion of these children on band lists, there appeared to be a consensus on the following points:

1. Band Councils should have more authority in matters concerning membership.
2. Children of unmarried Indian mothers should take their mother's status regardless of who the father might be.

Other opinions expressed by delegates were that children of unmarried mothers should take the status of their mother until age 21 at which time they could decide for themselves whether or not they wanted to retain their Indian status; but others felt that the parent should make that decision for them.

Marriage and Indian status (Question 5)

There was no overall consensus on this question. Some delegates replied in the affirmative to all parts of this question, others felt that the wife should be the one to decide her status, while some felt that an Indian woman who married a non-Indian should retain her Indian status for a trial period of five years and, if the marriage had not broken down by this time, she would be deleted from band membership. It was suggested that these women be permitted to return to reside on the reserve in the event of the death of a husband, divorce or desertion. It was also suggested that an education program be established to make Indian women aware of the implications, in terms of membership, of marriage to non-Indians. Others replied in the affirmative and suggested that Band Councils should have more say in these matters.

Adoption (Question 6)

The gist of the deliberations appeared to be twofold: first, that non-Indian children adopted by Indian families should have Indian status; and second, that the Band Council should have more authority in these matters. Some delegates felt that Indian children adopted by non-Indians should have the prerogative of deciding their status at age 21 while others felt that children adopted by non-Indians should lose their status.

Withdrawal from Indian status (Question 7)

Many of the delegates felt that the word "enfranchisement" should be replaced by the word "withdrawal", and that Section 12 (1) (a) (iv) of the Indian Act should be deleted; others would like to see the sections

on enfranchisement entirely deleted. It was also suggested that there be a trial period, say from two to five years, wherein an Indian woman marrying a non-Indian would retain her Indian status and in the event that the marriage failed, she could return to her former reserve to live. Others felt that enfranchised persons should be able to regain their Indian status. The desire for greater local autonomy was also expressed.

Young couples (Question 8)

The consensus on this question appeared to be that married couples should be over 21 years of age before they could decide to withdraw from Indian status. Some went one step further and added that the application for enfranchisement should not be approved until one year from the date of application; others favoured prior approval from the Band Council or a five-year trial period without financial help and without returning to the reserve to reside.

Children (Question 9)

The consensus appeared to be that children of parents who withdraw from Indian status should have the opportunity to decide at age 21 whether or not they wish to retain their Indian status. Others felt that the children should take the status of the parents but that there should be a trial period for the family.

Band withdrawal (Question 10)

There was considerable diversity of opinion on the question of the number of votes required from the band which wishes to enfranchise as a whole, but the preponderance appears to be for at least a 2/3 majority vote with some delegates suggesting a 90 to 100% vote requirement. There was concern expressed about the minority who might not wish to go along with the majority for enfranchisement of the band as a whole and it was suggested that their rights be protected and that they be permitted to continue to operate under the Indian Act.

ECONOMIC DEVELOPMENT

General

There were many and varied comments on, and proposals for a more positive and cohesive economic development program. There was also notable regional and inter-regional disparity in views expressed.

Considerable concern was expressed in many of the meetings, by northern spokesmen in particular, over hunting, fishing and trapping rights and their importance as a means of livelihood and an essential food source to northern Indians. Also, since this way of life is being taken away by new industrial developments and can no longer support all Indians, they feel that alternative jobs and meaningful ways of life must be provided.

Delegates from both Kelowna and Regina expressed the opinion that more land was needed adjacent to their reserves to increase the developmental potential there (specific reference being made to agricultural development).

At two consultation sessions the feeling was strongly indicated that the Band should be allowed to make short term leases as the present lengthy roundabout route taken before a lease is issued is hindering reserve development and a more efficient method is needed.

A number of Toronto delegates felt that Bands should be assisted to start their own business on their land instead of leasing it to non-Indians at all.

At the Edmonton meeting, it was stressed that Indian people had to be given the opportunity to make their own mistakes in learning to manage their own affairs. Along the same theme, the Nanaimo and Moncton delegates wanted more individual freedom to be able to develop their reserves built into the new Act.

In the Quebec City meeting, the need was expressed for reserves for those without them on which to base homes and income producing industries to assist in the economic and social development of their people.

The Winnipeg conference recommended that all Manitoba Indian Reserves should be designated as areas of special concern within the meaning of A.R.D.A., notwithstanding that they may fall within areas not so designated by present legislation.

At several meetings, the need for sufficient monies for technical, professional, and legal advisers in social and economic development matters was stressed. At Winnipeg, it was also felt that there should be establishment of training centres to provide competent leadership and management in anticipation of this development.

At Regina one individual felt that reserve development projects should not be designed to help only the more prosperous Indians add to their incomes but rather to enable those below the poverty line to get ahead to the point where they would be able to eventually leave the reserve fully equipped to make their living elsewhere.

At Kelowna there was comment that a Band member should be compensated for personal lands and improvements when becoming enfranchised for if he was not, it would kill any incentive to improve or develop the land.

The Prince George conference raised the question of mineral rights and their effect on the economic prospects of many reserves. At Moncton, one delegate expressed the opinion that no-one, without written permission from the Minister and an authorized representative of the Band, should be allowed to issue permits to anyone to enable the removal of reserve minerals, stone and gravel, etc.

A general need in the economic development area, that for more suitable employment, was expressed at nearly every consultation meeting.

A Nanaimo comment that would make provision for the preceding wide variation in expressed situations and needs states that the new Act must be so flexible that when clauses or whole sections become obsolete, they will automatically cease to be effective for individual Bands.

Credit for Indian business men

Turning to the question of loans (questions 14, 15 & 16) and the development fund, the Toronto group recommended that: (a) Section 69 be deleted, or (b) so amended as to render it more operative and flexible so that it operates to the advantage of applicants for loans that finally more funds be made available by the Department for loan purposes.

Question 14

At some meetings, delegates were almost unanimously in favour that this provision should be provided for in the New Act as existing legislation is a drawback and discourages private enterprise. Opinion was divided however as other delegates were skeptical feeling that present provisions provided a needed protection. Many felt that Section 88 should be changed to allow the pledging of chattels and other personal property, except real estate. Section 64 (h) was also criticized and recommendation made that it should be amended to permit the borrower to borrow more than half the value of the security available up to its full value. Others wanted no change in existing legislation until more education can be given in the area of credit buying.

Kelowna delegates voted in favour of this question but could not agree on whether the words "with the consent of the Band Council who could decide whether or not they were capable of handling credit" should be added or not.

Question 15

The general response to this question, by delegates at meetings where it was discussed, was positive. Many of them felt that the words "or the government" should be deleted however and that it be left to the discretion of the band or band council to decide whether they had enough security to lend money. Kamloops delegates felt it should be amended to read "in accordance with the by-laws of the band."

Question 16

Here again, general response was positive wherever the question was discussed. Terrace delegates expressed reservation that individuals and bands should be protected and that the question wording should be changed to read "Should Indian Bands and individuals be able to borrow _____?"

Department farms (Question 21)

The majority of delegates from almost all of the consultation meetings which considered the question felt that this provision should be repealed. Kelowna delegates however voted (12 to 1) that Section 70 remain as it is with the provision that only those farming operations which are financed by the Crown should be under the jurisdiction of the Minister and that when the Band itself is able to operate such farms that the jurisdiction of the Minister cease. Prince George delegates were divided over whether the Section should be deleted, retained, or the power turned over to the Band Council.

Prairie provinces produce permits (Question 22)

There was almost unanimous consent at every meeting where this question was raised that this section be repealed.

Management of band funds (Question 27)

There was very little consensus reached here on any part of this question at any of the consultation meetings. Terrace delegates suggested that this matter be left to the discretion of the Band Council.

Some Chilliwack delegates felt that the Band Council should have control and management of both capital and revenue funds, others only if it was so authorized by concurrence of 51% of the membership, and still others only when the Band reaches a stage of development where it can administer its own affairs.

Capital Funds: Regarding Band Capital funds, several Moncton delegates felt they should be expended for Band development and Band projects only (community improvements) as did a number of Regina delegates. Regina, Edmonton, Fort William and Nanaimo delegates were most divided here. The Kelowna meeting decided that there should be no use of Band capital

funds except with a vote of the Band at a general meeting with a simple majority.

Revenue Funds: Some meetings were opposed to this use of revenue funds, others were in favour of it and a few felt the decision should be left up to each individual Band.

Band Council's Powers Over Band Funds: Quebec City delegates, also expressing the views of many delegates from other consultation meetings, felt that each Band should have the authority to determine how to use its funds and to determine what projects are to be undertaken. Sudbury delegates felt that Band funds should be directly in the control of the Band rather than sent to Ottawa as at present. All delegates appeared unanimous in their feeling that the Band Council's powers should be wider.

Sudbury felt that when capital funds are approved for expenditures, the Act should provide that Band Council income can be placed in the capital fund. Money received by Superintendents should be placed directly in control of the Band rather than sent to Ottawa as at present.

Kelowna delegates felt that Band Councils' powers should be restricted to these funds.

Prevailing attitudes in at least four of the meetings were that capital and revenue funds should be interchangeable (i.e. there should be more flexibility).

Specific Sections of Indian Act: Fort William delegates wanted Section 64 (a) of the Act retained but made more flexible so that other capital assets can be distributed equally around Band members. They felt that the rest of Section 64 should be repealed.

One Band from Sudbury felt that Sections 65 (b) and 66 (3) should be amended to read "with the consent of the Band Council". Section 67 should provide that the money of a husband or wife who deserts his or her family can be used for the care of the dependents if a court order has been issued to that effect.

Band business corporations (Question 34)

There was consensus from every meeting that considered this question (11 of them) that this provision be included in the new Act.

One Chilliwack spokesman felt that these corporations should operate under the jurisdiction of the Federal Government however until more education is obtained.

In Kelowna, delegates voted that if band business corporations were exempt from tax, bands might wish to form them. Federal and Provincial Governments should include in their Companies Act that when Indians form a company, all income and property owned by Indians in this company should be tax-free including taxation at all levels of government.

Economic development fund

There was a direct or indirect need expressed at every consultation meeting for the provision of such a fund, adequately capitalized.

Winnipeg delegates felt it should be decentralized regionally, operated by the Department and the Indian people, broad in scope, and capitalized at \$100 million.

Terrace delegates felt that it should be broad enough in scope to extend beyond the reserve and into the community.

A number of Chilliwack delegates suggested that it would operate to better advantage if it was divorced from the general administration of the Department.

Delegates from both Regina and Chilliwack expressed the desire for the establishment of credit unions with powers and restrictions spelled out in the new Act. Money for them would be advanced from the "fund", perhaps with security taken from leased Band property.

In Winnipeg the need was expressed for the provision of adequate professional advice in economic development to accompany the development fund. They also felt that the funds for these advisors should be delegated to regional and district levels.

EDUCATION

Question 18

In reviewing the minutes of the various consultation meetings the following résumé can be made:

1. Section 119 should definitely be removed from the Act.
2. Sections dealing with education in the present Act should be deleted and provincial School Acts should be substituted.
3. A minority opinion favoured some safeguard of the right to choose a denominational school.

Most of the groups expressed a strong opinion that education services were a right and wished to see this right protected.

ELECTIONS AND LOCAL GOVERNMENT

The answers given to Questions 28 to 33 and other suggestions made relating to local government indicate, for the most part, a wide variety of opinion.

Vote before changing local government system (Question 28): The majority of answers given were in the affirmative but a large number suggested that it should be the prerogative of the band or band council to decide. There were a few negative replies and other suggestions.

Voting age (Question 29): The suggested age limits ranged generally from 18 to 21 years, together with affirmative answers to the question. There were also some specific suggestions to permit the bands to establish their own requirements.

Candidate's age (Question 30): The majority of speakers and briefs were in the affirmative or at 21 years of age. There was a specific suggestion that the bands establish their own age requirement.

Single list of candidates (Question 31): The answers given to this question were extremely varied. Many were in favour, many were opposed, some opted for a band decision, and a number of replies included variations of each and alternate systems.

Council term (Question 32): Generally the delegates agreed with a specified term but there was a wide variation on what term should be (from 1 to 5 years) and how it should be established - many suggesting it should be a decision of the band. The matter of over-lapping terms also resulted in varying answers - many suggested it was a decision of the band, some suggested that it may be advantageous for large bands but not likely required for smaller bands.

Local government (Question 33): Virtually all answers and briefs submitted were in the affirmative. Most of the approvals were on the grounds of the differences in the development of the bands so that each band should be able to choose what they considered best under their individual circumstances.

The suggestions submitted related to local government, but not directly related to the questions, were varied and included such things as: incorporation of the band and band council; the establishment of regional or district councils; clarification of local taxation; local authority; law and order; recognition of the principles of self-government; some type of appeal body or check and balance of authority; various suggestions for the qualifications of nominees for council and the electorate including a distinct difference of opinion on the question of on vs. off reserve voting privileges; requests that bands establish their own systems of elections; composition of councils; qualifications,

etc., training for councils and band staff; grant and powers of council, some of which are specific, i.e. expropriation powers and some general, i.e. comparable to other local government bodies.

The answers to the questions, the additional suggestions made, and the tone of the meetings would indicate that generally the spokesmen were in favour of:

- (a) extreme flexibility in the Act to permit the individual bands to establish their own system of local government, councils, regulations etc. with broad outlines in the Act giving them the power to do so; and
- (b) a desire for local authority and power, at least comparable to other local government bodies, and including all facets of reserve development and administration.

These conclusions are evidenced by the wide variety of answers given to the questions and specific comments included throughout the various meetings or briefs such as:

- full delegation of authority be extended to band councils (Chilliwack, pages 6, 38)
- each band should run their own affairs (Edmonton, page 72)
- each band should have more authority on local affairs (Fort William, page 50)
- speakers who advised that the bands should have the necessary machinery and authority in local government matters (Moncton, e.g. pages 64, 65, 69, 73)
- a number of individual comments in respect to increased responsibility and authority for the band council (Prince George pages 25 et seq 91, 92, 95, 112)
- a desire for more local authority and power in most fields (Quebec pages 29, 35, 36, 37)
- the most important questions in the booklet were those related to local government (Whitehorse, brief, page 7)
- increasing responsibility for reserve administration (Winnipeg, page 9)
- a desire for flexibility (Chilliwack, pages 5, 6, 83, 123)
- solution to their problems must necessarily be flexible (Edmonton, page 2)
- flexibility was desirable (Moncton, page 5)
- a desire for flexibility (Sudbury, page 21)

ESTATES

Question 13

At the Moncton meeting there were 25 Bands represented. Six representatives offered opinions and of those two were in favour of having estates administered under the Indian Act as is done at this time. Three representatives expressed the view that estates should be administered in the provincial courts while one felt that the administration of estates should become the responsibility of the Band Council.

At the Regina meeting where 62 Bands were represented 2 offered opinions regarding estates administration. These two felt that estates administration should continue as at present.

At the meeting held in Yellowknife, N.W.T., there were 14 Bands represented and one opinion was offered. This was that Indian estates should be dealt with in the local courts.

At the meeting held in Sudbury where 36 Bands were represented 4 opinions were offered. Of these two were in favour of retaining the present procedure while one expressed the view that they should be referred to the local courts and the fourth felt that the Band Council should assume this responsibility.

At the Toronto meetings and the Whitehorse meeting the question was not discussed.

At the meeting held in Nanaimo where there were 32 Bands represented, only one opinion was offered, and that was to the effect that Indian Affairs Branch should be responsible for the administration of estates.

At the meeting held in Kelowna, B.C., where there were 28 Bands represented there was an expression of opinion from 19 and all were in favour of retaining the present set up for the administration of estates. There were 30 Bands represented at the Prince George, B.C., meeting and two of these expressed opinions on estates administration. One wanted the responsibility to rest with the provincial courts while the second one felt that the Band Council should assume this responsibility. There were 42 Bands represented at the Chilliwack B.C. meeting; 17 opinions were expressed and all those were in favour of having Indian Affairs continue to administer the estates.

The meeting held in Fort William where there were 44 Bands represented, views were expressed by seven representatives. Of these four were in favour of the Federal Government being responsible for the administration of estates while three felt that the provincial courts should have this responsibility.

At the meeting held in Courville, Quebec, 34 Bands were represented and 13 expressed opinions on the administration of estates. The consensus was that they should make their own arrangements as to whether their estates should be administered by the Federal Government, by the local courts or otherwise.

There is some doubt as to the views of the delegates at the Edmonton meeting where 41 Bands were represented. However a motion was passed that Section 42 and all its contents be deleted from the Indian Act. Then they went on to state that Section 43 of the Indian Act should be amended or reworded to read as follows: "the Minister may, with the consent of the Tribal Council".

At the meeting in Winnipeg a brief submitted by the Manitoba Indian Brotherhood was accepted by the 42 delegates. The brief stated that their estates should be administered in the provincial courts.

At the Terrace meeting it was moved, seconded, and carried unanimously that question 13 "be accepted as it stood". It appears as if the feeling was that estates should be dealt with in the local courts.

In summary it appears the majority of delegates did not express opinions on Question 13. At the Whitehorse and two Toronto meetings the Question was not discussed. At the Terrace and Winnipeg meetings formal motions were passed answering "Yes" to the question.

At most of the remainder of the meetings, various individual opinions were expressed but no consensus of each meeting was apparent. The majority of these individual opinions answered "No", some answered Yes and a few thought the estates should be administered through the Band Councils.

FEDERAL-PROVINCIAL RELATIONS AND CONSTITUTIONAL MATTERS

Fundamental Rights of the Indian People

At most of the meetings the delegates demanded that their fundamental rights be reinstated in the new Indian Act, and the meetings at Quebec and Edmonton wanted to have these rights included in the Constitution of Canada at the time of its revision. The Quebec meeting suggested that the Indians of Quebec enter as soon as possible into a Treaty with the Federal Government which would guarantee all their rights, on the understanding that this Treaty would be included in the Canadian Constitution when the Federal and Provincial Governments would reach an agreement on its amendment.

Some meetings demanded that the Indian people be again considered as a nation, or nations, or as people. They wanted to know at what time and why they had lost their status of being legal entity or entities which they clearly possessed at the time when Treaties were made - without this status, it was claimed, they would have been unable to be a part to them, and to sign them.

The meetings noted that over the past century or so encroachments by the Provinces, municipalities, other agencies and individuals on Indian rights and lands have continued at a steady pace and they accused the Federal Government in failing to meet the obligations of its position as a trustee.

All the meetings agreed that once all the Indian rights were reinstated and clearly defined in the new Indian Act and the Constitution, the Federal Government must effectively protect these rights against encroachment by anyone. The Federal Government was also asked to enter into agreements with the Provincial and Territorial Governments to ensure that the Indian people would receive all the benefits and services that were available to non-Indians.

Taxation in General, and by the Provincial Governments in Particular

Delegates at all the meetings complained about all forms of taxation and they claimed that according to the provisions of the various Treaties or the spirit of their aboriginal rights, they did not have to pay any taxes.

Toronto delegates brought up the question of their taxation by the Province; they were informed that the Province definitely had a complete authority to tax and that the solution was to try and persuade the Provinces that their legislation should, in this regard, be changed. (Page 29)

Most meetings unanimously agreed that they did not get a fair deal from the Provinces for the amount of taxes which they took from the Indians - services were insufficient or lacking (Moncton, p.26, Prince George, p. 70-71, Quebec, p. 10-11, 27, etc. seq., Winnipeg, p. 25, 32, Nanaimo, p. 5, Chilliwack, p. 121)

At Fort William a motion was carried to the effect that "any taxes from lands leased by non-Indians should be collected by Indians themselves and not by the Provincial Government or a Municipality". (Page 23)

Land Rights

Without exception all the meetings asserted their rights to land and asked that they be written into the new Indian Act for their protection. At two meetings in British Columbia the delegates asked for, and received assurance on behalf of the government that the discussions were and were understood to be without prejudice to any right or claim which they might have or wished to assert before an Indian Claims Commission or in any other manner. The two meetings at Quebec and Edmonton requested that the Indian rights to land as well as all their other rights be included in the Constitution of Canada at the time when it would be rewritten. All the meetings demanded the ownership of the mineral rights on their lands.

Fishing and Hunting Rights

There was a complete agreement in all meetings across Canada that the Fishing and Hunting Rights of the Indian people had to be respected and reinstated. All the delegates had agreed that these rights had to be included in the new Indian Act - at Edmonton and Quebec demands were made that they be included in the Canadian Constitution at the time of its revision - which also had to contain provisions that would protect these Indian rights from the Provinces. A strong demand was made to the Federal Government that it exercise fully its authority to protect the Indian people from the encroachment by the Provincial Governments. Since many Indians depended on fishing, hunting and trapping for their livelihood, a statement was made at Quebec that the right to eat and live was a basic right which should supersede the right of the Federal and Provincial Governments to argue over basic principles and territories.

There was also agreement that the provisions of the Migratory Birds Convention Act constituted a violation of the Indian rights and a breach of the guarantees by the Government given to the Indian people either through the various Treaties or through the explicit provisions regarding their aboriginal rights.

Other Rights

The meetings discussed also other rights of the Indian people such as their right to free medical care, education of their children in schools and in languages of their choice, water rights, offshore rights - it was evident, however, that when their fundamental rights were reinstated, these would also be included.

Conclusion

The outcome of the consultation meetings on the Indian Act in the field of Federal-Provincial relations and the constitutional law could be summarized in these two points:

1. All the rights of the Indian people based on the Treaties and their Aboriginal Rights had to be reinstated, written into the Indian Act and the Constitution, recognized by the Provinces and protected effectively by the Federal Government against all forms of

encroachment by anyone;

2. The Federal Government had to ensure through negotiations with the Provinces that the Indian people would be entitled to receive from the Provincial Governments all the benefits and services that were available to the non-Indian population in the respective Provinces.

HEALTH AND MEDICAL SERVICES

At four of the consultation meetings in 1968 (at Fort William, Whitehorse, Terrace and Nanaimo), there was no reference to this topic. At two others, (Toronto and Kelowna) the topic was touched on, but without much discussion. At the remaining nine meetings in 1968, by briefs or motions or discussions, the Indian representatives made it clear that they considered that free health and medical services should be provided to the Indian people.

In some of the representations, it was provided particularly that these services should be available as a matter of right, and should be extended to Indians both on and off reserves by the Federal Government. In others, it was stated that these rights should be incorporated in the new Act.

At Regina especially, discussion was very extensive; it was linked with rights under Treaty 6, and one motion specified that the Federal Government accept full responsibility for payment of premiums and medical services to the provinces. At Regina also, another motion called for transfer of the Indian Health and Medical Services back to the Department of Indian Affairs.

At the Toronto meeting in January, 1969, a motion was passed that responsibility for health and health services be incorporated in any future revision of the Indian Act.

Representatives of the Department of Indian Affairs pointed out at a number of meetings that, to the extent the Federal Government is involved, the responsibility for matters pertaining to medical services to Indians rests with the Department of National Health and Welfare. It was indicated, however, that the Department of Indian Affairs would be concerned about getting clear-cut legal interpretations of Treaty clauses that are being questioned, and that the representations on this and other topics would be brought to the Government's attention.

Health matters involving various local or regional problems were also discussed at some of the meetings.

INDIAN RESERVE LAND MATTERS *

As a result of the arrangement of some Conference agendas, the questions set out in the booklet - "Choosing a Path" - may not have been specifically discussed by the spokesmen. For the purpose of this summary however, the views expressed and the recommendations contained in Briefs submitted to some of the Conferences have been capsulized under the heading of the specific question to which they most closely relate.

Rights in reserve lands (Question 11)

In general, the consensus of each Conference was to the effect that management of Reserve lands should be in the hands of the Band Council. From that point, several views as to how this desire should be accomplished, were expressed. The geographical areas covered by the Conference at Moncton, Quebec, Toronto, Sudbury, Fort William, Regina, Edmonton, part of Chilliwack, Nanaimo, Prince George, and Terrace tended to the view that Title to Indian Reserve lands should be vested either in the Band Council or the pertinent Indian Bands themselves and that management in varying degrees should be handled by the various Band Councils. Some spokesmen at the aforesaid Conferences were of the opinion that individual locatees should have Title to the land assigned to him, and that the locatee should be free, subject to Band Council by-laws to manage the property himself. Other spokesmen felt there should be no allocation of individual lands, while still others felt that an individual's Title should indicate the terms and conditions prescribed by the council under which he holds title.

The Conference at Winnipeg endorsed the recommendation that authority for Reserve management should be decentralized to an extent comparable to standard municipal government at the level of the Band Council. The recommendation provided that all powers concerning land management now in the hands of the Governor in Council and the Minister, should be transferred to the Band Council.

The Conference at Kelowna adopted a motion in favour of the Minister retaining title to all reserve lands but on the basis of a "Trustee" arrangement, with the terms of trust spelled out in legislation, and with provision for Bands and individuals to acquire ownership without charge.

The Squamish Bands which formed part of the Chilliwack conference, submitted a Brief recommending that Indian reserve lands held by the Crown be leased to such Band Councils as request it, to facilitate sub-leasing under the control and management of the Band Council. Discussion of the Brief disclosed that the recommendation was designed to serve a two-fold purpose of placing control in the hands of the Band Council as well as the desire to circumvent the authority of Provincial and Municipal Government to tax the interest of a non-Indian lessee in Reserve lands.

*See also "Miscellaneous matters"

The Yellowknife Conference discussed a proposal which would abolish the Reserve concept entirely. This proposal would vest title to lands currently occupied by individuals in that person, and subsequent disposition of rights thereto would be under the direction of the appropriate Band Council or other similar authority and the Territorial Government.

Many individual spokesmen at those Conferences which favoured the management of Reserve lands by Band Councils, expressed the opinion that there should be some legislative provision to protect individuals from unfair rulings by Band Councils in the matter of allocation of individual holdings on Reserves.

Management of reserve lands (Question 12)

While there were several variations as to the degree in which it should apply, all Conference spokesmen were of the opinion there should be no sale of Indian reserve lands.

The Moncton Conference seemed to favour retention of the present rules concerning such sales, however some spokesmen were of the opinion that only those members resident on a Reserve should be eligible to vote on matters dealing with surrender. Approximately the same number of spokesmen however, favoured extension of the vote in such matters to all members whether resident or not.

Coupled with their recommendations for meaningful management of Reserve lands by the Band Council, a large majority of Conference spokesmen felt that matters relating to sales should be in the hands of the Band Council, which in their view constituted little change from the present rules.

The Winnipeg Conference in its Brief recommending decentralization of authority to the Band Council level seemed to anticipate that such action would result in the Band Council setting the rules and policy concerning sales.

Some spokesmen at the Kelowna conference, while endorsing a "no sale" policy for Reserve lands, could see the need for flexibility in such a provision, to allow for disposition of certain lands whose use was not of advantage to a Band, and where proceeds from a sale might be used to acquire more land having greater usefulness to the Band.

Although the expropriation provisions of the present Indian Act relate to sales of Reserve lands, the spokesmen at several Conference areas tended to discuss the procedure as a separate item. Spokesmen at all five British Columbia conferences expressed the opinion that where Reserve lands are to be expropriated, property of similar size and value to the Indian Band should be given in exchange for that taken. Some spokesmen felt that in addition to exchange of land, fair market value for the land taken should be paid. The Squamish Bands' Brief recommended that lands required under expropriation, be leased on a long term basis, with compensation to be reviewed from time to time during the term.

In all cases however, the Conference spokesmen were of the opinion that no expropriation should take place without approval of the Band Council.

While seemingly divorced from the subject of sales, many spokesmen from all geographical areas represented at the Conferences, tended to place discussion of additions to Reserves in the same category. Spokesmen from the Conferences at Quebec, Regina, Chilliwack, Nanaimo, Prince George, Terrace, Yellowknife, and Whitehorse, at one stage of the discussion or another wanted to see some legislative provision made to enable enlargement of their Reserve areas, either by acquisition of Provincial Crown land, or by purchase by the Federal Government, or from Band funds, where available.

Leasing reserve lands (Questions 25 and 26)

The term "Surrender" in connection with property to be leased for whatever term is unsuitable in the opinion of many spokesmen from all the Conference areas.

Conference spokesmen generally, favoured Band Councils having authority to lease lands for whatever term they determined, dependent upon the purpose for which the lease was intended.

The spokesmen's opinions concerning length of term for such leases ranged all the way from 2 to 25 years.

No spokesmen were in favour of leases for long terms whether approved by the Minister or the Band Council.

There was an indication from several conference areas however, that where the term seemed long to the Band Council, they should obtain concurrence by referendum vote of the Band members.

Many spokesmen expressed the view that an individual should be empowered to lease his own land without reference to the Band Council or other authority. Other spokesmen were of the opinion that an individual's leasing activities should be subject to direction of the Band Council, or subject to by-laws of the Council concerning general terms and conditions.

INDIAN TREATIES AND LEGAL RIGHTS

Many Indian delegates expressed dissatisfaction with the basic unit of Indian rights - the treaty. They felt that as most of the Indian signators were unable to read they often signed the treaties without fully comprehending what was involved; and that the treaty provisions were never fully observed. Some delegates (Winnipeg) regarded the treaty as a fraudulent document. Others saw the treaties as essentially worthless as they now stood. The legacy of mistrust could not be removed by re-negotiating the treaties, but only by an up-dating of treaty provisions and assurance of their strict observance in the future.

The Indian people regarded treaty provisions not as privileges but as hereditary, historic rights which were inalienable.

The rights which the Indians felt were being most infringed upon were those of hunting, fishing and trapping. In this regard, their greatest complaint was the manner in which federal and provincial laws curtailed the exercise of these hereditary rights. The Indians felt that they should be allowed to hunt, fish and trap during all seasons and in all areas to which they had legal access. What had to be done was to clarify through statute law what the Indian rights were and where federal and provincial laws applied. In this respect, the Migratory Birds Convention Act was seen as abrogating many Indian hunting rights. Opinion was unanimous for its modification or repeal.

Health and education rights were also stressed. In Treaty No. 6 area the "medicine chest" provision was construed as a promise of free medicare. Some delegates in other treaty areas felt medicare should apply to them for the government had discouraged the practices of the medicine man, yet had not replaced him with an equivalent. As for education, it was felt that the Indian had the right to an unlimited and free education. Education rights included a voice in curriculum selection, language of instruction, and the type and location of the school.

Land and mineral rights received particular emphasis in British Columbia and Quebec, though opinions expressed there were similar across Canada. Basically, the problems of aboriginal title and ownership were felt to be at the root of the matter. In British Columbia, in treaty areas 8 and 11, and in Quebec the aboriginal title had not yet been extinguished. The problem for every Indian was to establish legal title to the land he possessed and then to establish a procedure by which he could acquire land which he felt he had a right to claim. Many Indian delegates felt that they had a right to minerals found on reserve lands. Some claimed compensation for resources harvested in the past, for which the Indians had received very little, if anything.

The solution to these aforementioned problems was similar. All Indian rights had to be set out in statute form, either in a new Indian Act or in the Canadian Constitution. Delegates from British Columbia and Treaty No. 6 felt that a separate Indian Act for them might be needed. Only after their rights had been codified, and treaties updated and observed, could the Indian people hope to join the mainstream of Canadian society.

MISCELLANEOUS MATTERS

Name of the Act (Question 1)

This was discussed at most, but not all, meetings. Generally, continuation of the present name was favoured.

Some delegates considered the name a relatively unimportant matter. While there were some objections to the use of the term "Indian", this was not considered a reason in itself for change.

The name "New Indian Act" was mentioned by some. At Chilliwack, B.C., it was suggested that there be a separate Act for British Columbia, in which case the name should be the British Columbia Indian Act.

New names suggested included The Registered Indian Act, The Canadian North American Indian Act, The Canadian Native People Act, and The North American Act.

It was noted that, as in the case of other matters, delegates or others were free to send suggestions to the Department.

Delegation of authority (Question 2)

Generally it was agreed that more authority should be delegated, and spokesmen were interested in increased authority being given to Band Councils. In a few instances, they specifically favoured increased delegation of powers to Band Councils and Regional Offices, but not to Agency Superintendents.

It was mentioned that, in exercising authority at agency level, there should be consultation with Band Councils. Flexibility in the Act to permit Bands and Councils to take on as much authority as they desired was also mentioned, although the desirability of guidelines on the limits of the delegated authority of Band Councils was referred to as well.

Exclusion from Indian Act without consent (Question 3)

This was discussed at most, but not all, meetings. Almost without exception there was full support of the proposition that persons or Bands should not be excluded without their consent.

Participation in Canada (or Quebec) Pension Plan (Question 17)

"Should Indians whose income is earned on reserves and not taxed, contribute to the Canada Pension Plan, or if they live in Quebec, the Quebec Pension Plan?"

This was discussed at only some of the meetings. Where discussed, the majority favoured the proposition that the Indian individuals concerned should have the opportunity to contribute to the Canada (or Quebec) Pension Plan if they so desire. A few suggested the pension benefits should be available without payment of premiums, or that bands should have their own pension plans.

Two briefs from Quebec bands and several individuals, opposed contributions to the Pension Plan, but perhaps they would not object to personal contributions at the individual's option.

Voting on land surrenders (Question 19)

Of the 55 individual comments from band councils across the country on this question, 39 were in favour of permitting all adult members of bands living on or off reserves to vote on surrender proposals. Eleven bands were not in favour, while 5 bands preferred that the decision be left up to each band council. The consultation meeting at Prince George voted in favour of the question as a body. At the Moncton meeting, delegates stipulated that resident band members should vote in band council elections, while all band members be permitted to vote on any other pertinent band matters.

The consultations at Kelowna, Chilliwack and Edmonton gave an indirect reply to the question by suggesting that surrender sections in the Act be abolished. The Chilliwack and Edmonton meetings agreed, however, that any sale of reserve land etc. should have the agreement of all the band members.

The Regina meeting was concerned about some provision being made for situations involving surrender of land where the on-reserve members would be in the minority and off-reserve members would be in the majority.

Authority to order land surveys (Question 20)

It was agreed almost unanimously across the country that band councils rather than the Minister should have the authority to order surveys and subdivisions undertaken. Some bands however, suggested that Departmental assistance technically and financially should be available if requested by bands.

Justices of the Peace (Question 23)

Most band councils commenting on this question, were emphatic that agency superintendents should not have the authority to act as Justice of the Peace. At the Yellowknife, Regina, Quebec and Terrace, B.C., Consultations, it was stressed that Indian people should be appointed as Justices of the Peace.

Liquor (Question 24)

The Sudbury, Prince George, Terrace, Edmonton and Winnipeg consultation meetings, representing some 173 bands across the country voted to repeal all those sections in the Act on liquor. Although there was no formal vote taken at the Whitehorse meeting, there was a general feeling among the delegates that the liquor sections be repealed. At the other consultations 56 individual bands spoke in favour of repeal. Ten bands favoured no change in the liquor provisions.

Questions from "Choosing a Path"

1. Should the name of the new Act be "The Indian Act" or would another name be better?
2. Should the Act permit delegation of authority so that Band Councils and field staff can make more decisions?
3. At present, persons or Bands can be excluded from the provisions of the Act without their consent. Should their consent be required?
4. Should the children of unmarried Indian mothers take their mother's status regardless of who the father might be?
5. Should an Indian woman marrying a non-Indian take the status of her husband? Should each retain their own status as it was before they married? Should a non-Indian woman who marries an Indian, gain Indian status?
6. Should non-Indian children adopted by Indian families have Indian status?
7. Should the term "enfranchisement" be dropped? Should an Indian be able to withdraw from Indian status by simply deciding that he wishes to do so?
8. Should married couples, where the husband or the wife, or both are under twenty-one years old be able to withdraw from Indian status?
9. When a family withdraws from Indian status, should their children lose their Indian status too? At what age should children be allowed to choose for themselves? Should children be allowed to retain their membership, if their parents have dropped theirs?
10. When a Band wishes to give up its status, should it require a two-thirds majority vote, or is a simple majority enough? Should a minority have the right to remain under the Act?
11. Page 14 gives a list of suggested changes in property ownership regulations for reserve property. Are they suitable suggestions for your Band?
12. Should the present rules about selling reserve land be kept, or changed?
13. Should Indians have the right and responsibility for dealing with their estates under provincial law?
14. Should Indians and the Band be able to pledge all property other than real estate as security for loans with the lender being able to seize the pledged property if the debt is not paid?
15. Should individual Indians be able to pledge their right of possession to land to their Band Council (or the government) as security for loans?

16. Should Indians be able to borrow from any source using their income from leased out property as security for the loan?
17. Should Indians whose income is earned on reserves and not taxed, contribute to the Canada Pension Plan, or if they live in Quebec, the Quebec Pension Plan?
18. Should provincial laws, with special provisions for separate schools where there is no legal provision for them now replace the present educational sections of the Act; or should provincial law with no special provisions replace them? Do you have other views about education?
19. Should all adult members of a Band whether or not they live on a reserve be allowed to vote on surrender proposals?
20. Do you agree that the Band Council, rather than the Minister should have the authority to order surveys and subdivisions undertaken?
21. Do you agree that the provisions giving the Minister authority to operate farms on reserve land should be repealed?
22. A section of the Act says that Indians in the Prairie Provinces must get permission from the Agency Superintendent before they can sell animals or produce off the reserve; do you agree that this section should be repealed?
23. Do you agree that the section giving authority to appoint the Agency Superintendent as Justice of the Peace should be repealed?
24. Do you agree that the sections on liquor should be repealed?
25. Should Band Councils be able to enter into short term leases on their own authority? How long a term?
26. Should the Minister at the request of the Band Council be able to enter into leases up to twenty-one years without a vote of the Band? Should a vote be required for longer term leases?
27. Should Band capital funds be used for making grants, loans and guarantee loans to individuals? Should revenue funds be used for such purposes? How wide should Band Council's powers over Band funds be?
28. The present practice is to take a Band vote before changing the local government system from Band custom or before making any other change; do you agree that this should be required by law?
29. Should the voting age be that for provincial elections?
30. Should candidates for Band Council have to meet the age requirements of provincial laws for municipal office?
31. Should it be possible for a Band to choose its chief and councillors from a single list of candidates, with the person getting the most votes becoming the chief and a number of others becoming councillors?

32. Should the length of Councillors' terms have a fixed time limit of one, two or three years as decided by the Band? Should councillors' terms overlap so that only part of the Council comes up for election at one time?
33. Should individual Bands be able to select the kind of local government which suits it so that each community can manage its own affairs to the degree that each Band wishes?
34. Should Bands who wish to do so be allowed to form Band business corporations to administer the business affairs of the reserve community?