

REPORT
OF THE
INDIAN ACT
CONSULTATION MEETING

KELOWNA, BRITISH COLUMBIA
NOVEMBER 12, 13, 14, 15, 16, 1968

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MENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

CO-CHAIRMEN

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Kamloops Band
Box 27
Kamloops, B.C.

Mr. J.V. Boys
Regional Director
Department of Indian
Affairs.

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Spallumcheen	Chief Harry Jones	Box 226, Enderby, B.C.
Penticton	Mr. Adam Eneas	Box 253, Penticton, B.C.
Osoyoos	Mr. James Stalkia	Box 765 Osoyoos, B.C.
Lower Similkameen	Chief Barney Allison	R.R. No. 1, Cawston, B.C.
Upper Similkameen	Chief Charlie Allison	Box 85, Hedley, B.C.
St. Mary's	Chief Frank Whitehead	Box 823, Cranbrook, B.C.
Shuswap	Chief Lazarus Stevens	Athalmer, B.C.
Columbia Lake	Chief Camille Joseph	Fairmont Hot Springs, B.C.
Tobacco Plains	Mr. John Mahseelah	Crasmere, B.C.
Westbank	Chief Noll Derrikson	Box 250, Westbank, B.C.
Lower Kootenay	Chief Isaac Basil	Box 1015, Creston, B.C.
Coldwater	Mr. F.G. Antoine	Box 238, Merrit, B.C.
Cook's Ferry	Mr. Forrest Walkem	Sportsman Shell Service, Spences Bridge, B.C.

<u>Band</u>	<u>Spokesmen</u>	<u>Address</u>
Lower Nicola	Mr. Don Moses	3245 Renfrew Street, Vancouver, B.C.
Nicomen	Chief Norman Drynock	Lytton, B.C.
Upper Nicola	Chief Herbert Manuel	Douglas Lake, B.C.
Shackan	Mr. Albert Seymour	Box 45, Spences Bridge, B.C.
Nooaitch	Mr. Wildred Shackally	Box 48, Lower Nicola, B.C.
Adams Lake	Chief Harvey Jules	Box 228, Chase, B.C.
Ashcroft	Chief Charlie Kirkpatrick	Ashcroft, B.C.
Bonaparte	Mrs. Anastasia Zabatel	Cache Creek, B.C.
Deadman's Creek	Chief Charlie Draine	Box 178, Savona, B.C.
Kamloops	Chief Clarence Jules	R.R. No. 3, Kamloops, B.C.
Little Shuswap	Chief Johnny Anderson	Squilax, B.C.
Neskainlith	Chief Clarence Manuel	Chase, B.C.
North Thompson	Mr. Xavier (Sammy) Joseph	Box 33, Barrier, B.C.
Oregon Jack	Mr. Maynard Pasco	Ashcroft, B.C.

CONSULTATION TEAM

Minister of Department of Indian Affairs and Northern Development	Hon. Jean Chrétien.
Special Assistant to the Minister	Mr. William Mussell
National Indian Brotherhood	Mr. Walter Dieter
Department of Indian Affairs and Northern Development	Mr. Cy Fairholm

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Mr. Gordon Poupore

Mr. Steve Roberts

Mr. Les Smith

Mr. Arnold Fraser

Mr. George Remick

Mr. William Fox

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Tuesday, November 12, 1968

Co-Chairman Boys, called the meeting to order and welcomed the delegates and observers to what he hoped would be useful and fruitful days of discussion. He noted that the first order of business would be the selection of a co-chairman by the delegates whom he indicated did not have to be a delegate.

Mr. Gus Gottfriedson (Kamloops) was nominated as co-chairman by Mr. James Stalkia (Osoyoos), seconded by Mr. Clarence Jules (Kamloops).

Mr. Murray Alexis (Okanagan) was nominated as co-chairman by Mr. Dan Logan (Okanagan), seconded by Mr. F.G. Antoine (Coldwater).

Mr. Charles Allison (Upper Similkameen) seconded by Mr. James Stalkia (Osoyoos), moved that nominations close.

Co-Chairman Boys on a show of hands declared the motion to close nominations - carried. He received the nominations and suggested a written ballot. He appointed an election of committee of Chief Brewer (Okanagan) and Mrs. Lewis. In answer to a question he advised that only the delegates could vote in this respect. The election committee advised that Mr. Gottfriedson had been selected as the co-chairman, who was then introduced by Mr. Boys.

Co-Chairman Gus Gottfriedson thanked Mr. Boys for the introduction and the delegates for the honour of selecting him co-chairman. He noted that he had heard many comments and complaints about the Indian Act including the lack of consultation when changes were made. He advised that the delegates now had the privilege. He added that as the co-chairman he would be very loose and he requested the comments and recommendations of the delegates.

Co-Chairman Boys upon request of Mr. Gottfriedson introduced the members of the Indian Affairs Department that were present, together with Mr. Dieter, President, National Indian Brotherhood, and members of the Press.

Upon request of Mr. Gottfriedson the various delegates to the meeting introduced themselves.

Co-Chairman Boys inquired as to the type of agenda the meeting wished to follow. He advised that in knowing the agenda it would be possible for him to ensure that the proper resource people were present to answer any questions. He also advised that previous meetings had sat from 9 - 12 a.m. and 1:30 - 5 p.m. with a coffee break both morning and afternoon. He inquired if these hours were acceptable. The delegates were generally in agreement with these hours. He further advised that an additional meeting to consider all of the proposals would be held in Ottawa probably in January. He noted that this meeting would consist of a representative of each of the regional meetings so that prior to the end of the session it would be necessary to select one delegate to represent their meeting.

He stressed that this was the delegates' meeting and the Branch staff was present to try and answer any questions or interpretations of the Act, but was not present to say what changes should take place in the Act nor to make suggestions. He added that it was important for the delegates to express their opinions, thoughts and proposals so that they may be available for later consideration - a maximum discussion was requested. He asked Mr. Fairholm for his comments.

Mr. Fairholm advised that this was the 12th or 13th meeting of this type that he had attended along with Mr. Dieter. He noted that Mr. Boys had outlined the main purpose of the meeting and of the staff. He reiterated that it was to hear the delegates' thoughts and comments on what should be in the new Act, which he stated covered many subjects, but did not deal with others that touch upon the daily lives of the Indian people. He advised that the questions in the booklet "Choosing a Path" were a compilation of points raised by the Regional Councils and National Advisory Board, various Indian associations, and individual Indians or Councils. He added that it did not cover all questions that could be asked and other subjects could have been included. He advised that the discussions were not limited to the subjects referred to in the booklet. He reiterated that his role was to listen, to hear and to try and interpret the current Act, but he was not present to defend the current Act, or agree about what should be included in the new Act. He added that final decisions or a consensus was not needed - all points or opinions should be expressed and recorded so that they may be considered when drafting a new Act. He noted that the Minister of Indian Affairs had advised that further consultations would be held although the form of this consultation had not yet been decided. He advised that all delegates, chiefs and councillors will be sent a copy of the reports of each meeting so that they will be kept informed and these reports will also be considered by the meeting at Ottawa in January when an attempt will be made to iron out any differences of opinion that may exist.

In answer to a question of Mr. Antoine (Coldwater) Mr. Fairholm advised that the agenda for the meeting was not the same at any two meetings. Some followed the Indian Act, some followed the booklet, some made an agenda on the basis of priority of problems. He suggested that perhaps the delegates would like to discuss this point among themselves.

Mr. Adam Eneas of the Penticton Band suggested the delegates hold an in camera meeting to consider the agenda.

Co-Chairman G. Gottfriedson reconvened the open meeting at this time (2:50). He advised the delegates had agreed to follow the points outlined in the background material for the booklet. He noted that if a question is raised that required a resources person who was not

then present the question would be tabled pending the availability of the resources person. He suggested the meeting start with item 1 on page 3 of the background notes.

Co-Chairman Boys advised that he would ask the Superintendent of Education to be present on Thursday as it would be necessary to state a date so that he could be present. In answer to a suggestion of Mr. Antoine (Coldwater) he advised that he would try and obtain resource personnel from the Provincial system or a local school board. In answer to a question of Mr. Kirkpatrick (Ashcroft) he advised that the proceedings were being taped and minutes were being taken. In reply to a question from the audience he noted that a public address system did not seem to be available in the hall but that he would try and locate one.

Co-Chairman G. Gottfriedson read item 1 on page 3 of the background notes related to a name for the Act.

Mr. Clarence Jules of the Kamloops Band believed the name of the Act ought to stay as it is, it having been in use for so many years that despite any unpleasant connotations to the word these have been outlined. He also believed it should stay as it is since it was made for the Indian people.

Messrs. Stalkia (Osoyoos) and Derrikson (Westbank) agreed with Mr. Jules.

Mr. Fairholm in answer to a question of Mr. Logan advised that it was not known whether the name should remain or whether there may be some suggestion for a change.

Mr. Forrest Walkem of the Cook's Ferry Band suggested it be called the stumbling block, as he believed it was of no assistance to the Indian people who want to progress. He suggested the delegates not bicker about the name.

It was moved by Mr. Jules, seconded by Mr. Stalkia (Osoyoos) that the name of the Act remain as it is.

Co-Chairman G. Gottfriedson upon a show of hands declared the motion carried with two opposing votes. He then read item 2 of the background notes respecting the delegation of authority.

Mr. Fairholm at the request of the co-chairman noted that Section 3, subsection 2 of the Indian Act limits the authority to the Minister, to the deputy minister or the chief officer of the Branch upon authorization. He advised that in many instances in the Act the signature or approval of the Minister is required before a particular action becomes legal and since authority to exercise such authority is limited it means decisions are often delayed.

It had been suggested that one way of overcoming such delays would be to permit delegation of authority to other officers.

Mr. Clarence Jules enquired as to why the Indian Band Councils were excluded from such authority. He believed that they were in a better position to judge the needs of the people than officials of the department located in Ottawa; he noted that much of the dissatisfaction of the present Act arises from the lack of power and authority of the Band Councils. As an example he noted that his Band operates an industrial subdivision on part of the reserve and leases lots in the subdivision to various individuals and companies but before a lease can be granted not only must the band council pass a resolution but the lease must be routed through the Kamloops Indian Agency, the Vancouver office and finally to Ottawa. The same process is followed on the return trip. He noted that he could document instances where months have gone by before a lease has finally been issued. In many cases by the time the lease has been returned the lessee has gone elsewhere because people today require almost immediate decisions. These delays cost money and are not liked. He suggested there must be a change to grant more power and authority to the Indian Band Council as the Indian people elect them to represent them and do not elect the officials of the Indian Affairs Department.

Mr. Noll Derrikson of the Westbank Band moved that the Act should be amended to permit delegation of authority to allow the Act to be more effective. He agreed with Mr. Jules that by his motion he included delegation to the band council.

Mr. Adam Eneas agreed that delegation was needed, but suggested the motion should be amended to give flexibility and not be binding on all band councils.

Mr. Forrest Walkem believed that all such dealings should be done by the band council. He could see no reason why it was necessary to go through the various channels for an approval which were cumbersome. He thought that there was no reason to hold back the Indian people. He suggested approval by Ottawa for leases and similar matters be eliminated.

Mr. Dan Logan suggested that perhaps all councils were not prepared for such authority. He suggested it be left flexible or that some system of appealing decisions of band councils be established.

Mr. Walkem saw no reason for such channels or approval. He believed it should be left in the band councils' hands and if necessary they can obtain their own resource personnel such as a lawyer or real estate agent.

Mr. Logan said he was afraid that without flexibility or appeal procedure some councils would hinder the proposed development of a progressive Indian.

Mr. F.G. Antoine of the Coldwater Band did not believe the Indian people would elect a council who were going to hinder development.

Mr. Noll Derrikson believed delegation of authority to band councils would expedite such things as leases. He thought the Act as it was was a hinderance because of the delay.

Mr. Walkem also noted that in any large decision a referendum of the people was held and notwithstanding this it still must proceed through channels. He thought that time was important.

Mr. Noll Derrikson believed that the council should know the circumstances in any given reserve. Mr. James Stalkia of the Osoyoos Band also noted that there are other matters in the Act which hindered development such as the time required to transfer money to the band which in the meantime is not drawing interest or doing any good.

Mr. Logan enquired whether there should be a time limit so that the council could not table a proposal or delay making a decision.

Mr. Eneas suggested that the Branch have a legal officer at the regional office to give advice to the councils and not necessitate referral to Ottawa for such advice. He noted that although a Council could hire its own lawyer many of them were not knowledgeable about the Act.

Mr. Fairholm noted that there were many sections of the Act in the booklet concerning such things as leases and the authority of the band council or individual band members.

Co-Chairman C. Gottfriedson asked the delegates to remember they were discussing delegation of authority and not just leases.

The meeting continued discussing the motion on the delegation of powers to Band Councils and Field Staff.

Mr. Noll Derrickson observed that there was merit in having decisions made at the local level between the Band Council and the Field Staff. "They know the problems. Why is it necessary to refer to the Regional Office?"

Mr. Walkem "The Band Councils do not need the help of the Superintendent in making decisions. Did you ever hear of a Civil Servant who could make a decision? Every time one does so he loses his job."

Mr. Noll Derrickson said the Agency office could act in an advisory capacity. His motion was that: "The delegation of authority to Band Councils would make the Act more effective."

Mr. Dan Logan suggested that not all Bands are ready to assume full responsibility and it should not be forced on them until they are ready for it. He MOVED an amendment to the motion: "That this authority be given as Band Councils request it. This could be in such matters as issuing permits, approving land transactions or anything else as the Band Council wishes it." The amendment was SECONDED by Mr. F.G. Antoine.

Mr. Noll Derrickson said the only proper place for such authority is with the Band Council. They can help the business administration and the letting of leases. Mr. Forrest Walkem: Another reason to take it away from Ottawa is that before any big decision is made there must be a Band referendum and then the decision is sent through the proper channels to Ottawa. The only person who can stop the implementing of this decision is the Minister. If the Minister could get the letter today and send his answer back tomorrow, that would be fine. But it takes maybe six months or a year before the whole matter is processed. This is where the problem lies.

Mr. Noll Derrickson: It is the Band Council and the people on any one Reserve who know the particular circumstances in any case and this is the important thing.

Mr. Harvey Jules the Adams Lake Band: In discussing the amendment I would like to ask Mr. Logan if he wants the authority to go back to Ottawa. Where does the authority now lie? The authority now goes through about 20 different places.

It was explained that the intent of the motion was to extend the authority of the Minister to the Band Council in the matter of leasing if the Band Council wishes to accept that authority. Discussion indicated that this would require a lengthening of the Act to provide for those Band Councils who are prepared to accept authority and to cover at the same time Band Councils who are not prepared to accept it. This would lead to further segregation.

Mr. Fairholm: Could not the Act be written in such a way that the Band Councils that wish to accept responsibility and authority could and that those who did not wish to could still refrain from accepting such responsibility?

Mr. Noll Derrickson stated that he thought the amendment merely complicated the motion which was intended to make it possible for Band Councils to accept as much or as little authority as they choose.

The MOVER and SECONDER agreed to withdraw the amendment.

Mr. Noll Derrickson: "I will extend my motion to state that the Band can assume as much or as little responsibility as they please."

Mr. Boys read the question again and specifically raised the question of the participation of Field Staff. He pointed out that this question does not deal only with land questions but rather many other matters. Many of these questions would require the expenditure of Government funds and hence the need for the participation of Field Staff as representatives of the Department.

Mr. Walkem: Do you mean that the Council would require Field Staff to acquire funds to carry out programs?

Co-Chairman Gottfriedson: No. Funds are set up by the Department which are available.

Mr. Boys explained that if a Band is developing a new subdivision and a water system is wanted which will require Government subsidy, while the Band Council makes its decisions about the housing, consultation and financial planning must take place between the Council and the Department in order to make the water system available. There has to be an on-going programme of financial planning between Departmental representatives and Band Councils in order to assure the availability of funds.

It was pointed out, in answer to a question, that housing is the responsibility of the Department of Indian Affairs and not of Health and Welfare.

Mr. Logan asked if the Field Staff are not a part of the Department and where does the authority of the Band Council arise from?

Mr. Boys: It is the responsibility of the Band Council to plan for housing and to decide who shall get the houses. But there has to be consultation with the Department to get the funds. In some cases Band Councils are administering the whole programme. But in particular cases consultation and time would be saved if this could be done at the Field level.

Mr. Noll Derrickson: I think that if this change were made in the Act we would discover that the Band Councils would be working more closely with the Field Staff.

Mr. Forrest Walkem: I think that if we would give the Band Councils more authority they will progress. If you continue to give them more handouts they will not progress.

Mr. Adam Eneas: We have to consult with the officials of the Government if funds are to be available. This is why more authority should be given to Band Councils and Field Staff.

Mr. Walkem: If the Government feels that this is so important let's settle the land question and then we can look after our own affairs.

The question was called. MOTION CARRIED.

QUESTION NO. 3: Mr. Fairholm gave a brief outline of Section 4 (2) of the present Act. The Governor in Council may exclude a Band or part of a Reserve, or all of a Reserve from all provisions of the Act except Sections 37-41 which deal with the sale of reserve lands. However, the consent of the Band Council or an individual was not required. The Section had not been used often, except with the consent of the Band Council primarily to waive certain sections of the Act such as those dealing with liquor. It provided for a golf course which leased reserve land to have Section 93 (a) waived which makes it unlawful to sell liquor on a reserve. It had also been used to take a Band out of part of the election system so as to make it possible for the council to have four Councillors instead of twelve, required by the law.

Mr. Noll Derrickson, Mr. Adam Eneas and Mr. Dan Logan stated that nothing should be done by the Minister without the consent of the Band or the person involved.

Co-Chairman Gus Gottfriedson (Kamloops) read the part of the notes applicable to the question.

It was pointed out that in all questions there is the basic point of the extent of the powers of the Band Council as stated in Question 2. IT WAS MOVED by Mr. Noll Derrickson and SECONDED by Mr. Clarence Jules that no person or persons can be excluded from the provisions of the Act without their consent. MOTION CARRIED.

The meeting directed its attention to Band Membership. The Co-Chairman Gus Gottfriedson read the background notes on the matter.

Mr. Fairholm read from the Act stating who is entitled to be considered an Indian and who is not including questions of marriage, legitimate and illegitimate children, adoptions, etc. He pointed out the importance of this question with respect to the rights of the individual.

Mr. Forrest Walkem: It seems to me that the Indian is the only race in the world that requires a book to tell him whether he is an Indian or not. I am proud to be an Indian. If I get enfranchised, what would I be. An Italian in Canada can say he is Italian, a Frenchman, a Frenchman; but I need a book to tell me if I'm an Indian. If I decide I'm not going to live on a reserve, what am I going to be? This Act was drawn up by a non-Indian to satisfy the non-Indians, not the Indian.

Mr. Fairholm: The definition of an Indian in the Act is a legal definition and has nothing to do with blood.

Mr. Walkem: If you ask an English woman who married an Indian what she is she would say that she is English - not Indian. I say if you live in Canada you should be Canadian and not a hyphenated Canadian. The way it is you have to be an English Canadian, a French Canadian, an Indian or a non-Indian.

Mr. Dan Logan: The point is you're an Indian; it is your birthright.

Mr. Noll Derrickson: I think if we proceed with the questions in the book, we might be able to clarify some of these points.

Mr. Fairholm pointed out that if they had reserve property how were they going to decide who was entitled to that property. Who were the Band members? In 1951 an attempt was made to establish who is an Indian. Once this was established there was no provision made to change the decisions.

An observer, raised the question of the status of an Indian girl marrying a non-Indian.

Mr. Noll Derrickson pointed out that in the notes the first paragraphs were a prelude to the questions.

Co-Chairman Gus Gottfriedson then stated that Question No. 4 was under discussion.

Mr. Noll Derrickson: When our Band discussed this it was, and it was unanimous, that if it could be proven that the father was non-Indian then the child was non-Indian; if, however, the father refused to declare himself then the Band would have to accept the child as a member.

Mr. Walkem declared that anybody should be able to make at least one or two mistakes.

Mr. Logan: Our members felt that children should take their mother's status.

Mr. Charlie Draine of the Deadman's Creek Band: My Band takes the same stand:

Co-Chairman Gus Gottfriedson then read Page 5 of the notes dealing with unwed mothers.

Mr. James Stalkia of the Osoyoos Band expressed himself in favour of the child taking the status of the mother.

Mr. Ted Derriksan of the Westbank Band an observer pointed out that it was not the child's fault.

Mr. Noll Derrickson: In our Band we feel there is no question that if the father can be proven to be a non-Indian there is no question but that the children should not receive the rights of Band membership. On our reserve we feel that you could have almost a United Nations in the off-spring of one woman. A father should honour his responsibilities.

Mr. Forrest Walkem: There's got to be something more important than that. This is step backwards. If the Canadian Government wants to put up an Act regarding illegitimate children that is their responsibility. This is an unfair distinction. If your mother is a Canadian then your kids are going to be white. If she is an Indian then it depends on who the father is. This is not human. If you are an Indian then you're an Indian, period. Why should we have to refer to some little Act. If the Canadian Government wants to get big then let it settle the land question and let us be Canadians. Let's settle it with each Band and let's be Canadians. It is very childish to sit here discussing illegitimate children.

Mr. Noll Derrickson (Westbank): I MOVE that the problem be left to the individual Bands. SECONDED by Mr. Barney Shackley (Nooaitch). The Motion was CARRIED.

The Meeting was adjourned.

Wednesday, November 13, 1968

Co-Chairman Boys welcomed the delegates who were not present the previous day and he acknowledged the presence of Senator James Gladstone of Alberta. He then suggested that they continue with Question 4 (a), which reads:- "Should a child of an unwed Indian woman be required to give up Indian status if its Indian mother and non-Indian father subsequently marry?"

Mr. Forrest Walkem read a presentation from the Cook's Ferry Band (see appendix A).

Mr. Dan Logan said he thought that there was not going to be one Indian Nation in Canada and that the best way to settle differences would be on an individual Band basis. He thought problems such as the one posed by Question 4 (a) should be left to the decision of individual Band Councils.

Mr. Clarence Jules said his Band felt that a child should have at least until the age of 21 years to decide for itself whether it shall retain its status.

Mr. Noll Derrickson thought that it would be in order to move that each Band handle the problem in its own way.

Mr. George Leonard (an observer) asked what would be the status of illegitimate children born to a non-Indian woman after she had been married to and divorced from an Indian.

Co-Chairman Mr. Boys replied that the mother would come up for discussion under Question 5 which deals with marriage between Indians and non-Indians.

Mr. James Stalkia said his Band felt the same way about the question as the Kamloops Band (as expressed by Mr. Clarence Jules), except that his Band suggested the child should have until the age of 18 to decide.

Mr. Noll Derrickson MOVED that each individual Band should handle question 4 (a) in its own desired way.

Mr. Dan Logan SECONDED the motion.

Mr. Forrest Walkem asked why discussion on questions like 4 (a) was wanted. He said he felt that as blood is thicker than water, such questions would create friction between mother and child, father and son and that it is not right. He thought they should formulate some kind of an Act that reaches far beyond trying to find out whether a person is an Indian and why he should be one. He wanted to know why this matter is constantly brought up because, as far as he was concerned, it was not at all right.

Mr. Fairholm asked what the alternative was. He further asked Mr. Walkem if he would suggest doing away with the Act entirely.

Mr. Forrest Walkem replied that they recommended in their Brief that individual Bands should deal with such questions.

Mr. Dan Logan in response to Mr. Walkem said that he thought they were trying to give more authority to the Bands to deal with matters of membership without hurting other Bands.

Mr. Forrest Walkem thought the question at hand was creating bitter problems in eastern Canada. He referred to the French saying they are French, not Canadian. At the same time he felt no one should say an Indian was not an Indian just because he was fair. He thought that any law that would say such a thing would be wrong, and that the Government should not be given the right to make such a law.

Mr. Dan Logan replied that Mr. Walkem was not giving them the law but instead was trying to take it away.

Mr. Forrest Walkem said he could not see how he was trying to take the law away but asked why it was in the Act.

Mr. Dan Logan replied that because the law is now in the Act that is the reason why they want to take it out.

Mr. Noll Derrikson thought that the points raised by Mr. Walkem were good ones and that the net result of discussion and changes should place each Band in a position to make its own decisions.

Mr. Walkem felt that what they really want is to give the Chief and Council a free hand to deal with problems.

Co-Chairman Boys said that fundamentally there is only one reason why there is an Indian Act and that reason is the protection of Indian Reserves. He added:- "Until there is some negotiation that would change this, there has to be some law protecting those Indian reserves, setting them aside as pieces of land available for the use and benefit of Indian people. This is the piece of legislation that at the present moment, with all its imperfections, protects the Indian reserves. At the same time, the second thing that it does is define who has a right to share that reserve property and this is part of the question under discussion - should certain people be admitted to Band membership and have a right to share in Band property, your Band resources. I think Mr. Walkem has a good point but if there is going to be negotiation, I think there is going to be a long period before there is agreement reached. There has to be some protection of what you own in the interim."

Mr. Forrest Walkem again stated that blood was thicker than water and children of an Indian should be registered as Indian. He asked what the argument was about.

Mr. Dan Logan replied that they were talking about non-Indians not non-white.

Mr. James Stalkia felt that there should be a uniform law. If it was left to individual Bands it would not all be the same.

Mr. Charlie Allison of the Upper Similkameen Band thought the purpose of the meeting was to obtain views of the delegates. He said his people think the children should be given to the age of 21 to decide whether they want to remain a member. He felt that they would be ending the desired discussion and expression of views if they left the decision to individual Bands.

Mrs. Anastasia Zabatal of the Bonaparte Band agreed fully with Mr. Allison that decisions be left with individuals.

Co-Chairman Boys thought that perhaps what was meant was that each particular Band could adopt its own by-laws with respect to Question 4 (a).

Mr. Noll Derrikson said he was prepared to withdraw his motion if it was the wish of the delegates.

Mr. Dan Logan was not in favour of withdrawal of the motion.

Mr. Fairholm explained that because there are resolutions passed, it does not mean that every delegate is committed to the motion, if passed.

Mr. Dan Logan was in favour of the motion because it was in line with the general feeling that Band Councils should be given more authority.

Mr. Herb Manuel of the Upper Nicola Band said that once the Councils have the power they still have to have a policy on which to work and he felt a policy should be the subject of discussions.

Mr. Fairholm asked what right should an individual have. If an individual said he was entitled to membership but the Band turned him down what rights would he have to oppose the Council. What could one do if a Band Council just didn't like him and wanted to turn him out or not let him in.

Mr. James Stalkia felt that they were delving too deeply into individual rights.

Mr. Forrest Walkem also believed that they were delving quite deeply. He felt that the next time they discuss the Constitution, an Indian should be there to sort out the questions that have arisen. He thought the matter of making a decision was too deep for the meeting.

Mr. George Leonard, an observer, said they were putting powers in the hands of the Council and he asked what about the members of the Band?

Mr. Noll Derrikson said that the motion would put the power in the hands of the Band Council. He felt this was adequate because the Council carries out the wishes of the people and he felt the Council would not make decisions which would be contrary to the wishes of the people.

Mr. Clarence Jules moved an amendment to the motion to the effect that the word "Council" be omitted.

Mrs. Anastasia Zabatal seconded the amendment.

Mr. Dan Logan felt that administration would be too difficult if the band had to rule on such matters. He felt that the matter could be handled better by the band council.

Mr. Noll Derrikson said he could not see the point of the amendment, particularly because all band councils, in his view, were committed to carry out the wishes of the band members in any event.

Mr. Clarence Jules explained that his motion was meant to say the Band should set the policy, not the council, and then the council should act on the policy of the band.

Mr. Adam Eneas felt that the child should be given an opportunity when he or she reaches the legal age to apply to the band council. If the band council decides not to accept the child, he or she should have the right of appeal. He mentioned that the policies set by various band councils could affect marriage between different bands.

Mr. Noll Derrikson replied that marriage between members of different bands was not the issue.

Mr. Forrest Walkem asked if a decision by the band council, under the motion, was subject to an appeal. He was concerned with the possible reversing of decisions with the change of councils.

Mr. Noll Derrikson thought that there should be provision for an appeal in any decision handed down by the council.

Co-Chairman Boys asked to whom would a person appeal.

Mr. Noll Derrikson thought that arrangements for appeals could be worked out.

Co-Chairman Boys read the amendment and called for a vote. A show of hands was taken and the amendment carried. The motion then read - "That the question of status as set out in Question 4 (a) should be left to each individual band."

Mr. James Stalkia cautioned all delegates to give a great deal of consideration and thought before voting because the result would affect their children throughout future years.

Mr. Clarence Jules said his band would stand by their opinion that a child should be given until the age of 21 to decide for himself. That, he said, was a decision made by the band at a band meeting. He added that the bands should set the policy and the band councils should carry out that policy.

Mr. Noll Derrikson said his band felt exactly the same as Chief Jules' band.

Mr. Fairholm said it seemed to him that if it is left to the band, the band would set the policy and the band council would carry out the policy. The band council would not need to consult the band in every case.

Co-Chairman Boys again read the amended motion and called for a show of hands. The motion was carried.

Mr. Forrest Walkem said with regard to the motion asked if there was any way for any of the persons voting against the motion could appeal the effect it will have on his or her people.

Co-Chairman Boys replied that all of the opinions expressed were being recorded and all opinions expressed were on record. He said the different opinions of the delegates were really more important than the motions carried. The differences of opinion were on record, he added, and it was important for the dissenters to put their views forward.

Mr. James Stalkia moved that the question of status of a child should be left to that child to decide at the age of majority.

Mr. Gordon Antoine (Coldwater) asked who has the right at the present time to decide on such members.

Mr. Dan Logan replied that the Indian Act covers the matters.

Mr. Gordon Antoine then said the Sections should not be there.

Mr. James Stalkia said they are dealing with individual rights and these rights are being protected when a person can decide for himself when reaching 21. That was why he put the motion forward, he said.

Mr. George Leonard (an observer) referred to older Acts where it stated that the illegitimate child of an Indian mother holds its status as an Indian.

Mr. Fairholm attempted to clarify the issue under discussion. He explained: It usually arises when two people live together without being married and they have a child. At the present time, if the Indian man is living with somebody who is not a member of the band and they have a child, the child, since the mother is not a member of the band, is not regarded as being a member. Suppose two or three years later they get married, then when these two people marry and they acknowledge that the child was theirs, under the Legitimization Act the child is deemed to be born in wedlock from the date of its birth. Since the father was Indian that means that the child at that stage, once the parents marry, is deemed to have been born as if they were married at the time of the child's birth. Under the present Act, that child is a member of the band. The reverse case is where an Indian girl is living in common-law with a person who is not a member of a band. They have a child. In the eyes of the law, the child is regarded as illegitimate and automatically goes on to the band membership unless somebody protests on the grounds that the father is not an Indian. Suppose that couple subsequently marries, that child in the eyes of the provincial law is legitimate from the date of birth. What is the status of that child then. The father is not a member of the band and it is legitimized from the date of birth. You have two kinds of cases and does the child in each case have certain rights in the band; that's the real problem.

Mr. George Leonard asked in the case of an Indian woman marrying someone else other than the father of her child, would the child be legitimized.

Mr. Fairholm replied that true legitimization is when the two people who marry acknowledge that the child is their own.

Mr. Noll Derrikson said that the band councils could act on the policy set by the band and he could see no reason to have another motion.

Mr. Clarence Jules seconded the motion put forward by Mr. James Stalkia.

Mr. Noll Derrikson thought there was quite a contradiction taking place. He said the band was going to deal with the matter but they would restrict themselves with a definite policy if they adopted the motion under review.

Mr. Walkem quoted from the Declaration of Human Rights "all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act toward one another in a spirit of brotherhood". He asked why not give individuals a chance.

Mr. Noll Derrikson said that Mr. Walkem's remarks were all the more reason why a band should handle the matter in the beginning and not restrict itself.

Mr. Adam Eneas asked whether the term "until a child reaches majority" means just until he reaches legal age or would it also include the time when married.

Co-Chairman Boys believed that the intent of the motion meant when the child became of legal age. He asked for a vote. The motion was carried.

Co-chairman Boys opened the second part of the morning meeting by reading Question No. 5 from "Choosing a Path".

"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?"

Mr. Clarence Jules said that if an Indian woman married a non-Indian there should be a five year waiting period - if the marriage worked after five years, she would lose her status; if the marriage broke down before that time she would be able to return to her reserve.

Mr. Noll Derrikson felt that a woman should always take the status of her husband.

Mr. Donal Moses of the Lower Nicola Band said that the legislation in this regard should be left in the present form, and he moved a motion that the legislation be left as it is at the present time.

Mr. Forrest Walkem - (Cook's Ferry) - asked about the present procedures which were followed when an Indian woman married an Indian who was a member of another band.

Co-chairman Boys said that she would retain her Indian status.

Mr. Fairholm added that Section 14 of the present Act requires that a woman who is a member of a band ceases to be a member of the band if she marries a person who is not a member of that band, but if she marries a member of another band she becomes a member of her husband's band.

Mr. Clarence Jules asked what would happen if an Indian woman who was paid her capital share, would have her marriage dissolved before the period of one year.

Mr. Fairholm said that she would have to have been enfranchised under the present law in order to receive her per capita share in the first place; then she would no longer be a member of the band.

Mr. Dan Logan asked for an explanation of this subject.

Mr. Fairholm said that if for example Mr. Logan married a woman who was not a member of any band in Canada, on her marriage she would become a member of the Okanagan band - that is one case. Supposing that Mr. Logan had a sister and she married Mr. Fairholm - on her marriage she would no longer be entitled to be a member of the Okanagan band. She would take the status of her husband - this was the situation under the present law.

Mr. Noll Derrikson said that he would second Mr. Donald Moses' motion to leave the legislation the way it is at the present time.

Mr. Forrest Walkem said that if an Indian woman wanted to keep her status she could follow the old Indian way of what the white society called "shacking up", this way she would not lose her status if she lived with a non-Indian rather than if she married him.

Mr. Dan Logan said that this also involved the question of pride.

Mr. Charlie Drainey said that the legislation in this regard should be left as it is at present. The question being called, 17 delegates voted in favour of the motion and five against it; the motion - with respect to marriage and Indian status - the law should remain the way it was - was therefore carried.

Co-chairman Boys read Question 6 from "Choosing a Path".

Mr. Fairholm said that to make the question absolutely clear it should read "Should non-Indian children legally adopted by Indian families have Indian status?" - the addition of the word "legally" means formal adoption using the process of the courts.

Mr. Clarence Jules said that these children should be free to choose their status when they become the legal age of 21; in the case of Indian children adopted by non-Indian parents there should be no change.

Mr. Noll Derrikson said these children should have Indian status.

Mr. Adam Eneas said that it was necessary for maintaining harmony in the family that these children have the status of the parents who adopted them.

Mr. James Stalkia said that he held the same opinion as Mr. Eneas.

Mr. Adam Eneas said that during the discussion of this subject by his band there was expressed a fear that some parents could be adopting such children purely for their own personal benefit; however the majority of the members of his band thought that since these parents had to accept responsibility for such children there would be little to be gained by those whose main interest was not the well-being of the children.

Co-chairman Boys said that the question involved legal adoption which fell under the provincial Adoption Act. Before any adoptions are legally permitted, provincial social welfare people make an investigation that is very thorough, determining that the adopting parents are capable of providing these children with an acceptable and suitable home. He said that the situation raised by a member of Mr. Eneas' band was not likely to rise.

Mr. Dan Logan said that his band felt that the provisions of the present Act should be left the way they were at the present time.

Mr. Forrest Walkem said that he felt that this whole matter fell under the question of human rights.

Mr. Fairholm explained that under most, if not all, of the provincial Adoption Acts when a couple adopted a child that child then was considered to be as if it was born to them, as if it was their own natural child. Such a child then has all the rights that any child of that family might have. The present Indian Act does not quite meet that test because it says that a child who is not already a band member cannot, when adopted by Indian parents, have all the rights of the Indian parents because it comes down to the question of property and property rights on the reserve itself; this was the main distinction at the present time.

Mr. Noll Derrikson said that his band felt that there would not be a family unit unless non-Indian children legally adopted by Indian families had

Indian status and he made a motion, seconded by Mr. Clarence Jules that non-Indian children legally adopted by Indian families should have Indian status.

Mrs. Jane Stalkia of the Osoyos Band gave, as an example, the problem in her family - she has an adopted brother who is not considered to be an Indian and who has not those rights to which he would be entitled if he were an Indian. The question being called, 17 delegates voted in favour of the motion, one was against it; the motion that non-Indian children legally adopted by Indian families should have Indian status, carried.

Mr. Adam Eneas said that the meeting should discuss the question of the status of Indian children legally adopted by non-Indian families.

Mr. Donald Moses said that the members of his band felt that an Indian child adopted by a non-Indian family should have the right to decide at the age of 21 about his status.

Mr. Clarence Jules said that there should be no change in the status of these children - they should retain their Indian status.

Mrs. A. Zabatal said that these children should be able to choose their status at the age of 21.

Mr. Herb Manuel said that the children should retain their Indian status because of the fact that an Indian could become a white man any time he wished to do so, but no white man could become an Indian.

Mr. Adam Eneas felt that the harmony of the family was very important. If a non-Indian family, who already had two children of their own, adopted an Indian child who would be able to maintain its Indian status, there would be a difference, a barrier between these children.

Mrs. Jane Stalkia felt that the same procedure should be followed in the case of an Indian child adopted by a non-Indian family as that one followed in the case of a non-Indian child adopted by an Indian family - the child should have the status of the adopting parents.

Mr. Herb Manuel made a motion that Indian children adopted by non-Indian families should retain their Indian status until either they become of legal age or until their marriage (whichever is sooner), at which time they be given the opportunity to elect the status they wish to adopt.

The motion was seconded by Mr. Charlie Drainey.

Mr. George Leonard, an observer, asked whether it would not have been better to place no age limit in the motion. He thought that the child would be forced at the age of 21 to make the decision for which he would not yet be prepared. He should be able to retain his status until such time when he would be ready and able to make his decision.

Mrs. Jane Stalkia said that she felt that an Indian would always remain an Indian. The question being called, 18 delegates voted in favour of the motion three were against it; the motion that Indian children adopted by non-Indian families

should retain their Indian status until either they become of legal age or until their marriage, whichever is sooner, at which time they be given the opportunity to elect the status they wish to adopt was carried.

Co-chairman Boys proceeded with the reading of Question No. 7 on page 8 of the background notes.

Mrs. Jane Stalkia asked that the 4 paragraphs of the notes explaining this question be read.

Co-chairman Boys mentioned to the delegates that in the book "Choosing a Path" Question No. 7 consisted of two parts, while in the notes it had only one part; he then read the 4 paragraphs from the notes as requested by Mrs. Stalkia.

Mr. Fairholm said that he felt that most of the delegates were familiar with the enfranchisement provisions of the Act, under which an individual who is 21 years or over may apply to be enfranchised, and if the application is approved by the Governor-in-Council, the person is paid the per capita share of the band funds and thereafter is no longer considered a member of the band and does not come any more in any way under the Indian Act. There had been some criticism of the word "enfranchisement" because it used to be at one time referred to the right to vote, and also was used as meaning "to be set free." But the Indian people in British Columbia have voted in provincial elections since 1949, and in federal elections since 1960, so the word "enfranchisement" had no relation to voting any more.

Mr. James Stalkia said that he did not at all see the reasons for those provisions of Section 12 of the Act under which certain persons who are the grandchildren of couples married after 4 September, 1951 could be disqualified if both their mother and grandmother were not Indians.

Mr. Fairholm gave as an example an imaginary case in which Mr. James Stalkia married a woman who was not a band member. He then had a son who married a woman who was not a member of a band, and all their children at the age of 21 would be out of membership. That is an interpretation of Section 12 (1) (a) (iv) of the present Act - it is a form of compulsory enfranchisement. Some of the Indian people believe that this should be taken out of the Act; this provision did not come into effect yet but given another few years there may be some such cases.

Mr. Noll Derrikson (Westbank) said that this clause should be withdrawn.

Mr. James Stalkia made a motion, seconded by Mr. Derrikson, that the provision of Section 12 (1) (a) (iv) be deleted from the present Indian Act. The question being called, 18 delegates voted in favour of the motion, one was against it, and the motion carried.

Co-chairman Boys told the meeting that this motion dealt only with one aspect of Question 7, there still remained the question of enfranchisement or withdrawal from band membership.

Mr. Noll Derrikson said that his band felt that if an Indian wished to withdraw from Indian status approval of the Governor-in-Council should not be

required, as long as the individual was of legal age.

Mr. Clarence Jules said that his band felt that any person of legal age should be able to decide if he or she wished to withdraw from band membership.

Mr. Dan Logan said that this subject should be discussed a little more before any motion was made. He said that this also involved the band assets which an Indian (who wanted to withdraw from the band membership) needed to be able to begin his life in the white society. He should therefore have the right to get his assets at that time.

Mr. Herb Manuel said that he did not see why the Indian people should help those who wanted to get enfranchised; such help would encourage only those whose interest was money.

Mr. Walkem said that Indians should not be encouraged to leave the band unless they wanted to move to another country. He did not see any reason why an Indian would otherwise wish to lose his status.

Co-chairman Boys said that he thought the question under discussion was not so much of whether or not a person was losing his status as an Indian but whether or not he was losing his membership in a band which gave him common title to certain assets.

Mr. Fairholm said that under the present Act an Indian who lost band membership, in the eyes of the law, lost also his Indian status.

Mr. Forrest Walkem expressed his view that there should be no provision in the Indian Act which would allow an Indian to withdraw from band membership.

Mr. Noll Derrikson said that this question came right back to human rights. If an individual wanted to withdraw from his band there should not be anything in the Act which would restrict him from doing so. He did not see any reason why a person should be held in a band against his wishes - he would not be a good member anyway. He should also be able to dispose of his assets in an open market.

Mr. Adam Eneas said that his band felt that a person who wished to withdraw from Indian status should be allowed to do so and instead of requiring the approval of the Governor-in-Council he should obtain the approval of the band council.

Mr. Dan Logan felt that a person who withdrew from Indian status should have the right to withdraw his assets as well. The band would be able to decide what his assets were and to give him the appropriate remuneration so that the person in question was able to live outside the reserve.

Mr. Charlie Drainey said that he agreed with Mr. Logan - these provisions should be flexible.

Mr. Walkem said that he did not agree with the previous spokesmen. He said he did not see why an Indian who wished to go into the white society should be able to sell the land on the reserves, which were too small already at the present time.

Co-chairman Boys congratulated the delegates and the bands they represented on the obvious amount of discussions and homework that had been done before they came to the meeting.

Break

Co-Chairman Gottfriedson - called the meeting to order. He advised that prior to lunch the meeting was discussing the matter of withdrawal from Indian status.

Mr. Dan Logan - advised that he had previously made a statement on this subject which was contradicted by the Okanagan Band chief. He said that the Chief would like to make a further explanation.

Chief Ernest Brewer of the Okanagan Band - noted that the band had agreed that if anyone wanted enfranchisement it was their business and the band would have no objections. However he noted that Mr. Logan had made reference to the matter of land or property and the right to develop or sell it. He added that there were a number of younger fellows on the reserve who might be very willing to sell out but would be back on the reserve again in a very short while and that was why he had objected to the statement.

Mr. Dan Logan - advised that personally as a band member he noted that he had been somewhat reluctant to give more power to the council when this was considered because he felt that a veto power of the band councils could stymie the growth, desire and development by individual band members of their lands for they cannot take the improvements with them if they decided to withdraw and if the council put a very low assessment on the value of the improvements. The improvements should go to the individual but not at the discretion of the Council or at their value.

Mr. Donald Moses - advised his band believed that if an individual wished to withdraw from Indian status the reserve should remain intact. No more reserve land should be surrendered and it should only be sold to the band or another band member. He also believed that if a price could not be mutually agreed upon it should be put up for arbitration by a neutral body to ensure a fair price for both parties.

Mr. G. Poupore - in answer to a question advised that there were two basic arbitration methods - one was called a sole arbitration in which a mutually agreed upon person was appointed, the second was called the committee system where each of the parties appoints an individual and these two select a chairman, but in both systems they must be disinterested parties - with no personal interest.

Mr. Fairholm - in answer to a question indicated that he believed the basic issue under consideration was whether the Act should contain a provision permitting withdrawal from membership.

Mr. Noll Derrikson - moved that an Indian be able to withdraw from Indian status by application to his particular band council.

Mr. Adam Eneas - seconded the motion.

Co-chairman G. Gottfriedson - on a show of hands declared the motion carried with one opposed. He suggested the meeting then consider the matter of enfranchisement of young married couples. He entered and read the question and

explanatory material in the background notes on page 8, section 8, in this respect.

Mr. Adam Eneas - suggested this was in fact decided under question 7 in respect to children under legal age.

Mr. Clarence Jules agreed. His band recommended that couples under the age of 21 should first obtain the consent of the band council.

Mr. Noll Derriksen noted that since all seemed to be in agreement, he moved that married couples where husband or wife or both are under the age of 21 should be able to withdraw from Indian status.

Mr. Frank Whitehead of the St. Mary's Band seconded the motion.

Mr. Jules - believed that this should be subject to an application to the band council which Chief Derriksen believed was previously covered under item 7.

Mr. Stalkia - referred to the last paragraph of item 8 in the notes as follows "Where the husband is over 21, the present Act makes his decision to withdraw from Indian status binding on his wife and their minor unmarried children unless man and wife are living apart. Should the law require that the wife must agree where the couples are living together before her status can be changed?" He inquired as to whether the motion considered this.

Mr. Fairholm - inquired whether Mr. Stalkia was suggesting what there should be a joint application.

Mr. Noll Derriksen - added an amendment to his motion to the effect that a joint application should be made to the band council.

Co-chairman Gottfriedson - repeated the motion as "That married couples under 21 years of age will apply jointly to the band council to withdraw from Indian status." Upon a show of hands he declared the motion carried.

The meeting proceeded to question 9 related to children and Indian status. The co-chairman entered and read question 9 on page 9 of the background notes.

Mr. Noll Derriksen said he believed this was previously considered under the section on adoption where they decide for themselves at legal age.

Mr. Fairholm noted that what was being suggested was that children in no case should lose their membership when the parents lose theirs. It would be a decision for the child to make if he wants to make it all when he becomes of age.

Mr. Jules - suggested that the previous discussion was related to adopted children whereas the current discussion referred to legal adoption.

Mr. Derriksen - believed that the matter should work both ways and that was the sense of the meeting.

Co-chairman Gottfriedson - entered and read question 10 on page 10 of the background notes respecting band withdrawal. In this respect he noted that the Act does not spell out the meaning of a band. He noted that a Bill had been introduced into the Senate in 1965 to amend the Act by substituting the word "tribe" for the word "band". He pointed out that currently the Act, under section 111 requires only a simple majority, and read the background notes in this respect.

Mr. James Stalkia - advised that his band believed that the minority group should be able to retain all land and in effect through the department pay off the majority who wish to leave, but the original reservation should remain intact.

Mr. Jules - said that his band's point of view was that a 2/3 majority of all registered members was required, after publication in a local paper and posting in the Indian reserve of notice of the meeting and its purpose - 90 days notice to be given - and the minority should comply with the decision.

Mr. Noll Derriksen - advised this was discussed by his band and it was felt it was highly unfair for any majority to inflict upon the minority something that they were entirely against; regardless of the size of the minority they should retain the right to stay within the Act if they decided to do so.

Mr. Forrest Walkem - believed that no band should be encouraged to withdraw. He thought if some people wished to withdraw they could so do, but the land should be left as Indian land - the reserves were small enough already. Mr. Frank Whitehead agreed with Mr. Walkem. Mr. Herb Manuel also agreed that the reserves should be retained.

Mr. Donald Moses - agreed, and suggested that the delegates remember that Indians are currently a minority in Canada and not always respected. He believed that the Indians must treat their minorities with respect.

Mr. Leonard said that he did not agree with Chief C. Jules since the majority could be a family compact. He believed the minority should have the right to remain.

Mr. Clifford Kirkpatrick of the Ashcroft Band agreed with Mr. Walkem.

Mr. Noll Derriksen - moved to the effect that when a band wishes to give up Indian status the minority must be allowed to remain within the meaning of the Act.

Co-chairman Gottfriedson - indicated that what was being established was the principle that if a majority wished to leave they could do so but the reservation remained as is for those who wished to stay.

Mr. F.G. Antoine agreed. He thought that the Act should not leave any loopholes for an ambitious majority to the detriment of a minority.

Mr. Adam Eneas - believed that in effect the meeting was approving

individual withdrawals but not band withdrawals.

Mr. Noll Derrikson said he did not believe the meeting could ignore the motion. He noted that to date the meeting was striving to give the individual as many rights as possible therefore in this instance the general feeling was to protect the minority.

Mr. Walkem believed that this part of the Act should not exist, that there should be no band withdrawals. Although he did not agree with an individual withdrawing it should be his privilege, but it should be discouraged.

Mr. Noll Derrikson noted that if the meeting approved of individual enfranchisement it could not possibly disapprove of a group enfranchisement, but must establish protection for the minority group.

Mr. Fairholm pointed out that there had been a provision in the Act for many which permitted the total band to be enfranchised. He noted, however, that this provision had not been used often and gave three examples.

Mr. James Stalkia believed there was a misunderstanding as the meeting was not speaking of a complete enfranchisement but protection to a minority group. If it was a full enfranchisement there would be no problem.

Mr. Fairholm - in answer to a question from Mr. Logan advised that in the Michel band enfranchisement each individual family was given title to the land each had as a locatee, except for the mineral rights which were held by a company of which each band member was a shareholder. He noted that there were no band lands as such involved.

Mr. Dan Logan - said that his band had answered the question by requiring a 2/3 majority vote; with the minority having the right to stay under the Act.

Co-chairman Gottfriedson - inquired if the motion considered whether all lands stayed within the reservation or if the majority voting for enfranchisement take their share of the lands with them.

Mr. Noll Derrikson - believed that the minority remaining within the act would be covered by the Act.

Mr. Fairholm - thought that the question was whether those leaving took their fair proportion of the assets and left a fair share to those remaining (assets being the land and band funds.)

Mr. Forrest Walkem - believed the Act should be withdrawn. Indian lands should remain Indian lands and the majority wishing to withdraw should not be permitted to take lands with them. If there was 100% withdrawal the lands should go to an adjoining Band.

Mr. Adam Eneas - agreed with Mr. Walkem. He believed that there were insufficient Indian lands now and therefore a majority could withdraw if they so desired but the land remained.

Mr. James Stalkia - thought that the intent of the motion was to permit a majority to be enfranchised if they wished; to pay them a fair price for their share of the assets but not to deplete the land. If all wish to enfranchise it is their right.

Mr. Noll Derrikson - said that if the majority wished to give up their status, band land as such, and the personal lands of the minority, would remain with the minority. He did not believe that it would be fair for the minority to expect the majority to leave their personal lands and improvements. He thought that if the majority wished to take their personal small holdings with them they should be permitted to do so or be paid for them.

Mr. Ron Derrikson, an observer, stated that although it was necessary to protect the minority the majority also had rights. He advised that he had personally bought much of his land from other Indians and he considered it his land. He thought that neither the minority or the majority should be allowed to decide as it was a basic matter of human rights.

Mr. Walkem - thought that if the enfranchised Indian could take the land with him there would shortly be no reserve left. Those remaining would only have their own individual parcels.

Mr. Noll Derrikson - noted that some delegates had indicated that the Act should be thrown out but on the other hand were saying that a minority should have the right to all the land. He thought that if equality of rights was to be given the individual must be free to go as his conscience dictated - it should be the individual's choice.

Mr. Forrest Walkem - indicated that he thought the Act should be thrown out. He suggested the meeting consider the rights of the Indian - the aboriginal rights and land claims. He thought that if these were decided it would not be necessary to live by an Indian Act, but all would become Canadians and thereby citizens of our land.

Mr. Noll Derrikson - agreed with Mr. Walkem but noted that if the majority wished enfranchisement they were doing exactly what Mr. Walkem had suggested - because they would not be within the scope of the Act and would have taken the property with them.

Mr. Dan Logan - suggested that if an Indian could not take his land and improvements with him upon enfranchisement it would kill any incentive to improve or develop the land because such improvements or development would revert back to the band.

Mr. Noll Derrikson thought that enfranchisement of an individual was not in question since it was an isolated case, but if the majority of a band wished to give up their rights it probably stemmed from the fact that they had considered the individual enfranchisement and believed that the only way to do it was collectively and retain what they had.

Mr. Clarence Jules - believed the door should be left open and the Band should be able to do so if they desired. He noted that in Mr. Walkem's brief it was mentioned that he did not want to speak for other bands and vice versa. He added that if a majority of the band wished enfranchisement they should be able to do so and take their land with them.

Mr. Forrest Walkem - pointed out that the brief was in reference to the settlement of the land question. He inquired what the reason for withdrawal might be. He suggested that in lieu of withdrawal it should be possible to permit the Indian to better himself on his own reserve. He thought that instead of trying to deplete the reserves they should be trying to get more land.

An observer thought that bands and individuals are different and therefore there could be various reasons for wanting to withdraw - some of which may be related to financial assistance in developing their holdings.

Mr. Donald Moses - believed that it should not be necessary to surrender lands to obtain development funds nor should the Act or programs be such as to encourage surrender for this purpose.

Mr. Noll Derrikson - thought that the question reduced itself to different viewpoints and personalities which is why he believed it should be flexible but the rights of the minority must be protected. He believed both parties must be considered. In answer to a question of Mr. Walkem he believed that the reasons for enfranchisement may be many and varied and were probably in the heart. Whether a person wished to become enfranchised or not was one of individual desire, and probably everyone would have a different reason.

Mr. Donald Moses - thought that before the lands can be protected it would be necessary to stop encroachment on the reserve land by other government bodies, local bylaws and levying of taxes. He thought that given the opportunities the Indians could develop their own land, and it would be impossible to retain it if it was necessary to surrender it for development purposes. He also thought that if the land was lost the Indian culture would also go.

Mr. Noll Derrikson - in answer to a question advised that he did not wish to be enfranchised but that if some or all others of his band wished to give up their Indian status it should be their right to do so. Under these circumstances he noted that he would want to retain land he had developed and the band land but those becoming enfranchised should have the opportunity to take their improvements and land if they so desired.

Mr. Fairholm - in answer to a question of an observer said that section 111 of the current Act applied to entire band enfranchisement. He noted that the current Act states that the majority make the decision. He enquired whether a bare majority should make such a decision, or a 2/3 majority, or should the minority retain some rights.

Mr. Noll Derrikson - advised that in effect he was saying that no majority of any type should decide what was best for him as an individual.

Mr. Dan Logan - noted that his band, when answering the question made no mention of the land - he presumed that the majority would take their share.

Mr. Barnett Allison of the Lower Similkameen Band wondered whether instead of discussing withdrawal or enfranchisement the meeting should be considering requesting a Royal Commission to obtain more land.

Mr. Noll Derrikson said he believed that in the long run the Indian people would disappear. He thought that the day would come when there would be no reserves left but in the meantime it was necessary to protect the minority.

Mr. Clarence Jules (Kamloops) - seconded the motion of Mr. Derrikson.

Mr. James Stalkia - moved an amendment to the motion to the effect that if a majority group wished to become enfranchised they would be paid off, at a fair price, for their share of the assets, including their improvements; and the reserve be retained intact.

Mr. Dan Logan - seconded the amendment.

Mr. James Stalkia - in answer to a question of Mr. Derrikson advised that if a band lacked the resources to buy out those being enfranchised the Department should supply the necessary funds with the band to repay this loan at a reasonable rate.

An observer - noted that when the delegates found themselves in a corner their reaction was to turn to the Government. He added that what was his was his and he did not want the department to interfere or have other Indians telling him what to do.

Mr. Noll Derrikson - believed that what an individual had made for himself should be his. If the majority wished to leave he could not see the minority wishing to keep the developments and assets of those that left. For instance he noted that under these circumstances the minority probably could not handle such developments, particularly if it was a commercial enterprise requiring special business knowledge.

Co-chairman Gottfriedson - noted that the question had been called. He repeated the amending motion. On a show of hands he declared the amendment carried - 12 for and 9 opposed. The motion was repeated to the effect that when a

band wishes to give up its Indian status the minority must be allowed to remain within the meaning of the Indian Act. On a show of hands he declared the motion carried - 17 for and 2 opposed.

Co-Chairman Gus Gottfriedson presiding. He announced that the meeting would discuss Question 13 on Estates and he read the pertinent paragraphs from the notes.

Mr. Clarence Jules stated that the Indians did not know about Provincial law regarding estates and they were afraid that if this question were approved their estates might be subject to taxation. Their Band recommended that they continue to handle estates in the same way as before.

Mr. Clarence Manuel of the Neskainlith Band stated that he thought the handling of estates should pass over to the Province. At present the Band Council is too much involved and is hesitant to make decisions because of personal relationships. Before a judge in a Provincial Court an individual would get a fair shake.

Mr. Fairholm explained that there is no problem with an estate if a person leaves a will. The will designates how the estate shall be divided. The problem arises when there is no will. Section 48 of the Act is very similar to Provincial Law, except that it provides that the widow shall get up to the value of \$2,000.00; in B. C. the widow gets up to \$20,000.00.

Mr. Gordon Poupore explained that the Courts have the power to approve or disapprove of a will, and to appoint an executor or administrator. The Court does not administer estates.

Mr. Clarence Jules: "If an Indian lives off the reserve is his estate subject to inheritance tax?"

Mr. Gordon Poupore: "The estate of an Indian which is not on the Reserve is subject to taxation."

Mr. Fairholm: "That is the case, but Section 86 protects the estate of an Indian on the reserve."

Mr. Charlie Draine thought the matter should not be changed.

Mr. Noll Derrikson: "What happens to the estate of an on-Reserve Indian when his money is banked outside the Reserve? When are we going to have Banks on the Reserves?"

Mr. Gordon Poupore: "Money is personal property. If it is off the Reserve it is subject to taxation. The only personal property not subject to taxation is that which is on the Reserve. The recent revisions in the Federal legislation make up to \$120,000.00, exempt. Provincial exemption levels vary from Province to Province, so much for the widow and so much for every dependent child."

Mr. Dan Logan: "Estates are complicated. Our Band voted to leave the Act unchanged in this respect."

Mr. Adam Eneas, Mr. Noll Derrikson, Mr. Charlie Drainey and Mr. Donald Moses agreed that the Act not be changed.

Mr. Donald Moses wanted a special office set up in B.C. headed by lawyers to deal with estates so as to get more prompt attention.

Mr. Barney Allison cited a case where the red tape involved made it too late to protest a will and injustice was done and confusion created.

Mr. Fairholm pointed out that when the heirs disagree it is up to the Courts to decide.

Mr. Barney Allison pointed out that the Indian people do not know or understand the regulations about wills.

Mr. Gordon Poupore: "The Administrator of Estates is looking after between 1,500 and 1,800 estates at any one time. He stated that estates are frequently tied up with earlier estates which, together with changes in the law, cause many unforeseen problems. He also pointed out that it does not really matter in such complicated situations where the Estates Office is situated."

Mr. Barney Allison stated that the Indian people had become accustomed to dealing with the Federal Government and were unaccustomed to dealing with the Provincial Government.

MOVED by Mr. Donald Moses and SECONDED by Mr. Clifford Kirkpatrick that Indian Affairs continue to be responsible for Indian estates and that a special office be set up in B.C. to handle the estates of B.C. Indians. The motion CARRIED 19 for - 0 against.

The meeting then discussed Question 14 and Co-Chairman Gottfriedson read from the notes.

Mr. Noll Derrikson: "Our Band feels that there is no reason why an Indian should not be permitted to pledge his personal property other than land as security for credit. It would be less restrictive."

Mr. Fairholm stated that this would require a change in the Act which now prevents an Indian from pledging personal property on a Reserve as security. Mr. Fairholm explained that personal property is anything moveable, not fixed to the land nor the land itself, while real property is the land and anything fixed to it.

Mr. Boys explained that an Indian finds it difficult to get credit because of Section 88 of the Act.

Mr. Forrest Walkem: "The Department should establish a credit institution for Indians to give them experience in borrowing before passing Question 14."

Mr. Noll Derrikson: "Indians should be encouraged to borrow in the area where they live and where money can be available to them." Mr. Eneas agreed. Mr. Dan Logan said Indians should have the right to pledge personal property with the consent of the Band Council, who could decide whether or not they were capable of handling credit. Mr. Donald Moses agreed with Mr. Logan.

Mr. Adam Eneas disagreed, stating that this would mean that an Indian would have to reveal his confidential business to the Band Council before being extended the right to borrow.

Mr. Noll Derrikson agreed with Mr. Eneas and stated that all too often the Council would not have the ability to decide whether or not a particular Indian was qualified to get credit. The Council do not always know a man's assets.

Mr. Noll Derrikson MOVED, SECONDED by Mr. Adam Eneas that Question 14 be approved. The motion CARRIED by a vote of 14 to 3.

The meeting adjourned.

Thursday, November 14, 1968.

Co-Chairman Boys opened the meeting by suggesting that Question 15 be discussed. The question reads: Should individual Indians be able to pledge their right of possession to land to their Band Council (or the Government) as security for loans?

Chief Clarence Jules said his Band recommended that the right of Indians to pledge the right of possession be restricted to the Band Council only.

Co-Chairman Boys said, in other words, an individual should be permitted to pledge his land, his real property, only to the Band Council.

Mrs. Anastasia Zabatal said her Band would agree with Chief Clarence Jules' views.

Mr. F.G. Antoine said individuals should be able to pledge to lenders, except in the case where real property is involved. Mr. Boys pointed out that the question under review dealt with real property.

Mr. F.G. Antoine then said he would agree with the views expressed by Chief Clarence Jules.

Mr. Donald Moses also agreed with the views expressed by Chief Clarence Jules.

Mr. Fairholm said: "It would be quite good where a Band has funds that it could give to an individual who pledges his land to the Band Council. I was just wondering if, as was proposed and mentioned on Page 18 of "Choosing a Path", an economic development fund were established by the Government, whether, in that kind of a case, it might not be possible for an individual still to make some kind of a pledge to the Government on the understanding that the land could only be taken over by another member of the Band, or the Band itself, or leased for a period of time to repay, but could not in any way be removed from the Reserve. It is just another thought for those Bands who may not have funds for development purposes. That is partly why the government is included in brackets."

Mrs. Anastasia Zabatal (Bonaparte) asked if he meant that another Band might come into a Reserve and lend money to the Band occupying that Reserve.

Mr. Fairholm said that would be one possibility, but that he was thinking of the government itself establishing development funds. He thought the National Advisory Board recommended a development fund of \$10,000,000 per year for five years. It was indicated in the booklet that the Government intended to establish an economic development fund. He did not know how much money would be established or whether it would be extended to Bands or

individuals, or both. A person may not have capital, he added, but he could have land that he wants to develop.

Mr. Donald Moses thought that the Indians should be allowed to pledge their property to the Government and he wondered what Chief Clarence Jules (Kamloops) thought of that. He thought this would benefit the Bands who have no funds of their own.

Mr. Clarence Jules replied that they felt that the Government could then get hold of the land.

Mr. Herb Manuel asked if the land could not be leased until the debt was repaid.

Mr. Fairholm said he thought they would have to make it very clear in the Act itself that the land could never be alienated so that there is protection. They would have to make sure the protection was written right in. In the event of default on a loan from the government, the worst thing that could happen, he said, would be to sell it to or make arrangements with another member of the Band, the Band itself, or possibly lease the land until the debt is repaid; but not to go any further than that.

Mr. Forrest Walkem believed that the government should first of all set up a lending institute for the Indians before they get into the matter of pledging property. He said at the present time, Indians have no place to go to borrow money.

Mr. Dan Logan asked if the lending institution was not already set up and would the government not back a loan in co-operation with the Band Councils.

Mr. Forrest Walkem related how he could not get the backing of anyone when he went into business. He explained that he could not borrow from the lending institution they have now, and that the Band finally had to surrender the land. He wanted to know just how an Indian makes use of the lending facility at their disposal today.

Mr. Dan Logan said that the land would be sold back to the individual through the Band or leased out until the money was paid back.

Mr. Fairholm said: "That is the way it protects the lender, but I think what Mr. Walkem was saying is that you just can't go into a lending institution very easily and get cash for development purposes." He thought the basic reason for that was because the land could not be put up for security, or that there had been a tradition built up over the years that Indian people cannot get loans. All these things combine to make it very difficult to get a loan from banks unless and until one can get a personal credit rating with the bank. He added that the matter of establishing a credit rating is not confined to Indians. He noted that some Bands

guaranteed loans for their membership at banks. He thought that additional ways may be found for Indians to borrow money for projects if the development fund is set up.

Mr. George Leonard said the main reason for approaching the Council was to obtain the Council's support. He asked what recourse an individual had if the Council turned him down. He asked also if, in such a case, the government would back the individual and arrange to lease the individual's property if he could not repay.

Mr. Gordon Poupore replied that the present policy of the Department was to assist as far as it legally can. If the law will allow the Department to support it, it will, if it is a good proposition. It was not good to generalize in this respect, he said, because you could have a business proposition which would make sense on one reserve, but would not make sense on another reserve, and that government support depended upon the circumstances in each case.

Mr. Fairholm said that there had not been a fund established to allow the government to do very much.

Co-Chairman Boys thought Question 16 dealt with the subject about which Mr. George Leonard was enquiring.

Mr. Donald Moses thought the issue of surrendering before borrowing, had to be straightened out before considering a decision on the question under discussion. He thought the Indian people should not have to surrender their land before they are allowed to borrow money. He felt that the relevant section should be deleted from the Indian Act.

Mr. Noll Derrikson said he could not understand how the remarks by Mr. Donald Moses concerned the question at hand, because he thought the pledge of land to the Band Council or Government did not require a surrender.

Mr. George Leonard said the reason why he brought the matter up was because an Indian did not have to surrender his land if leasing is required to pay off the debt of the individual.

Mr. Clarence Jules read Section 58 (3) of the Act. . . "The Minister may lease for the benefit of an Indian upon his application for that purpose, the land of which he is lawful possession, without the land being surrendered." He added that a person having a certificate of possession does not have to surrender his land.

Mr. Donald Moses asked why, in that case, did Mr. Walkem have to surrender his land. He cited several Bands who had to surrender their land and he asked where the loophole was.

Co-Chairman Boys replied that it was due to the distinction between community owned property which had to be surrendered, and individually owned property, which did not have to be surrendered.

Mr. Forrest Walkem said before he could develop the property he was on now, it was given to him by the Band. Mr. Boys asked him if he had a certificate of possession for it. Mr. Walkem replied that the Band gave it to him.

Mr. Gordon Poupore explained that in Mr. Walkem's case, the requirement to surrender dwelt in the fact that while his Band was prepared to give him a certificate of possession, he did not have what the lending institution considered to be a registerable interest in land against which they could register their encumbrance. There had to be something more than a certificate of possession, he said, in order to satisfy the lending institution. To get more than that, there had to be a surrender so that there could be a formal lease document which could be registered in the appropriate land registry against which a mortgage could be registered. He added that it was the legal requirement of the lender to satisfy himself that he had a secure registered interest in the appropriate land registry office. He said that there are lending institutions which will lend money without this iron-clad security.

Mr. Theodore Derrikson said he wanted surrenders to be deleted from the Act. If there was to be a surrender, he said, it should be surrendered to the Band. He said he had a judgement from Mr. Justice Kirke-Smith who said that once an Indian surrenders his land it ceases to be Indian reserve, and if he does not have the use and benefit of the land then it can be taxable.

Mr. Noll Derrikson referred to the judgement mentioned by the previous speaker and asked if it was not true that, at the expiration of the term of the surrender, the land reverts to the Band, and the taxation clause does not apply.

Mr. Theodore Derrikson stated that the land was surrendered unconditionally, and that it would revert to the Province after the term.

Mr. Forrest Walkem said one of the reasons why he stressed very strongly that the government should set up a lending institution was for Indians to be able to develop their own land.

Mr. Noll Derrikson asked if they could have legal clarification with respect to the reverting of land to the Province at the expiration of a lease where an unconditional surrender was required.

Mr. Gordon Poupore stated that it was not what Mr. Justice Kirke-Smith said. He continued: "Mr. Justice Kirke-Smith said that when the Indian interest in land is surrendered, it is no longer reserve land -- it is no longer under the heading 'Land reserved for Indians' within the meaning of the B.N.A. Act." He did not say that it is no longer federal crown land which may be administered by the federal government in the way that it chooses."

Someone asked whether that referred to unconditional surrender. Mr. Poupore replied:

"An unconditional surrender, surrenders the Indian interest forever. A surrender for lease is a conditional surrender. I might say that I do expect that in one way or another that judgement will be under further review before the courts."

Mr. Fairholm thought it would be correct to say that at the expiration of the lease the land fully comes back into Band use and they could unsurrender it for leasing purposes if they so chose.

Mr. Adam Eneas asked if they were assured that the land would be returned.

Mr. Gordon Poupore said mention was made earlier of the fact that the Musqueam Band had to surrender their land to lease it. The surrender was cancelled ten weeks ago. It is unsurrendered.

Mr. Fairholm said he knew of land that was surrendered for sale but taken back into and became reserve land again at the request of the Council of the Band.

Mr. Gordon Poupore said the interesting point is the conditions for surrender are for the Band to decide, and if the Band says they will surrender for a term of a lease, the surrender conditions are fulfilled at the expiration of the lease and the lands are then unsurrendered. He explained that for the duration of the lease, the Indians' interest was set aside.

Mr. Dan Logan wondered if the matter of surrendered lands should be cleared up before dealing further with the pledging of property.

Mr. Noll Derrikson thought that the question under consideration had nothing to do with surrenders -- that it was asking whether individuals should be able to pledge property to the Band Council or Government.

Mr. Forrest Walkem believed the subject was very interesting and he felt that they should carry on with it. He said, in reference to his own case, that the land was surrendered to him. He borrowed money on that and formed a company. He noted that that land was surrendered and he held the lease, but that he could not borrow money on it. He felt that such things should not be and that the government should set up a lending institution for the betterment of the reservations. He said an Indian should be able to better himself on his own reservation. At the present time, he said, an Indian has a ball and chain on him for the rest of his life when he has to borrow, as he himself did, because he cannot sell his land and still has to pay taxes. Off the reservation, he said, people can sell if they do not like the tax structure. An Indian (in surrendered for lease land), however, had to pay taxes as set.

Mr. Noll Derrikson agreed with Mr. Walkem that the subject of surrenders was interesting, particularly as they would get into it in detail

when dealing with other questions.

Mr. Clarence Jules gave the views of his Band on the subject of surrenders: "We do not like the term surrender. For us it calls up things to be remembered from the past. The Indian people were over-run by the white man and we had to surrender all our traditional and tribal land. We do not think this term surrender is at all appropriate and that what should be substituted is a word or words that will convey the meaning that the Minister, on our instructions, is dealing with the interest in lands which he holds in trust for us."

Mr. Donald Moses said he did not want to be critical of Chief Clarence Jules but he pointed out that they did not surrender their lands in the past.

Mr. Walkem said they wanted to consider surrenders in view of borrowing power.

Mr. Fairholm asked if Mr. Walkem was suggesting that they should deal with the area entitled, Management of Reserves and then return to surrenders. He said that if it was decided that an individual did not have any rights to land, then of course he would not have any rights to pledge. He added that if they dealt with the other section (management of reserve lands) first, then they may be in a better position to decide on Question 15.

An exchange of ideas followed regarding the order of items to be discussed. It was suggested that discussion start with Section 18.

Mr. Fairholm, for clarification, pointed out that Question 14 of 'Choosing a Path' was related to Section 18 of the Indian Act.

Mr. Poupore pointed out that Section 18 deals with the power of the Minister and of the Band to take lands in reserves for administrative and Band purposes. He asked: "When you take these lands, whose rights are you interfering with? Is it Band land or is it individual land? If it is regarded by the Band as individual land, what rights do the individuals have?" To answer this question, they would first of all look at the Questions set out on page 14 of 'Choosing A Path'. He said this because there are some 284 Bands in Canada which allot land. The remainder of the 550 do not allot land. They recognize individual interests and individual rights, but they will not go to the point of a formal allotment.

Mr. Clarence Jules said that before they get into individual rights, he wanted to know what rights the Bands had to their reserves. He quoted Section 18: "Subject to the provisions of this Act, reserves shall be held by Her Majesty for the use and benefit of the respective Bands for which they were set apart, and "subject to this Act, and to the terms of any treaty or surrender, the Governor-in-Council may determine whether any purpose for which lands in a reserve are used or are to be used is for the use and benefit of the Band." He said the Kamloops Band's point

of view on this is: Why doesn't Section 18 state clearly, all reserve land is held by the Minister in trust. He added that their lawyer tells them that the phrase "for the use and benefit of the respective Bands" implies the trust, but they would like to be sure about it. He said: "If the reserve land is held in trust, the term of the trust should be spelled out so that they could understand it". He added that non-Indians never accept such vague terms, so why should the Indian people? Chief Clarence Jules (Kamloops) continued: "We think that the Act must be changed to say that the Minister holds the Reserve lands in trust for the members of the Band and, further, the terms of the trust must be clearly stated. We know that trust companies, lawyers and many individuals in normal non-Indian communities hold property in trust for others. In such cases, there are declarations that are executed which contain the terms on which such property is held in trust. We believe that an essential term of the Act should be that the land is owned by the Band, but held in trust for the Band by the Minister and that he will follow the lawful instructions of the Band with respect to its disposition, except for leasing, which must be left to Band Councils.

Mr. Gordon Poupore referred to the definition section of the Indian Act which defines what an Indian reserve is. He said: "I think you will find in that the key to the questions which are contained in Chief Clarence Jules statement. By definition of the Indian Act a reserve means a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a Band. A reserve is, in law, as the law is today, a piece of Crown-owned land. It is not owned by the Band or any member of the Band. It is owned by the Crown. It has been set apart for the use and benefit of the Band."

Mr. Dan Logan asked why the land owner does not then dictate the terms without asking the people who are just occupying it.

Mr. Poupore replied: "That is the charge which is on the Crown's title; it having been set apart for the use and benefit of the Band. The Band has what the courts have called the usufruct." Nobody has ever defined what a usufruct is. You have to go to the civil law where it is a known term. It means you have the right to use it and benefit from it, and the Crown cannot deal with it in any way that will impair or get in the way of your use and benefit. But that is all that the Band has. They do not own the land; they cannot commit the land."

Mr. Dan Logan thought an Indian was surrendering his right to "use" when the word "surrender", is used.

Mr. Gordon Poupore added: "That's right. You surrender your right to use. I have yet to see a surrender, except a surrender for sale, where the Band also surrenders its right to benefit from the land. When you surrender for lease, you surrender your right to use, not your right to benefit. The lease is the means of realizing the right to benefit."

Mr. Dan Logan asked whether the individual Indian has land held in trust for him or is it held in trust only for the Band.

Mr. Gordon Poupore confirmed that it was held in trust for the

Band.

Mr. Dan Logan said the Band then has the right to surrender its land only as a Band, not as an individual.

Mr. Fairholm said at the same time the Band through its Band Council may allocate to individuals, the right to use certain parcels and to that extent, it takes away from the community as a whole and gives certain rights to an individual. That was shown by the certificate of possession.

Mr. Dan Logan asked how the deletion of the word "surrender" from the Act would effect the right of use and benefit.

Mr. Gordon Poupore replied: "Suppose instead of saying land must be surrendered for lease, the Act, for example, might say the land may not be leased except at the request of the Band or at the request of the Council. To utilize their right to benefit, they want it leased, and it may be leased at their request. Not surrendered, but leased at their request. You get the same result. The Minister is then able to lease and there is no surrender."

Mr. Dan Logan enquired whether they were then not taking the word "surrender" out of the Act, not just overlooking the word.

Mr. Gordon Poupore replied: "You leave the surrender and say you must surrender the Indian interest before it can be sold. You no longer say it must be surrendered in order to be leased, but the Band must, I suggest, have the right to ask that it be leased because they can't lease it themselves -- they don't own it".

Mr. Dan Logan suggested that the word "surrender" does not have to be put into effect at any time, but would not be thrown out. It would just not be used, he said, because the Indian is not going to surrender at any time.

Mr. Clarence Jules wanted to know what would happen if the Government decided to abolish the Indian reserves and do away with the Indian Act. He asked who will own the land then. He added that the land belonged to members of the Band and any doubt about that should be resolved now.

Co-Chairman, Gus Gottfriedson said the Kamloops Band recognizes individual ownership. They proved it, he said, by allowing the Highways Department to deal with individuals.

Mr. Donald Moses noted that it was mentioned earlier that the Government was not to act in any way detrimental to a Band.

Mr. Gordon Poupore replied: ". . . I did not say that the Government holds the land in trust. I said the Government owns the land but they are charged with the use and benefit of the Band. There is a distinction."

Mr. Donald Moses asked whether they were not to act in any way which was not in the interest of the Indians. When Mr. Poupore replied

yes, Mr. Moses then asked why the Federal Government let the Provincial Government pass an order-in-Council in 1961 giving the Provincial Government half of the mining royalties. He added that the Provincial Government could go on the reserves and mine to the extent it wants and there is nothing the Indian people can do.

Mr. Gordon Poupore replied: "The Indian Reserve Mineral Resources Act and the Orders-in-Council, passed subsequent to that, deal with the mineral rights under reserve land. The extraction of them who is to get the royalties for what, there is a distinction for royalties for gold and silver on the one hand and base metals on the other. It is in large measure an administrative agreement between the two Governments recognizing that when you start digging into an ore body it's got lead, tin, zinc, gold and silver, you run into extremely difficult technical problems. There is also a further question which arises and I hesitate to mention it, but I feel I must, that they seek without question of entitlement to those minerals. I hesitate because that is getting into the aboriginal land claim. What I would like to make clear is that what I am discussing here is not and has nothing to do with the aboriginal land claim. I am discussing those areas of land which are today in law, identified and recognized as Indian Reserves and the rights which are established as existing in those reserves - not those rights which the Indian people of British Columbia claim but which have not been recognized by either the Federal or Provincial Government."

Mr. Noll Derrikson asked if the Minister decided to permit more delegation of authority to Council, where did this leave the surrender section of the Act. Wouldn't the Band be making the decisions. It would no longer be necessary for individuals to surrender their property to get a loan for over a 20-year period.

Mr. Fairholm said he thought what was coming out in the discussion was that the Indian people want surrender taken out - that there should be no need to surrender for lease. They would then want to change Section 37 which now says that they must have a surrender when they sell or lease land that is Band land. Perhaps, he added, the Council might be given the power in some way to lease land itself.

Mr. Noll Derrikson suggested that the delegation make a recommendation to do away with the surrender section of the Act which would make the delegation of authority down to Councils no longer necessary.

Co-Chairman Gus Gottfriedson asked the delegates if they had any more comments on the subject.

Mr. Walkem said that he felt the delegates were just wasting their time - first of all they had to get some land for themselves - get the land they owned before they discuss the Indian Act.

Mr. Donald Moses asked to have the term "legal entity" defined.

Mr. Poupore replied that a legal entity was in law a person. A group of people are not necessarily in law a person. A company by incorporation under the appropriate Companies Act, gets status as a legal entity. It was then capable of suing and being sued, capable of dealing with property in the same way that an individual person could. It could enter into contracts. There were companies, societies, fraternal orders - there were any number of ways by which a group of people could acquire a legal entity or legal identity. It was necessary to go through the step of establishing what that identity was. An Indian band had never been identified as a legal entity. It had no power of contract, it could not be sued and it could not sue in its own name.

Mr. Donald Moses asked if that meant that the delegates were dealing with specific issues, and it was necessary for them to identify themselves as people before they started to talk about leasing their land. He felt that the Indian people should identify themselves as a legal entity.

Mr. Poupore said that there were bands in Canada who right now were saying that they wanted to be a legal entity so that they would have all the powers of such an entity. On the other hand there were bands who were strongly opposed to the idea of becoming legal entities.

Mr. Dan Logan observed that all this involved white man's law, his legal system; he asked why the Indian people were not able to use their own law rather than be subjected to the legal procedures of the white man.

Mr. Poupore said that he was unable to answer the question; he said that he heard that the Indian people of Canada did not need to recognize the law of Canada as it was recognized by the non-Indian society. There were people who said that they were in no way governed by the laws of Canada and that they were something apart. He said that he did not know how this would work in practice. The Courts of the Country, for example, could only interpret the law as it was and as it was known to them. He said that he was doubtful whether this separate Indian law existed at the present time.

Mr. Dan Logan said that if the Indians were to recognize the white man's law then they should have the right of becoming legal entities so that they would have the accompanying powers and would also be able to understand what was their place.

Mr. Boys said that the Indian Act was a part of the white man's law. The purpose of the meeting was to try to come up with something that would be closer to the wishes of the Indian people. Whatever succeeded it or replaced it would be enacted by Parliament which was predominantly a Parliament of non-Indians.

Mr. Clarence Jules said that before he would find out what were his legal rights and if he could surrender his land or not he would like to know if the bands really owned their lands. He then MOVED a motion that Section 18 (1) of the Indian Act clearly state that lands on the reserves are held in trust by the Minister for the respective bands that they were set apart for.

Mr. Donald Moses SECONDED the motion.

Mr. Clarence Jules said that he would like to add to his motion "and the terms of the trust be clearly spelled out".

An observer, Chief Brewer said that the Indians owned the whole country long before the white man came; and now he understood that they owned nothing. He wanted to know how this happened; he reminded the meeting that many Indians fought in the two world wars, but if a new war were to start tomorrow, the Indians would not have any reason to fight for a country which took all their land from them - they would have nothing to fight for.

Mr. Donald Moses wondered about the wording of the motion, since the Indian people were not a legal entity.

Mr. Boys said that an Indian person was a legal entity but a band was not.

Mr. Donald Moses and Mr. F.G. Antoine suggested that an amendment of the motion be made and Chief Clarence Jules agreed to replace "for the respective bands" of the motion by "for the members of the respective bands".

Mr. Fairholm thought that if a band were to have actual ownership in its own name it would have to be created a legal entity for that purpose, otherwise it would not be able to hold the property; but as the motion read the situation was somewhat different since the land was to be held in trust by the Minister for the members of the band, and not to be held by the band itself in its own name.

Mr. Poupore said that if it would be the wish the motion could be incorporated as a provision of Section 18 (1) and elsewhere in the Act a provision could be made that bands wishing to do so may become legal entities. If a provision were put into Section 18 (1) that all the bands be a legal entity then all the bands would be compelled to become legal entities.

Mr. Noll Derrikson wondered why pass a motion like that which would bind the Indian people further. Instead of having the Minister hold the lands for them in trust, the Indians should have their title to their lands recognized. The Act should be changed in this respect; provision should be made in the new Act for ownership of reserve lands by those bands that elect for it.

Mr. Adam Eneas suggested that there should be a special provision for the Indians of British Columbia.

After a brief debate dealing purely with the wording of the motion, Mr. Clarence Jules presented the final version of his Motion, MOVING, SECONDED by Mr. Noll Derrikson that "the Indian Act should clearly state that lands on the reserves are held in trust by the Minister for the members of the respective

bands that they were set apart for and the terms of the trust be clearly spelled out and that provision be made to allow bands and individual members to acquire title and ownership of their lands without charge."

Mr. Forrest Walkem said that he felt that this was a good motion. The question being called, all the delegates voted unanimously in favour of the motion and the motion CARRIED.

Mr. Boys proceeded with the reading of Question No. 15.

Mr. F.G. Antoine wondered whether or not there should be a provision in the new Act for a money-lending institution for the Indians.

Mr. Fairholm said that on Page 18 of "Choosing a Path" there was an explanation of government intention in regard to the establishment of an economic development fund in the new legislation. This fund would be for development purposes on reserves.

Mr. Adam Eneas said that he entirely agreed with such a proposal.

Mr. Ron Derriksan an observer asked whether this economic development fund would be set up along the lines of the Veterans' Land Act.

Mr. Fairholm said that he was certain that any suggestion as to how this should be done would be well received in order to ensure that it would serve its purpose well.

Co-Chairman Gus Gottfriedson informed the meeting that he had spoken with Mr. Len Marchand about two weeks ago and he had advised him that this development fund had all the three readings and was approved by the Senate. He suggested to the delegates that they ask Len Marchand on Friday for more details. Co-Chairman Gottfriedson added that he still felt that a recommendation from the meeting should go in, that the fund be set up.

Mr. Donald Moses felt that it was very important to know how big the fund was. If it was too small then there would be many restrictions in getting a loan - the government would then set up priorities in this regard.

Mr. Walkem said that Question 15 should be left until such time when it would be possible to see how the new economic development fund system worked. Mr. Boys asked Mr. Walkem how would he like this system to work.

Mr. Walkem replied that he would like to see the Indians able to develop their lands, the system should be flexible enough to help effectively the needs of the Indian people.

Mr. Dan Logan wanted to know what were the legal rights of an individual on the reserve who owned a Certificate of Possession.

Mr. Poupore first brought to the attention of the delegates pages 30 and 31 of the notes, and page 14 of "Choosing a Path". He said that under the present Act an individual who had lands on a reserve allotted to him acquired the right to exclusive possession of the use and benefit as against all other

members of the band; he had the right to sell that right to possession to another member of the band; he could give it away to another member of the band, he could devise it by will to any member of the band whom he chose; he had the right under Section 58 (3) to ask the Minister to lease the land on his behalf as long as the band council did not object to what he proposed to do. This varied from band to band throughout the country - there was no rule which bound all band members or band. At the present time the Act permits a great deal of flexibility. It is a question of what is the custom and practice of the band.

Mr. Logan MOVED a motion that an Indian be able to borrow money on his right to possession of land in his name on the recommendation of the Council of his band from the government without surrender. SECONDED by Mr. Donald Moses.

Mr. Noll Derrikson said that he felt that the requirement of the motion that an Indian would have to have the approval of his band council before he could get a loan, would cause a considerable amount of difficulty. It was not always easy for an individual to obtain the approval of his band council, very often due to a misunderstanding, by the Council, of his intentions for which he wanted the loan.

Mr. Dan Logan explained the reasons for his view that band council's recommendation was required: the loan could involve large sums of money and the Council had to assume responsibility that it would be repaid - in order to assume this responsibility, the Council had to exercise some control over the loan in the first place.

Mr. Noll Derrikson asked Mr. Logan if he would agree to the idea of not making the band council's recommendation mandatory and amend his motion to that effect.

Mr. Donald Moses said that there were cases where permission of the Band Council was absolutely necessary. When an individual would borrow \$100,000.00, the band council would have to be the co-signer for such a loan and if an individual were to fail to repay the loan then the band council would be the only one who would be responsible for its repayment.

Mr. F.G. Antoine said that no responsible band would put into power a council which would repress those progressive people on the reserve who wanted to obtain loans for further development of their reserves.

Mr. Noll Derrikson said that the individual was restricted if he had to obtain the recommendation of the band council to get a loan. He suggested that the motion could be amended so that it would state "on the recommendation of the band council if the individual so desired" or in such a way that the recommendation of the band council would not be mandatory.

Mr. Boys wondered if the band council did not have to be involved to some extent for another reason, namely that an individual had in mind setting up some enterprise in what is a residential part of the reserve for some purposes that were contrary to residential use. Perhaps the band council should at least be consulted to this extent.

Mr. Noll Derrikson felt that every member of the band knew the general situation on his reserve and its zoning policy.

Mr. F.G. Antoine wanted to know if the government loan agency would approach the band council for loan approval in every case.

Mr. Boys said that in the normal community it would be an individual's responsibility before he attempted to acquire funds for a development, to have cleared that there was no opposition from the governing body of the community before he applied for his funds.

Mr. Dan Logan said that even if an individual applied directly for a loan to the agency, the agency would refer his application to the governing body. He said that there were cases in the past where Indians had gone to the Agency rather than to the band council for a recommendation, and the application was always referred back to the Council - only after the Council gave its recommendations, that action was taken. He then amended his motion, replacing "on the recommendation of the Council of his band" with "in accordance with the by-laws of the band."

Mr. Clarence Jules wanted to know, if the federal government set up the fund in the first place, why an individual should have to go to the band council; he should be able to borrow money on his own.

Mr. Boys read the final version of Mr. Logan's motion, SECONDED by Mr. Donald Moses "that an Indian be able to borrow money on his right to possession of land in his name in accordance with the by-laws of the band from the government, without surrender."

The question being called, all the delegates unanimously voted in favour of the motion, and the motion CARRIED.

Mr. Boys informed the delegates that in accordance with the agreement made earlier by the delegates, the afternoon session would discuss the matter of education; arrangements were made for the education people to be present at that time.

Mr. Donald Moses felt that there were other more important matters than education - such as, for example, mineral rights; he thought that it would be better to discuss those matters rather than education.

Mr. Boys informed him that it was because of the wishes of the Indian delegates that the arrangements for discussing education on Thursday afternoon were made.

Break.

Co-Chairman Gus Gottfriedson called the meeting to order. He advised that this session had been set apart for education. He introduced:-

Mr. Ray Hall - Regional Superintendent of Education
Mr. Frank Orme - Provincial School Inspector, Kelowna
Mr. Fred Bern - Principal, Barrier High School

He entered and read Question 18 on page 17 of the background notes respecting education.

Mr. F.G. Antoine enquired as to the present policy of the Federal Government in respect to Provincial education.

Mr. Ray Hall advised that the present policy is to give each Indian person as much education as they are capable and willing to absorb primarily at the expense of the Federal Government and also that Indian children wherever possible, with the consent of the parents, attend the same school as the non-Indian children in an integrated school.

Mr. F.G. Antoine asked who has the right to stipulate which school a child is to attend and do the parents have any say in this.

Mr. Ray Hall - "The District Superintendent of Education in the area, after consultation with the parents insofar as possible." In this respect he noted that the non-Indian has no right to say which school his children should attend as this is dictated by the Provincial authorities and their only choice if they don't like the decision is to pay to attend a private school.

Mr. Adam Eneas "In effect if you are willing to pay you can have the say. He noted that the Indian education is paid for and therefore they should be able to say, particularly in higher education; they should be able to choose their own school. He noted that the Indians are not really in the same position as the non-Indians as the Department will pay. He believed if the Indian wanted special education he should make such a decision and not the Minister as is currently indicated in the Act.

Mr. Ray Hall advised that some children do attend private schools of various kinds and this cost is subsidized; however, he noted that usually private schools are so expensive that the departmental contribution is insufficient to cover the full cost and someone else must make up the difference. He agreed it would be nice to put everyone through Harvard but the cost would be very high. In answer to a question of Mr. James Stalkia he advised that currently the cost of education of the Indian was the responsibility of the Federal Government.

Mr. Adam Eneas believed that the Federal Government should employ qualified Indian people to act as counsellors on the reserves but not attached to the Agency office. He noted that there are many specialists and it was time to have an Indian specialist whose purpose would be to go through the reserves to act as a vocational or guidance counsellor. He noted that many young people are dropping out of school and one of the reasons may be that they cannot understand or be understood by the counsellors in the schools because they as Indians have problems of their own.

Mr. Ray Hall agreed. He advised that the Department was currently hiring Indian people by contract as guidance counsellors. He believed that it would be ideal if more capable young Indian people could be hired to visit the various reserves.

Mr. Donald Moses said that his band had made an application for such a person and they had never received a reply.

Mr. Ray Hall advised he had never seen such an application but if Mr. Moses would ensure it was sent in it would receive consideration.

Mr. F.G. Antoine believed that if more money had been spent on education 20 years ago the current cost of welfare would be less. He thought that money spent on education would offset money spent on welfare.

Mr. Ray Hall agreed that he would like to see the Indian people obtain enough education to earn their own living which would help to reduce welfare costs. He said that fortunately, now, the Government believed in education and was willing to support it fully and hopefully this would continue. In his opinion welfare money was in effect poorly spent money and it would be better to divert some of these funds, where possible, into education.

Mr. F.G. Antoine enquired why the use of hostels was being discouraged. He believed that during the lower grades there was fairly good supervision and assistance in hostels whereas in some homes this was lacking. If a child got slightly behind it was difficult to make it up and they therefore got discouraged and quit.

Mr. Ray Hall advised that the problem of whether a child should be in an hostel or not was a difficult one. He noted that to judge which child was being properly supervised by his parents and which were not was difficult. He thought that generally speaking the Indian people knew which home was suitable for the children to stay home and attend schools and which were not. This was a subject where the Department needed more assistance - when should a child be put in a hostel and when should he not. In answer to a further question of Mr. Antoine he noted that someone had to be responsible for decisions related to education and currently the Act placed this responsibility upon the Minister. He suggested that the meeting was one at which the delegates could voice their disapproval of such a section in the Act and set out an alternative suggestion.

A number of speakers made reference to specific cases where Indian students were not permitted to attend university or were counselled into taking vocational or technical courses which then prevented them from attending university.

In one case it was indicated that the principals of the schools discouraged Indian children from taking the academic courses. It was generally thought that better counselling by Indian people was required.

Mr. Frank Orme did not agree that the principals deliberately steered the children away from academic courses and he knew of cases where the principals had gone to extreme lengths to keep them on their courses.

He noted that within his area 2½ to 3% of the entire school population of the 16 to 18 year olds were in occupational courses, while the proportion of Indian children in these courses was probably closer to 8 to 10%. He advised that a number of these people had difficulties in school which difficulties did not start at the secondary level but at Grade 1 when the Indian children did not get a proper start. "Consequently we cannot do much for them except an occupational programme which would at least train them to earn a living and take their position in society." This was the basis for the programme.

In answer to a question from Mr. Dan Logan he advised that the cause of the problem in Grade 1 was probably the fact that much of the material used in the school was oriented to a non-Indian urban community whereas the majority of the Indian children come from a rural area and did not have the same background or the background for the particular type of instruction. He noted that the people had voted against kindergartens in his area but he believed that Indian children would profit from a kindergarten class prior to Grade 1.

Mr. Ray Hall said that the policy of the Department was to provide kindergartens and nursery schools wherever possible. He thought that with a 2 year preschool programme the Indian children would be able to hold their own in Grade 1. In answer to a question of an observer he advised that the nursery schools and kindergartens are operated by people having the qualifications - some of whom are Indian and some who are not. It was based primarily on qualifications. In answer to a question of Mr. Antoine he said that normally kindergarten and nursery schools would be located on the reserves as it would not be fair or proper to transport children of this age very far - they must live close to the school.

Mr. Frank Orme, in answer to a question from an observer, advised that the occupational programme was normally a terminal programme and did not lead to a higher programme. He noted that in selecting these students it was on the basis that they had no conceivable opportunity of proceeding further academically although it was possible to make a mistake in the type of judgement. He noted that a few people from this programme had gone into vocational schools but none had gone into technical or university courses. In answer to a question from Mr. Antoine, he advised that he did not have any statistics showing the percentage of Indian children in the courses. He further noted that it was the responsibility of the school counsellor after consultation and with the written consent of the parents, to decide which pupils were to be put into these courses.

Mr. Ray Hall, in answer to a question from Mr. Ron Derriksan, advised that the Department would assume the costs of night school or correspondence courses where the need was shown.

Mr. Frank Orme, in answer to a question from an observer, advised that the occupational programme was a terminal programme. He thought that in many cases there had been a lack of understanding and communication in this respect and therefore a major difficulty in the programme.

Mr. Fairholm believed that this pointed up a need for the parent to be highly concerned with the type of course their children were taking

and that they must be alert to the type of education their children get. He noted that counsellors base their opinion on a series of tests which are normally right but there was always the exception. He suggested that if the parents felt the child was suited to an academic course they should insist upon it. He thought this was a parental responsibility that could not be delegated.

Mr. Adam Eneas referred to the dropouts and noted that the younger generation formed a valuable resource for the reserve. He suggested that there should be an Indian school with courses geared to the needs and wants of the Indian and not to the provincial system. In this way many of the drop-outs could be trained to take a place in the Indian society for the benefit of that society.

There was a short discussion on whether some courses discriminated against Indians by the use of such terms as "savage".

Mr. R.M. Hall, in answer to a question from Mr. Donald Moses advised that in his opinion there were insufficient counsellors available but this was currently related to a policy and the amount of available funds for the purpose.

Mr. Fairholm in answer to a question from Mr. Donald Moses to the effect that 50% of the Departmental expenditures were related to administration advised that in Canada the expenditure for the Indian Affairs Branch for the 1966-67 fiscal year was:-

Education	\$52,231,783	or	50.3%	of total budget.
Development Services	46,597,173	or	44.8%	" " "
Administration	5,002,517	or	4.8%	" " "
B.C. Special	100,000	or	0.1%	" " "

He noted he did not have the provincial breakdowns but in all probability the proportion would be the same.

Mr. Ray Hall, in answer to a further question from Mr. Donald Moses advised that he did not have a break down of the education costs in British Columbia but administrative costs in education usually ran about 4% of the costs of the programme.

Mr. Alexis an observer believed that the teachers should take more time to understand the Indian children, their background and their culture. He believed that any hindrance or misinformation in this respect should be corrected so that the true image of the Indian culture and history was reflected which would make both the Indian and non-Indian proud. He added that the children appeared to study other cultures and history in great depth but did not study the Indian culture, society and history, nor even reflect the true image of the Indian people. He believed the teachers should put forth more effort in understanding these children.

Mr. R.M. Hall advised in this respect that:-
- there was a lengthy unit at the Grade 3 level on the Indian people;
- the Department had a special course for their teachers to help in this understanding;

- the Department was requesting the University to include a full course on the teaching of Indian children;
- the Department had requested the Provincial Department of Education to include an in depth optional course in social studies on Indian culture at about the Grade 11 level.

He also believed that because the Indian people were a minority that they had a responsibility to preserve their own culture as they see fit and to teach their children and the Indian parent had a responsibility in this respect.

Mr. Alexis agreed that the Indian people do have some responsibility here. He noted however, that a few years ago when he was attending school the children were forcibly prevented from speaking their own language among themselves on the school grounds and were otherwise discouraged by the school authorities in learning their culture and he admitted that he could no longer speak his native language.

Mr. Donald Moses enquired why Indian history was not recorded and subsequently taught.

Mr. Ray Hall believed that the Indian people did record their history in their own way.

Mr. Adam Eneas agreed that now there was a responsibility on the parents to ensure that the culture did not die out, but whose responsibility was it that there was a breakdown in the culture to the extent that Indian persons could not speak their own language. In many cases they could not speak English properly nor could they speak Indian. This was another reason why he believed a separate system of education was needed now before it was lost entirely.

Mr. James Stalkia in this respect, noted that the parents were not asked their opinion but the culture was taken away and disregarded by the whole society. He believed therefor that they also had a responsibility to help preserve the language and culture. He suggested establishing schools related to this culture but not limited to children, i.e. summer school, weekend school, night school, etc. to teach the language and culture. It was not only the responsibility of the parent, as the white people made the Indians what they were today.

Mr. Ray Hall advised that there were some night schools set up to teach the Indian language and any reserve that wished to do so and had one of their own people to do the teaching would be financed by the Branch.

Mr. Alexis said that it was also necessary to correct the popular misconception about the Indian and teach the manner of living, the culture, history and the Indian Act not only to Indian children but to the non-Indian as well.

Mr. Ray Hall said many non-Indian people were requesting the same thing and therefore there was this support.

Mr. Donald Moses in respect to culture and history entered and read excerpts from a term paper - quoting a Mr. T.R.L. McInnes in 1939, Secretary of the Indian Affairs Branch...." it may seem arbitrary on our

part to interfere with the native culture but the position of the Department, however, may be understood when it is pointed out that the Indians may spend a fortnight preparing for the Sun Dance, another fortnight engaged in it, and another fortnight to get over it. Obviously, this played havoc with the summer plowing....." The Indian could not practice his culture but the white man, part of whose culture is religion, does reserve every Sunday for this purpose. In this way, you have destroyed the culture of the Indian people. He gave another quotation of the first Lieutenant Governor of British Columbia, who, when reporting to Sir John A. MacDonald, called the Indian "utter savages". He also quoted from the paper E. A. Elms, Superintendent of Lands and Trusts said "as yet instances of an Indian's capacity to manage his own personal affairs were rare. He must therefore be given direction and constant training....." He added that the Indian got along before the white man arrived. "They are instances of how our culture was destroyed and now you tell us it's our responsibility."

An observer, Chief Ernest Brewer of the Okanagan band noted that there were three schools on his reserve closed by the Department and the children bussed to Vernon. He believed this was fine for the senior grades but believed the younger children should be taught on the reserve. He thought that the closing of the schools was a waste of money and little use was being made of them.

Mr. Noll Derrikson believed that although the education system had imperfections for the most part he would defend it. He thought that any Indian in the country could realize his ambitions if he had the desire and courage to carry it through. He noted there were many examples of that happening in interior Okanagan area and suggested the best example was the first Indian Member of Parliament who came from the area.

Mr. Ray Hall, in answer to Chief Brewer's question advised that the present policy of the Indian Affairs Branch was wherever possible, to integrate the children so that the Indian children will attend school along with the other children in Canada. He noted that there were not separate schools for other children and it was therefore the policy that there should not be separate schools for the Indian children.

Mr. Fairholm, in answer to a question from Mr. F.G. Antoine indicated that in some places because the reserve community was the best location the area school was built on the reserve and all the children of the area attended it. He noted that at Manitoulin Island a secondary school was being built on the reserve, so that, providing the community agreed, it was quite possible for the school to be on the reserve and this was happening in some cases.

Mr. Hall said that the statistics would not support Mr. Antoine's contention that the younger children had a better chance of learning in schools on the reserve on the grounds that the system was geared to their cultural environment.

Mr. Alexis an observer suggested the example Mr. Derrikson gave was a good one. He noted that Mr. Marchand attended a reserve school for some eight years and then went out to an integrated school. He added that there were five or six Indians from that same class who also went out to

University. He thought that in this instance the system worked well. The children were close to the parents; the parents had close contact with the school and the teacher. Now the children were forced to go to an integrated school where the parents did not have the same contacts, and the children were running into the occupational courses referred to earlier and returning to the reserves, disillusioned, disgusted and discouraged. The community seemed to him of sufficient size to support a school and there would be no need to go downtown but the school could be used by all of the children in the area as in any other small community. He believed in these instances where the system appeared to be working well that it should not be closed out but should be kept and improved.

Mr. Ron Derrikson (an observer) noted that in some instances the children did not have proper clothes, footwear or lunches and felt out of place in an integrated school, as a consequence they formed complexes and when they were old enough, drop out of school.

Mr. Donald Moses believed that in these cases the children feel inferior which causes them to try to prove superiority in some other way which was of no value. He thought that what was required was equality - none should feel inferior or superior to one another.

Mr. Fred Bern (Principal-Barrier High School) advised that he had an enrollment in the top grades of 205 students of which 15% were Indian students. In the total school system there were about 20 to 25%. He added that three years ago the student council president, a Grade 12 student, was an Indian boy who is now in University. He was also an honour student and captain of the basketball team. It was his opinion that this was a very worthwhile experience to that student and to the other students as he had done this in an integrated school. He noted that there were some of the students from the high school present at the meeting as they were interested in the proceedings and in preserving and developing Indian culture which he thought was an excellent move on their behalf. He suggested that a separate school would not offer as much to either the Indian or non-Indian in this respect as the integrated school.

Mr. Herb Manuel noted that the meeting was looking backwards and not to the future education. He added that the children would be growing up together and this would make it much easier.

Mr. Noll Derrikson said he defended the views of the principal respecting integrated schools. He believed that they were really the answer. He added "If you attended them you do not separate yourself as a minority and you become more aware of the different cultures, beliefs, backgrounds which in turn help you to realize and understand your own heritage."

Mrs. Anastasia Zabatal agreed with Mr. Manuel that they must look to the future. She believed that probably the integrated system worked better in the smaller communities than in the larger ones, since the people appear to get along better. She also suggested that an active Parent-Teacher Association would help the Indian parent to better know the teacher, the school, and probably her own children.

Mr. Herb Manuel suggested that there should be more counsellors

on the reserve to counsel the adults as well as the children. They should also encourage P.T.A.'s and to assist in this they could supply transportation to the meetings where they were some distance away and the Indians did not have their own transportation. He believed there were very few people attending such meetings now and the parent was not aware of what the teacher was doing or thinking and vice versa.

Mr. Ray Hall, for the information of the delegates, advised it was possible to establish a school committee on a reserve with financial backing from the Department, through grants which would help them to participate more in school activities.

Mr. Frank Orme also advised it was now possible under new legislation for an Indian to vote or stand as a Trustee in the Provincial school system.

Mr. Noll Derrikson advised that he was the first Indian in the area to exercise this privilege. He added that educational opportunities are available to any Indian to go as far as they desired. He believed the biggest requirement now was the parents' true participation; in education which must come from the individual.

An observer thought that a person should be paid to take time from his work to gather together information on the culture and history to take to the schools for teaching.

Mr. Ray Hall said he believed funds were available for this purpose but it was not under the jurisdiction of the Education Directorate.

Mr. Donald Moses believed the proposal was excellent. He thought that there should be a proper history of the Indian people in British Columbia and for this purpose the Department should hire Indians to work with anthropologists and others and when it had been prepared it should be included in the education system including the history and social science books. In this way both the Indian and non-Indian would have a better understanding.

Mr. Fairholm, for clarification, enquired whether the history should be of the Indian people of Canada or just British Columbia, or broken down into cultural groups.

Mr. Moses "probably because of different educational systems in each province, it should be done by provinces."

Mr. Forrest Walkem did not agree with limiting it to B.C., because many of the Indian people and their culture extend over the boundaries of Canada and the United States and also the provincial boundaries.

Mr. Noll Derrikson agreed with Mr. Walkem. He said that in many instances the heritage and background of the Indian people of B.C. was to be found in other provinces or the U.S.A.

June Mathews (an observer) enquired whether it would be feasible to have an Indian person appointed to the Provincial Educational Department to act as a consultant and to visit the various reserves to obtain information,

ideas, needs and proposals for the educational system possibly financed by the Department of Indian Affairs.

Break.

Co-Chairman, Gus Gottfriedson, presiding. It was moved by Mr. Donald Moses and seconded by Mr. James Stalkia that the Department of Indian Affairs engage the necessary anthropologists and historians to prepare and publish a complete history of the Indian peoples of Canada and that this history be part of the curriculum of Indian and public schools in the whole of Canada.

Mr. Dan Logan (Okanagan) considered whether they would be prepared to accept what the anthropologists and historians write.

Mr. Donald Moses replied that the final work, before being published, should be reviewed by a competent group of representative Indian people.

Mrs. Gabrielle, an observer told of an anthropologist working on her Reserve who had to make a separate alphabet in order to understand and record the Okanagan language.

The motion was put to a vote and carried.

Mr. Noll Derrikson quoted section 119 of the Act regarding truancy as delinquency. He stated that he did not agree with this regulation.

It was moved by Mr. Noll Derrikson and seconded by Mr. James Stalkia that Section 119 be deleted.

Motion carried unanimously.

Mr. Ron Derrickson, an observer, asked that abstentions be recorded as well as those in favour and those contrary.

Mr. Antoine asked Mr. Orme if the Provincial Schools Act was the same with respect to truancy.

Mr. F. Orme said that Section 116 of the Provincial Act was very similar to attendance regulations in the Indian Act although the provincial Act did not go so far as to declare a truant a juvenile delinquent.

Mr. Walter Deiter (National Indian Brotherhood) raised an objection, stating that at the last conference, he had been given a different reply by the District Superintendent.

Mr. F. Orme stated that the Provincial Act provided for a levy of \$10.00 a day fine for non-attendance.

Mr. Noll Derrikson asked at what age pupils could quit school in the Provincial System and Mr. Orme replied 15 years.

Mr. Noll Derrikson said under the Indian Act the Minister may require a child to attend school until 18 years of age.

Mr. F. Orme "In the Province, the Public School system is operated for children up to 18 years of age. A pupil is not required to attend before 7 years of age. If, however, there are religious reasons, a child may be given other tasks during religious exercises. If a child can be proven to be receiving sufficient instructions at home, a judge may exempt him from school attendance.

An observer, Mr. Leonard asked "why doesn't the Band Council use some of its powers to get the kids to school"?

An observer, Mrs. Manuel wanted to know what provisions were made for adult education.

Mr. F. Orme replied: "Through our adult education department, requests can be made for adult education and courses will be organized. The Indian Affairs Department will reimburse the Province."

Mr. James Stalkia asked "Could we not do away with all sections of the Act dealing with education and use the Provincial schools' legislation?"

Mr. Noll Derrikson moved that sections of the Act dealing with education be deleted and that the Provincial schools legislation be adopted and administered by the Minister.

An observer, Mr. Ron Derrikson: Has anyone a copy of the Provincial Act? It might have some paragraphs with which we don't agree. Shouldn't we read it first?

Mr. R.M. Hall: A copy of the Provincial Act can be made available tomorrow.

Mr. F. Orme: There are some 280 sections to the Act and I would be pleased to quote any section you wish.

A discussion followed on lack of knowledge of the provisions of the B.C. Public Schools Act, and particularly on the point of whether a truant could be branded a delinquent. Mr. Fairholm said that in the Manitoba Act, a truant may be deemed a delinquent, but the word "shall" is not used.

Mr. Donald Moses suggested that before the motion was adopted there should be a conference of Indian Affairs Department, the B.C. Department of Education and Indian people to review the B.C. legislation.

Mr. Noll Derrikson said: "The majority of our children are now going to Provincial Public Schools and are getting a good education. It would be simpler to follow the Provincial legislation."

An observer, Mrs. Stalkia told of the advantages of the P.T.A. She said that her children want her to attend meetings and as a result their work had improved.

Mr. John Anderson of the Little Shuswap said that the Provincial legislation should be adopted.

Considerable discussion followed on the danger of adopting something with which they were not acquainted. Mr. Noll Derrikson however, insisted that the motion be put to the meeting.

Mr. Antoine asked if the Department would pay the fines if children don't attend.

Mr. Noll Derrikson said that if a man were fined he could not expect the Department to pay. He went on to say that they were there to change the Indian Act. He said that if the provincial legislation was adopted it should be administered by the Department of Indian Affairs.

Mr. Allison said he would like to look into it further. Who was going to pay the fine. It was not always the fault of the children.

Mr. F. Orme replied I have been employed 8 years with the Department in Kelowna and we have collected \$10.00 in fines in that period. It is a token fine and only applied if the children are deliberately kept out of school.

Mr. Donald Moses asked the mover and seconder if they were acquainted with every section of the B.C. School Act.

Mr. Noll Derrikson said "I think the B.C. School system is good. When you consider a section like 115(c) of the Indian Act, I think it should be changed.

Mr. Adam Eneas asked if failure to pay the fine could result in imprisonment.

Mr. F.G. Antoine asked if the reserves would be subject to taxation if the Provincial legislation were adopted.

Mr. Noll Derrikson said that the delegates were spending too much time worrying about fines. They were there to change the Act and do away with sections like 115(c) and 118(g) which states that the truant officer may use force on a child.

Mr. Forrest Walkem said that maybe in the Public School system, the truant officer could whip a child.

Mr. F. Orme said that the Public School truant officer could counsel, but he could not use force.

Mr. Dan Logan said "Many of us have gone through the Provincial System and we have no reason to fear".

Mr. Noll Derrikson said "I would like to see the motion voted on and see if there is that much controversy. In Section 122(c) the truant officer may be an R.C.M.P., a special constable, a school teacher or the Chief of the Band. This is ridiculous when under the Provincial system you

can have a proper truant officer."

The question was called and carried 14 - 8 with 1 abstention.

Mr. Dan Logan asked "Could the Department set up a committee of the Branch, and the Province, to study the changeover?"

It was moved by Mr. Donald Moses and seconded by Mr. Bert Seymour of the Shaskan Band that a committee of the Department and the Provincial Department of Education and the Indian people be set up to study the changeover.

The Motion carried unanimously.

It was moved by Mr. Adam Eneas and seconded by Mr. James Stalkia that educational and vocational counsellors be contracted for by the Department, and that they be available to the Reserves, and not members of the Civil Service.

Mr. R. Hall asked if these could be on a part time basis and if a ratio could be established according to population.

The mover and seconder agreed.

The motion was carried unanimously.

Recommendation of the Kamloops Band was read--that there should be no separate schools for Indians or non-Indians and that all schools in Canada should be open to Indians and non-Indians without segregation, and that the policy of the Federal Government of paying a per capita grant for Indians attending Provincial Schools should be continued. (Appendix "B").

Mr. Forrest Walkem asked how much control the schools have over the university?

Mr. R. Hall said the Provincial Government had organized a new Department to deal with the universities. However, the universities were autonomous bodies. There was no control over them by the Department of Education. Mr. Walkem then asked where they get their money? Mr. F. Orme said from Provincial grants, fees and contributions.

Mr. Forrest Walkem said "if they spent public funds, why did they allow these rebellions. Could they not be curbed? Mr. F. Orme noted they operated under the Universities Act and were autonomous.

Mr. Forrest Walkem replied "It makes a fellow think about sending children to universities. I think there should be some control."

It was moved by Mr. Adam Eneas and seconded by Mr. F.G. Antoine that a special vocational training school be set up in B.C. to cover the needs of Indians. This would also help drop-outs, or people who have not found themselves.

Mr. Hall pointed out that courses in such schools were purchased

by the Department, but stated he was in favour of the motion.

The motion was carried 21 - 0.

The Co-chairman, Mr. Gus Gottfriedson, expressed his thanks to the Education officers present.

Mr. Hall stated that the education system seemed to assure the future of the country and the Indians.

Meeting adjourned.

Friday, November 15, 1968.

Co-Chairman Mr. Gottfriedson introduced the Minister, the Hon. Jean Chrétien, and the Minister's Special Assistant Mr. William Mussell.

Hon. Jean Chrétien: "I am very glad to be in Kelowna today. There is only one complaint that I can raise and that is I have been told in Ottawa that when you go to Kelowna it is always in sunshine. It is apparently a very bad day today. My good friend, the member, was a bit annoyed. It is not my first trip. I came last year and I had a very nice time. I was anxious to come back.

I am very glad to be in these consultations. I am informed that the consultations are going pretty well and that you have offered very positive contributions to the meeting. We decided to hold these meetings because we felt that it was very important, before having the new Indian Act, to permit the Indian people to express their views on what should be their own future. Over the last one hundred years, you have been administered from the Act where the attitude of Government was to make a decision for you. We felt that in our age it was necessary to give you the opportunity to express your views and it is the first time in the history of Canada that we really consult Indians like we do in these meetings. In a month from now we will have completed the consultations. We will have held almost seventeen or eighteen meetings across the country with all the chiefs of all the Bands. These consultations have been very useful to us because we now understand better the problems that face the Indian people of Canada and what direction they want for their own future.

After four and one half months in the Department, I begin to realize that one of the strong desires of the Indian population in Canada is that they would like to be in a position to make more of their own decisions. You would like to challenge, yourself, the direction you want your people to have in the future. In order to do that, we are very anxious to proceed with the new situation in which the Indian will be in a position to make more of their own decisions and to establish some bodies within the Indian communities in order to permit the population to take their own decisions in their own hands. I found very quickly in my job, and where you have to cope with the technological changes that face the modern world, the legislation that we have is really a big embarrassment for the Indian population. And it is an embarrassment for me because under the law I have to sign so many documents it makes it almost impossible for me, my staff and the Department to go as fast as it is needed by the situation. For example, if any Indian in Canada wants to borrow a thousand dollars from the C.M.H.C., I have to sign the documents. We face a lot of situations like that. It is simply outdated today and I am quite sure that when we write the new Indian Act, we will certainly decentralize a lot of authority in order to permit, at the Band level and at the reserve level, Indians to make their own decisions whenever it is possible.

Last night when I was discussing matters with some of you, a question arose as to what kind of law we will have and whether we plan

to have other consultations with the Indians before we have a new Indian Act. I can reassure you that the policy of the Government is that this first round of consultation is really the first contact that we have had with you people and that after we have completed the consultations at the end of December, we will have a meeting in Ottawa with some representatives of these meetings in order to exchange views between some of the Indian leaders across Canada. After that we will draft the new Indian Act. It is going to take many months before we can have a new Indian Act after January because there are a lot of legal implications and we have to study them in Cabinet. We have to see all the legal implications that the new Indian Act will present. After we have finished the new Indian Act and it is introduced in Parliament, but before we adopt it as new legislation, we will send the new Indian Act to everyone of you in order to permit you to have a look into it.

We will start a second round of consultation in the same form as the one we have right now, or probably the same form we have right now because I find this form quite good. You will have occasion to express your views at that time on the specific proposal that I and the Government will make to you. So you will have another chance to study the Indian Act and make your representations. From there we will be flexible enough and if it is needed, we will change the proposals and after that we will send the Bill to the Committee of the House of Commons. It is going to take probably, for this process, quite a long time and I do not expect that the new Indian Act will be ready before 1970, more than a year from now.

I do hope that with these consultations you will get the feeling that we really want you to be involved in the process of making your own future. We want the Indian people to develop themselves and try to establish their own goals because we want them to be equal citizens in this land. We want the Indian people to share both the advantages and the responsibilities of being Canadian. We do not want to assimilate the Indian population. I do think that in the society that we have in Canada these days, in the society that we want to develop, it will be possible for groups like you or my own group to keep our identity and be good citizens of the land. I am from a minority group myself and I am very proud of being a French Canadian and I am very proud that my mother language is French. But I do not think I am any less a good Canadian for that. I think that I can be very good Canadian and I can be an asset to the country, that I can share everything in the country and be myself at the same time. We hope it will be the same situation for the Indian people, that you will keep your tradition, your culture, because it is part of the history of Canada. It is part of what has made Canada what it is today. You have to be proud of being of Indian origin just like I am proud of being of French origin. You have to be very proud of being a citizen of Canada and this is what we want for you. I know that it is what you want to be.

We think that it is very important for the Government to get you involved in the process of the changes that are to be made in the Indian Act and that is why we are having these consultations. At the same time we want to proceed with the consultation and if you proceed with the Indian Act, I know that it is going to take a year and a half or two years from the time that the consultation started before we get

the new Indian Act into legislation and operating. We should not, while we are having these consultations do nothing and wait and sit. We have to cope with the problems that we face today, and try to improve the situation where needed. We have, since I have been appointed Minister on July 5, -- more than four months now -- tried to bring some changes within the Department and within the services that we have to provide to Indian communities and it is why we have made the reorganization of the Department in order to have the best people we have within our Department to work for both the Indian and Eskimos and so on. I felt that it was necessary to have these changes to make the Department more efficient. At the same time we proceeded with some changes and some legislation that affects the Indian people and we have passed about three weeks ago a Bill in the House of Commons on the Farm Credit Corporation Act where we introduced a clause in the Act in order to permit the Indian people of Canada to have access to the same source of credit as any other farmers in Canada. This will have been passed through the House of Commons and I think will pass through the Senate at the end of this week, and Royal assent will be given perhaps this week. So the Indian people who are farmers will be able to have access to the same sources of credit as any other citizens who are farming.

We will proceed with another Bill called the Farm Machinery Syndicate Act which will give the Indian people the same opportunity that we gave to the white farmers. We are doing things like that, in the meantime, in order to help the situation. I have introduced this week a resolution on the order paper to re-establish or proceed as quickly as possible with the Indian Claims Commission. The resolution was tabled in the House on Tuesday, I think, but I don't know when we will proceed. It will take a few months and so on, but we want to proceed because one of the things that pre-occupies very much the Indian population is the question of their lands and the question of their treaties that they have signed. It is quite urgent for the Government of Canada to look into the problem seriously. The way to look into it is to establish a Commission that will analyse the problems, that will study the claims and so on and be in a position to tell us where both sides stand on these questions. After that it will be possible to introduce policy that will probably settle the claims, or try to settle the claims.

We are trying to bring some action during the time we examine the new Indian Act. I am very happy that you are around the table to discuss things. I know you are quite frank and direct and that you discuss the problems. I want to congratulate you, and the chairman too, for, according to what I hear, he is conducting the meeting very well. We will have a second round of consultations and you can be sure that the policy of the Government is to give you opportunities to express yourself and to be better organized. I think that some people sometimes tell me that the Indian people are more problems. I don't think so. I think it is a sign of vitality. It's a sign of emergence. It's a sign of new will and new determination, and it's a sign of progress that the people are now ready to look into their problems themselves and find a solution. I would like to be helpful. I am the Minister in charge of Indian Affairs and I am very happy and very proud to be the Minister because I know that I work on real problems and that I am anxious to do my best to solve them. I know that I cannot solve all the problems because we are just a human government, but we want to help you to emerge and develop yourselves and offer you all the opportunities that all Canadians should have. You are

citizens of the land. You should be entitled to all the facilities and advantages that you can have in being citizens of Canada. I am very happy to have with me today two members of Parliament, Mr. Howard of this riding and Mr. Stewart of the next riding. Unfortunately, Len Marchand is not with me. He was supposed to come but he had a special problem in Ottawa and was obliged to stay there."

Co-Chairman Mr. Gus Gottfriedson thanked the Minister. He suggested that the delegates might wish to ask the Minister some questions.

Mr. James Stalkia hoped that a new Act has not already been prepared and that what the Minister said would have a lot of bearing on the way the Act was going to be changed.

Hon. Mr. Chrétien: "We have had consultations. Since I've been the Minister, there has been nothing else going on -- no drafting, nothing at all right now. We will wait. I've seen nothing and I do not want to see any proposals for the new Indian Act. Right now I am speaking my own mind and I wonder what the direction the new Indian Act will take. We will wait until the consultations have been completed before starting to draft the new Indian Act because we want to see your views expressed. You can see that there is not one voice -- that there are many views within the community. We will have to make a choice ourselves. I am sure that the decisions that we will make will not please everyone because there are no unanimous views within the Indian communities. But it's normal. I am not shocked by it -- because sometimes there are problems by asking what the Indians want in the same way when Quebecers are asked what do the Quebecers want. But if you ask me what the Quebecers want, I would not give you the same answer that René Levesque would give you. So it's the same thing within the Indian communities, there are some groups and there are some differences of opinion and so on. But at least what will emerge from these consultations is a kind of consensus, a kind of direction that we will be very happy to follow in the new Indian Act. These consultations are very useful for it. It is not just a kind of fake, it is real. As I tell you, I am sure that everything we'll have in the new Indian Act not everyone will agree with. I do not expect everyone to agree with it but you can be sure that the new Indian Act will be different from the present Act."

Mr. Dan Logan referred to the Minister's mention of loans to farmers and wondered if the same type of thing should be done for other groups in B.C. other than the farmers.

Hon. Jean Chrétien: "I gave you some examples of the direction we want to follow. We have established this for the farmers, we have set up a corporation in B.C. for the fishing industry on the coast - The B.C. Indian Fisheries Assistance Board - It is the kind of direction we want to follow. We cannot do all of these things at the same time but it is the direction we want to follow because I think that we should make sure to provide economic opportunity for the Indians to develop and we have to establish the necessary legislation or programs we need in order to help the Indian people to help themselves whenever there is a definite opportunity within the reserve or within the Band to help them develop these things. We are thinking along these lines and we will have, we hope, a kind of

fund where we can draw money for a good proposal in order to do the economic development that is suited to the area in which you live."

Mr. Gordon Antoine asked whether a new Act would be meaningful in view of cases where some provisions in the old Act were overruled in court.

Hon. Jean Chrétien: "When we draft a new act, we try to cope with all the situations, but when you have legislation, sometimes the court looks into it; it is the role of the court to interpret the legislation. You cannot draft legislation which is without any loopholes where some experts find a way to go around the will of Government. Almost half of the legislation that we pass in Parliament, or in any legislative body, is to cope with this problem where the interpretation changes from time to time because of some loopholes in the acts. We will try to make the new Indian Act as solid as possible but you cannot avoid some situation where the way it has been put in the Act by the legislators is not enough to cover all situations. From time to time, you have to make changes in order to face these problems. I hope there will be as little loopholes as possible in the new Indian Act."

Mr. Donald Moses referred to the Minister's statement that the new Act would probably be completed in 1970 and, in this regard, asked what, in the meantime, is going to be happening to the municipal and provincial taxes which are not spelled out in the present Act. He said there must be some framework on which the Indian can be protected from the encroachment by provincial and municipal governments on Indian Reserves.

Hon. Jean Chrétien: "I know that you referred to legal cases or that the court said when the Indian leases land to other people, the rules are not the same after that. I know it is a legal problem and it's a difficult one because of the legal interpretation of the situation over the years. The court came to that conclusion. I do not know what we will do with it because there is a lot of implication in any new rules. When land is used by Indian people there is no problem whatever. But when it's leased to someone else, that is where the situation changes and I really don't know what I will do with that. It's one of the problems that we're studying right now and we will see what we will do. We have to analyse it and look into both sides of the question. I cannot commit myself to any course because it is a problem that is under review right now."

Mr. Moses said that whenever any problem arose with Indian fishing, the Government would introduce an Order in Council to deal with the problem. He asked why the Federal Government could not introduce an Order in Council to assist the Indian in sharing these taxes.

Hon. Jean Chrétien: "I understand your concern. I am glad that you raised that question but the Government in Canada -- there is a constitution -- and the problem you referred to now is not only a problem of the Indian Act, it is a problem of the constitution. It is the division of power within the constitution that creates that situation. It is not because there is, if I understand the situation, a loophole in the Act. It is a question that the province claims that under the constitution they can do it. It is a very difficult problem. The province, if I understand their view, would say that when land is leased to a white man, the white man is subject to the same law as any other white man and they will tax

him and they base their case on the constitution. The courts have ruled, up to now, because they can appeal the decision to the higher court, that the province was right according to the constitution. It is not a matter, the way I see the situation, of a loophole in our legislation. It is that the courts say we do not have authority over these lands when the situation arises because the provincial government has the right to tax them despite the fact that there is an Indian Act. It is a very complex problem, as you can see, and something that we are studying right now. It is not a new problem. It's a problem that's been there a long time, not in the exact form, we have changed the Indian Act many times since the first time this question arose and the position of the court is still the same. It's a very technical question and I am glad you brought it up. I am concerned about it, but I don't know what I can do legally because even if you were in the federal government, you cannot do everything you want because there are the provincial governments who have rights that are covered by the constitution. You can make your case, not only to us but to the Provincial Government too, because the problems lie with them more than with us."

Mr. Fairholm: "It may well be that the people you want to talk to and get some decisions from are the provincial legislators. For example, and Mr. Deiter could say this better than I can, in Saskatchewan by an act passed by the Provincial legislature, they are turning back up to 50% of the revenue of tax money that comes from leased out land. It seems fairly clear that the area to go to is the provincial legislature and get them to change their legislation so as to permit either services to be returned for the money that is paid out of leases or money to be returned to the Band so that they can provide services. This is one approach that was taken in one province, at least up to 50%."

Mr. James Stalkia thought that what Mr. Fairholm said was just another way of passing the buck.

Hon. Jean Chrétien: "If you permit me to say something here, it is not a matter of passing the buck. It is a matter of the constitution. The way that this country is in operation is that there are two levels of government and one has some authority and the other level has another authority. The interpretation that the court gave to the constitution up until now is that they say the one which occupies the land if he is an Indian, he is not taxable. But if he leases his land to a white man, as an occupant of the land the white man has to pay the taxes. They do not tax the Indian, they tax the white man. I know that the implication is that the white man will say "I have to pay taxes" so the Indian should get less money. To cope with this situation in Saskatchewan, the Indian organization made representations to the Government and the Government found a solution. Even if I were to say in the Indian Act tomorrow that leased land should not be taxable by the Provincial Government, the Provincial Government would challenge it in the same way that they proceed right now and the courts in Canada would say that they are right, they will say that my jurisdiction is toward the Indian people, not the white people. They will say, we are not taxing the Indian, we are taxing the white who occupies the land of the Indian. It is the way the constitution is drafted. The only way to cope with it perhaps will be to change the constitution."

Mr. James Stalkia said the Minister mentioned the word 'constitution' twice but as far as Indian rights were concerned, the term was very vague.

He added that the Indians have no constitution. He said also that they should get back the tax money on leased land as the Indians already pay enough taxes off the reserve in the form of groceries, gas etc.

The Hon. Mr. Chrétien: "I agree with you that you pay taxes to the Provincial Government - all the direct taxes set by the Provincial Government. The return that you have from the Provincial Government is not that big, I think. But most of the money that goes for the Indians comes directly from the Federal Government, and you pay taxes to the Provincial Government. One of the things that I often say, when I discuss the problem, that the Indians, even if the Federal Government has a special responsibility toward the Indian, the Indian is not less a citizen of the Province than any other white man in that Province. It is a political problem within the Province. True, you pay taxes to the Provincial Government like you pay taxes to the Federal Government but the money they spend for the Indians is most of the time coming only from the Federal Government. It is a political problem at the provincial level and you can fight your problems at our level but you are still a citizen of the Province and you can fight with problems at the level of the Province Government. You have some political power in the Province if you want to use it. You are quite a good number now and in some provincial ridings, you hold sometimes almost the balance of power to decide if the riding will go one way or the other way and you should use it."

Mr. James Stalkia felt that the Federal Government set the policy on lands in the beginning and he wondered if the Federal Government should not be responsible to undo what they have done to the Indians. He also thought there should be someone in the Federal Government who would challenge the Provincial Government on behalf of the Indians. He said he thought the Minister was rather hesitant to challenge any of the Provinces.

Hon. Jean Chrétien: "I do a lot of things like that many times. I write letters to the Provincial Minister of Education, for example, where I complain about the fact that some problems we see in education are not too fair to the Indians, etc. and I am always corresponding with the Provincial Government in order to protect your rights etc. I said in Quebec, for example, it is the only Province where the Indian has not the right to vote. I think that the very fact that I state that the Indian people are paying taxes in the Province of British Columbia is a statement in your favour, it is the way that we proceed. I cannot twist the hands of the Provincial Government. When they have jurisdiction, it is up to them to make their decision. I speak on your behalf when I say so."

Mr. Murray Alexis, an observer, asked the Minister if he was implying that the Indians were not taxable under the Indian Act. He noted the land was taxable under the Provincial Act.

The Hon. Mr. Chrétien: "I don't say that it is the policy of my Government. It is the way that the court in a case in B.C. have interpreted the situation. They said that the occupation of the land is the criterion and not the ownership of the land. Whenever the land is occupied by a white man, the provincial government decided that they could tax and they have taxed the white man who is occupying the land. It is what the court said. It is not what I said."

Mr. Murray Alexis asked whether it should not be spelled out that the Indians either are taxable or are not taxable, and if they are taxable, he felt that they should have title to the land. He felt that the Indians' lands were more valuable than other lands as the Indians enjoyed the privilege of non-taxable land. He referred to a lease on his reserve where the occupier is taxed for everything. He could not see how they could tax the land because it is non-taxable under the Act.

Hon. Jean Chrétien: "I tried to explain before that the problem was before the court and it was for the court to decide on the basis of the debate between the lawyers. The Court ruled on the constitutional aspect of whether the Provincial Government has the right, or not the right to tax the occupier of land. It is where the battle is now. There is a judgement from the first level of court and the case can go to the appeal Court of B.C., and can go to the Supreme Court of Canada. After that we will know the definite situation. Right now, it's just the first judgement and I don't know if those who are fighting it will go to the Supreme Court. As I said, it's not because of the Indian Act at all. It is the way the Court interprets the Constitution of Canada. It is a very very complex problem."

Mr. Doug Stewart, M.P. said that Section 92 of the B.N.A. Act explained the authority under which the Provinces levy taxes. Briefly, he said that B.C. had the authority to levy taxes and assess taxes against the land and improvements thereon to the occupier.

Mr. Murray Alexis asked if he leased his land by the day, would the occupier still have to pay taxes.

Mr. Doug Stewart, M.P. said he did not expect to speak with authority on the subject but merely tried to give his understanding of the authority under which the Province levies taxes. He added that if the speaker was looking for the authorities concerning taxation of the occupier, he should check Section 63 of the Provincial Taxation Act.

Mr. Clarence Walkem asked why the Indian was not taken into consideration when the B.N.A. Act was being set up. The Indian, he said, was the man in between who got kicked around. He added that the treatment of the conquered people such as Japan and Germany was much better than the treatment of the Indian people who have never been conquered. He asked if the Indians had no right at all in their own land. He thought the Indians were the only people in the world to be treated in the manner in which they have been treated.

Mr. Dan Logan suggested that the delegates return to discussion according to the agenda and thought the Minister might be more interested in the discussions that take place.

Hon. Jean Chrétien: "I came here just to listen".

Co-Chairman Gus Gottfriedson reminded the delegates that they were on Page 12, question 16.

Chief Ernest Brewer, an observer, said, with regard to land, that

the Indians should have more land as they could use it due to the expanding population within Bands. Also, the Okanagan Indians have a lot of stock but there is no pasture land on the Reserve. He thought this was the place to discuss such a problem because they were talking to the people who are able to do something about the problem. In 1936, he said his Band had cut-offs. There were only 360 people on the reserve at the time. The cut-offs are just sitting there growing weeds right now and he contended that they had the right to get the cut-offs back for the Okanagan Band.

Co-Chairman Mr. Gus Gottfriedson pointed out that the Minister said that the Indian Claims Commission will be set up and all the disputed areas and claims can be pursued through that channel.

Mr. Donald Moses acknowledged that the Minister was a very busy man, but he said the delegates were also busy. Because the Minister was not often available to them, he wished an opportunity to question the Minister further on Seabird Island.

Co-Chairman Mr. Gus Gottfriedson replied that the Minister was not present to be questioned but to listen to the discussion.

Mr. Gordon Antoine (Coldwater) said it was his understanding that discussion was to be very loose.

The Hon. Mr. Chrétien: "I don't mind if you want to raise a few questions. I do not want to interfere with your discussion. These consultations are to deal with the new Indian Act and I am willing to reply to some questions that are not related to the Act, but I do not want to interfere because I can distract you from the studies and work you are doing. I came here to look into the work you are doing. These questions are very important for me. If you bring up too many of the side questions, I do not get the feeling I would like to get on these problems that I am asking of you today. I don't mind to reply to a few of the other questions because I agree with you that I cannot come every day but I don't want to, at the same time, disturb the kind of deliberation you have been carrying out the past two days. If you have a couple of other questions that you can put to me, I am willing to reply, if I have a reply. At the same time, you should keep in mind that these consultations are for the purpose of the Indian Act."

Mr. Donald Moses (Lower Nicola) referred to the Minister's mention of the constitution. He noticed that when the B.N.A. Act was drawn up, there was no Indian representative. He noticed again when the B.N.A. Act was being discussed, there was still no Indian representative. He suggested that the Indians be represented on the current constitutional consultation.

The Hon. Mr. Chrétien: "Yes. It is a suggestion that you make and I take note of it. I cannot comment because I am not part of these constitutional changes. If there is a question of the Indian coming up, I will be involved. If I get involved, I will certainly have the views of the Indians."

Mr. Adam Eneas agreed with Mr. Logan's remarks that the delegates should return the discussion of the agenda.

Mr. Noll Derrikson was concerned with the time element and wondered what could be done if they did not complete discussion of all changes within the time allotted. He also congratulated the Minister for the manner in which he replied to the questions raised.

Co-Chairman Mr. Gus Gottfriedson said they would go as far as they could. He reminded the delegation that they were promised a second round of consultations at a later date.

(Break)

Co-Chairman Gus Gottfriedson read Question No. 16 and a paragraph on page 14 of the background notes dealing with leasehold income.

Mr. Clarence Jules said that his band council recommended that Indians be able to borrow money on the security of income from leased out property.

Mr. Dan Logan stated that the Okanagan band also agreed that leasehold income be used as security for loans; the individual should be able to apply directly to the lender rather than to go through the band council.

Mr. F.G. Antoine asked whether the clause "leased out" property did not restrict the types of property; he felt that the term "leased out" should be deleted from the question.

Co-Chairman Gus Gottfriedson said that what Mr. Antoine had in mind was already covered by Question No. 15.

Mr. Noll Derrikson said that his band felt that an individual should be allowed to assign lease income as security for loans since this would help the present difficult financial situation of many Indians. He then MOVED a motion that Indians be able to borrow from any source using their income from leased-out property as security for the loan. The motion was SECONDED by Mr. Clarence Jules. The Question being called, 20 delegates were in favour of the motion, none against and one abstained. Motion CARRIED.

Mr. Dan Logan said that one of the more important issues brought up at this meeting was land; he wondered whether it would be possible to by-pass some of the other issues and discuss the question of land first - the other issues could be discussed later.

Mr. Noll Derrikson said that Mr. Logan was referring in his remarks to Indian reserve land as dealt with on Page 29 of the notes.

Co-Chairman Gus Gottfriedson asked the delegates if they were in favour of Mr. Logan's suggestion. All the delegates voted unanimously in favour.

Co-Chairman Gus Gottfriedson then read the Section on Indian reserve land on pages 29 - 30 of the notes, and Question No. 11.

Mr. Noll Derrikson said on November 14th a motion that was passed in this regard possibly covered this question.

Mr. Gordon Poupore said that in reference to Mr. Noll Derrikson's remark, that this meeting had gone on record that Indians individually and as bands should get title to their lands. It was also recognized that there were some bands that did not wish to acquire outright title, perhaps even some of the bands represented at this meeting. It was in respect to those bands that did not wish at this time to acquire title that the questions raised by Question No. 11 were directed.

Mr. Clarence Jules said that his band recommended that: "Band members who have the right to possession of Band land should have a certificate of title which spells out what their rights are and that it would be advisable to have a register of those certificates of ownership probably in the closest Land Registry Office if that can be arranged. That individual Indians should be allowed to acquire specific rights to property within the Reserve and that the Band Council set conditions when the land is first allotted. This recommendation does not apply to cases where Indians buy land; That the Band recommends that no Band land be sold to persons who are not members of the Band. That the Band by a majority vote would have the right to take land for roads, land development and other community uses upon payment of proper compensation to the Band member affected. The Kamloops Indian Band recognizes ownership of lands occupied by members under certificates of possession. That members of the Band should have the right to go to Court either against another member of the Band or the Band Council if he is not being treated fairly over property."

Mr. Dan Logan said that his Band agreed with the Kamloops band's recommendations as presented by Chief Jules.

Mr. Noll Derrikson said that his band was also in agreement with the recommendations of the Kamloops band.

Mr. James Stalkia suggested that Chief Jules should move as a motion the recommendations of his band.

Mr. Noll Derrikson agreed with Mr. Stalkia and said that he would second this motion.

Mr. Clarence Jules agreed and it was MOVED, SECONDED by Chief Noel Derrikson that:

1. Instead of a certificate of possession that Band members who have the right to possession of Band land should have a certificate of title which spells out what their rights are and that it would be advisable to have a register of those certificates of ownership probably in the closest Land Registry Office if that can be arranged.
2. Individual Indians should be allowed to acquire specific rights to property within the Reserve and that Band Council set conditions when the land is first allotted. This recommendation does not apply to cases where Indians buy land.
3. No Band land be sold to persons who are not members of the Band.
4. The Band by a majority vote would have the right to take land for roads land development and other community uses upon payment of proper compensation to the Band member affected. The Kamloops Indian Band recognizes ownership of lands occupied by members under certificates of possession.

5. Members of the Band should have the right to go to Court either against another member of the Band or the Band Council if he is not being treated fairly over property.

The question being called all the delegates unanimously voted in favour of the motion. Motion CARRIED.

Honourable Jean Chrétien asked Mr. Jules if he understood correctly the motion it would be absolutely impossible for the Indian band to sell any piece of their land to outside the band.

Mr. Clarence Jules answered that this would indeed be absolutely impossible. Mr. Chrétien asked if this would be forever and Mr. Jules gave an affirmative answer.

Mr. Chrétien said that he had asked this question because he wanted to be sure that he understood the point correctly.

Mr. Fairholm said that it meant, in other words, that the Indians wanted a no-sale policy.

Mr. Boys said that there have been bands in recent years who have found it expedient and in their best interest to exchange existing reserve land that was of no economic use to them for Provincial Crown land somewhere else that was more useful to them. He was wondering whether the intent of the motion interfered with such an exchange in the future.

Mr. James Stalkia said that they were not talking about trading land at all.

Mr. Chrétien said that he had another question in this regard. He said that supposing the Government would agree to that kind of policy and it would say that never could a piece of land be sold outside, how could he reconcile that with the idea that he put to the Indian delegates that it was up to the Indians to decide themselves what they wanted. If the Government were to put such a clause in the legislation and there would be a band who wanted to sell their land, they would say that the Government of Canada did not allow them to sell their land, it interfered with their freedom. This could look like a bad case of colonialism, which the Minister did not want to be accused of.

Mr. Forrest Walkem said that he could see the Minister's point; but the Indians had their point in the fact that once they sold their land on the reserve to someone on the outside, such land could never become a reserve again. Once they sold their land, it was gone for good. If the Indians were allowed to buy more real estate to make the reserves, he said that he would be quite agreeable to the suggestion that Indian bands wishing to sell their land to someone outside of the reserve, could do so.

Mr. Gordon Poupore explained that as the Act was at the present time, if band funds were used to buy land, that land had to become a reserve. Individual band members may buy land and hold it privately if they wish; that is their private business; but when band funds are used this must become reserve land.

Mr. Noll Derrikson said that some provision should be made for a future case when an entire band, 100% of the members of the band would wish to sell their land so that they should be able to do so.

The Minister said that there was a further question: Supposing there was an Indian community of 1,000 people and 2 of them would not want to follow the pattern of 998. Then those two persons would be permitted to have the right to veto. This would be difficult to reconcile with the usual form of democracy.

Mr. Noll Derrikson said that this point was already covered by a motion yesterday.

Mr. Forrest Walken wanted to know what would happen in the case where one individual who owned the entire reserve would decide to become enfranchised or decided to sell all the land to someone outside. What would then be the fate of all other Indians. He said that this was the reason why he felt that reserve land should never be sold outside of the reserve; if anything, these lands should be increased.

Mr. James Stalkia said that this was already covered during the previous day.

Mr. F.G. Antoine agreed with Mr. Stalkia. He said that this was discussed under Question No. 10 of "Choosing a Path".

Mr. Dan Logan suggested that there should be an addition to the motion to the effect that it was subject to re-opening in the future. The Act should not be so rigid that it would not be changed in the future by the Indian people.

Mr. Ron Derrikson, an observer, felt that the discussions were not too democratic. He wanted to know since when a majority cannot make a decision. The Indians thought about being repressed and then they go ahead and repress themselves. If a majority of a band decides to sell their land that is their business.

Mr. Noll Derrikson said that the provisions in this regard should not be binding for all; the Indian Act should be flexible. If a majority of a particular band wished to give up their Indian status they should be able to take their property with them provided that the minority was protected. The only difference would be that the reserve would become smaller in size and the minority would remain there.

Mr. Jacob Kruger, an observer, brought up the question of the expropriation authority of British Columbia which could take 1/20 or 5% of reserve land for roads, which caused great problems and difficulties on many reserves.

Mr. George Leonard, an observer, said that the minority of the band would suffer if the majority were able to take their property with them.

Mr. James Stalkia followed the matter raised by Mr. Kruger and wondered whether this authority was not contradictory to what the Government said.

Mr. Allison mentioned a case of a reserve which had some pieces of land as reserves some 30 or 50 miles away from the main community. These pieces were of no real use to the band which decided to sell them. He felt that such pieces of reserve land on which nobody lived and which were of no real use to the band, could be sold by the band if it so wished.

Mr. Noll Derrikson said that he agreed on this point with Mr. Allison.

Mr. Herb Manuel said that he still disagreed with the proposal of selling reserve land; he would agree to an exchange of one piece of reserve land for another piece of land which would have to be at least of the same size.

Mr. Allison said that he knew a case of a piece of a reserve which was exchanged by the band for a much larger piece of land which was of much greater benefit to them as a cattle range. He felt that bands should be able to trade parts of their reserve for other parcels of land if this was advantageous to them.

Mr. Forrest Walkem said that he was agreeable to Mr. Allison's suggestion as long as the acreage of the reserve did not shrink.

Mr. Ron Derrikson said that he disagreed. He felt that if the Indians wished to sell their land they should be able to do so. He said that the Indians here talked about the Indian Act being undemocratic towards them and here they try to get a new Act that would really be undemocratic towards them.

Mr. Noll Derrikson said that the reserves were getting smaller mainly because the Indian population was increasing. Many reserves were too small right now and sooner or later they would eventually disappear, they would not last forever.

Mr. Forrest Walkem said that he strongly disagreed with any sale of reserve lands. He wondered why it was not possible for an Indian reserve to increase, why the Act was not flexible enough to allow this development.

Mr. Fairholm said, in reply to Mr. Forrest Walkem that under Section 64 (d) of the present Act it was possible to use capital funds to purchase land for use by the Band as a reserve or as an addition to a reserve.

Mr. Ron Derrikson said that it was clear that since there was a division on the point of whether or not the Indians should be able to sell their land, it should be left to each individual band to decide what way to follow in this regard.

Mr. James Stalkia said that he felt that the delegates were being democratic. They had passed a motion yesterday by a majority of elected spokesmen and he was unable to see how this was undemocratic. In regard to Section 64 (d) he said that from his personal experience the local agencies in his area have discouraged them on many occasions to use that provision, on the grounds that it would be too difficult, that a certain legislation would have to be passed - he felt it was all red tape.

Mr. Dan Logan asked if land purchased under Section 64 (d) was non-taxable.

Mr. Gordon Poupore answered that once the land was bought with the Band funds, it was the same as any other reserve land. The title is held in the name of the Crown; Crown lands are not taxable, they have automatically in this case the additional protection that they must be set apart for the benefit of the Band with whose funds they were bought. In other words they have the double protection of being Federal Crown lands and Reserve lands.

Mr. Boys said that there might have been some misunderstanding; Mr. James Stalkia had said that he was given to understand that it was not permissible to buy additional land. It was the stated policy of the present Government of the Province of British Columbia that they would not sell any vacant Crown land to be made into an Indian reserve. This was Provincial Government policy; they have control over vacant Crown land. However, if an individual had title to land and if this land was sought by an Indian band and they wished to buy it out of their band funds, there was nothing at law to stop this purchase.

Mr. Noll Derrikson said that he agreed with Mr. Stalkia that procedures followed at the meeting were quite democratic.

Break.

Co-Chairman Gus Gottfriedson advised the delegates they were discussing question # 12 respecting the sale of reserve lands. An observer believed the reserves should remain as they were.

Mr. F.G. Antoine believed that the meeting was contradicting itself. He noted that they had decided that if a person became enfranchised, his land was to be sold back to the Band; but also decided that if a Band changed its status, they could take a portion of the land.

Mr. Adam Eneas believed this question was different. The earlier decisions had been made on the basis of someone wishing to give up Indian status. In this case the status was unchanged but who may find it in their best interest to sell some land.

Co-Chairman, Gus Gottfriedson agreed that the subject under discussion did not involve enfranchisement and was therefore a different problem.

Mr. F.G. Antoine agreed with Mr. Forrest Walkem when he said that land set aside for the Indian people should not be sold, or a provision to the effect that the lands could not be sold without reason.

Mr. Fairholm advised that currently before land may be sold, there must be the consent of a simple majority of the electors by a referendum held for the purpose, which is the surrender of land for sale referred to in Section 37. He added that in effect, now, before land may be sold there must be an agreement of the electors to do so. In answer to a question of Mr. F.G. Antoine he noted that currently electors referred to adult members of the band ordinarily resident on the Reserve.

Co-Chairman, Gus Gottfriedson noted that previously, comments had been made such as -- it may be feasible for a small Reserve located near an urban centre to sell their land for a price which would permit them to buy a larger Reserve of range land away from the centre so that their Bands should be able to deal that way. It was also suggested that no Reserve land should be sold, but on the contrary, attempts should be made to increase them.

Mr. Bert Seymour believed lands should be increased and not sold.

Co-Chairman Gus Gottfriedson noted that the current Act provides for purchasing land to add to the Reserve or to be used as a Reserve. He read section 64, paragraphs (a) to (d) inclusive, of the Indian Act. He noted that the point Mr. Adam Eneas made was a provision to permit the Band to sell smaller parcels near a city for a large sum of money and with that money, to buy a much larger parcel away from the city.

Mr. Manuel advised that he had understood a Band could not buy range lands from the government; that it would have to be private lands.

Co-Chairman Gus Gottfriedson agreed with Mr. Manuel because the province could not sell any of their lands for reservation purposes.

Mr. Poupore in answer to a question of Mr. F.G. Antoine said it would be possible for an individual Indian to buy land from the province or a private

owner, and subsequently to sell it to the Band for a reserve. The band's capital funds would be used for the purchase.

Mr. Fairholm was of the opinion that in this case it would be necessary for the individual member of the Band to obtain clear title to the land including full rights of disposal.

Mrs. Anastasia Zabatal noted that the meeting was discussing land, but no mention had been made of water rights. She added that they had no water rights on the reserve.

Mr. Forrest Walkem was afraid that without proper provisions, it would be possible for a wealthy non-Indian to finance an Indian in purchasing all or the majority of a reserve without the band being aware of the situation and subsequently living off the profits that he made.

Mr. Noll Derrikson did not believe a non-Indian would trust an Indian to that extent.

An observer suggested that a decision on this question should be deferred until the land question is solved by the commission. He thought that with enough compensation it should be possible to develop the existing reserves without selling any for capital funds.

Mr. Noll Derrikson suggested that the very fact that the delegates disagree on this issue is sufficient evidence to ensure that the new Act be flexible.

Mr. Frank Whitehead believed that a Band should retain the right to sell, with the approval of the Band and Council, in the event that such a sale was advantageous to the Band in obtaining funds or other rights which would be of benefit for the whole band and which they could not get in any other way. He gave as an example, the sale of land for an airport at \$600.00 per acre with the condition that when it was no longer required for an airstrip, the Band had the right to buy it back for one dollar.

Mr. Dan Logan advised that his Band in considering the question, was of the opinion that each Band should have the right to sell, providing they obtained the approval of 85% of the electors and providing a Band member had the first chance to buy.

Mr. Noll Derrikson believed the point was already covered by the previous motion and amendment relating to a Band giving up its status and the rights of the minority.

Mr. Fairholm for clarification, thought the motion referred to, dealt with a Band or the majority of the Band wishing to give up its Indian status, but in this case no one may want to give up status, but may want to sell some land. He believed it to be a different subject.

Mr. Poupore advised that the present rules about selling reserve land were contained in sections 37 and 39 of the Act. He noted that this did not refer to enfranchisement but was to meet the situation when a Band may wish to sell some land. Currently, the Act was clear that this could only be done with

the consent of the majority of the electors of the Band. Some Bands saw as a difficulty, the fact that it only required a simple majority and believed that a larger percentage was required. He added that the government would like to obtain the views of the meeting on whether a simple majority of the electors was sufficient to surrender lands for sale.

Mr. Dan Logan moved that each separate Band with the consent of 85% of the voting members of the Band would be needed before that Band could trade or sell land; the first option to buy is to an individual member of that Band.

Mr. Bert Seymour seconded the motion.

Mr. Noll Derrikson asked if this would not still require a surrender in accordance with the present Act as well as the majority indicated. He advised that he would agree with the motion if it did not require a surrender.

Mr. James Stalkia thought that perhaps the motion was premature. He noted that he basically agreed with it but was of the opinion that the meeting should go through the Act section by section before voting on it. He added that there were a number of sections in the Act which the meeting might believe were outworked, or discriminating.

Mr. Noll Derrikson agreed with Mr. James Stalkia particularly in respect to those sections dealing with surrender.

Mr. Dan Logan advised, with consent of his seconder, that he would withdraw the motion pending consideration of the various sections of the Act dealing with land and surrender in section 35 to 40, inclusive.

Co-Chairman, J.V. Boys read section 35 of the Indian Act respecting lands taken for public purposes.

Mr. Poupore in answer to a question of Mr. James Stalkia as to whether the section was just, indicated that the section was probably in the Act because an individual or group must give way to the general public's good. In order to ensure this, the general public sometimes requires that land be taken and used for public purposes. To prevent an individual from obstructing the general public's good, government and some agencies operating for the public good, have been empowered to take land without the consent of the owner when it is required for the public's good. He believed that this was a necessary condition in society today, in that no matter how strongly an individual feels, he cannot obstruct the general public's good, and in effect that is what the section takes care of. He thought that it was only just, as in the Act the Indian reserve has a protection enjoyed by no other body in Canada, in that it requires the consent of the governor-in-Council. He noted that similar governments and agencies could take land without this type of protection. He believed it was a good protection, while also recognizing the need for the individual to step aside to make way for the public good.

Mr. James Stalkia thought that the government had already taken enough of their land. He believed the government was more likely to bow to a big corporation than to look after the little man, and by this means the Indian reserves could be done away with.

Mr. Poupore noted that commercial corporations, in the usual sense, do not have the power of expropriation. This power is reserved for such as the Department of Highways, the B.C. Hydro and Power Authority, when it may be essential for them to obtain a right of way for a highway or a transmission line and similar purposes. As an example, it would be considered that the availability of a telephone line to provide an essential communication service to a group of people is more important than one individual's preventing that service. He added that it must be for the public benefit; the power does not exist for private profit.

Mr. James Stalkia did not believe this was clearly spelled out in the Act.

Mr. Poupore re-read the first line of section 35 "... Her Majesty in right of a province, a municipal or local authority or a corporation is empowered to take or to use lands, or any interest therein without the consent of the owner ...". He added that the common name for such power is "the power of expropriation" and by law may only be exercised for public purposes. There is no power to take land without consent for any other purpose, and if you are faced with the situation where it does not appear to be for public purposes, he suggested that the court would be the appropriate place to settle it as the company must justify that it is for a public purpose.

Mr. Fairholm advised that he and probably thousands of people across Canada are alert to any public authority taking their land without consent and are very jealous of ensuring that it is only for a public purpose. For instance, if the municipality wanted to take some of his land to widen the road, they would have the right to take it.

Mr. Poupore in answer to a question of Mr. Frank Whitehead, advised that the power cannot be exercised without compensation. In answer to a comment of Mr. James Stalkia, he advised that there may have been some expropriation of Indian Reserves at a cost of one dollar per acre although he personally was not aware of any case where the power of expropriation had been exercised without fair payment for the land taken. He noted that fair payment must be to the satisfaction of the court if the individual thought he was not being treated fairly. He added that generally fair compensation was market value as of the date of taking.

Mr. F.G. Antoine enquired who had final authority -- the governor-in-council or the provincial legislature.

Mr. Poupore advised that in actual practice a submission was made to the governor-in-council by the Minister of Indian Affairs. The staff that serves the Minister was under strict instructions that no submission was to be made to the governor-in-council until the expropriating body had first negotiated a satisfactory agreement in respect to compensation with the band. If the band was not satisfied in this respect, no submission was to be made. He noted that in one case in Ontario, the Department of Highways was having to build an additional five miles of road to go around the reserve because the band did not believe they were offered a fair compensation for the proposed right-of-way through the reserve.

An observer suggested that the delegates make a recommendation to include in the Act that a fair price be paid for land to be expropriated. He noted that in his case, the adjoining non-Indian privately held land received

greater compensation for a power line right of way than the reserve.

Mr. Poupore recommended to the delegates that they give serious consideration to any such proposal. He noted that generally, land values were increasing and if the value was pegged by statute it was difficult to change and likely the Bands would lose. If nothing else, they would lose the flexibility of negotiation which was the greatest weapon available in this respect. For instance, there would be some Bands willing to accept less money because making the service available to the reserve may be more important than money. He questioned the value of tying the Bands down to a pegged statute compensation. He noted that this was a personal view.

Mr. Forrest Walkem noted that improvements should also be compensative. As an example he advised that a farmer who had worked and cleared his land was offered \$500.00 an acre for the Peace Power Project because the farmers in the area had sold at this price. On the other hand, the company paid \$1,000.00 per acre to clear the right of way on the adjoining crown land. The contractor doing the clearing received more for that than did the farmer for already cleared land. In effect, the farmer was not compensated for the improvements, i.e. the clearing.

Mr. Poupore noted in that respect, that an Indian reserve had received \$500.00 per acre plus an acre of land for every acre expropriated, which was a harder bargain.

Mr. Forrest Walkem agreed with the theory of replacing the land so expropriated plus a fair market value.

Mr. Poupore advised, in answer to a question from an observer, that expropriation is permanent and there was no limit to it. He noted that the province had also reserved the right to reclaim 5% of Indian reserve land for public purposes. He added that although similar to expropriation, it was not expropriation in the sense of the discussion. He also advised in answer to a question of Mr. Dan Logan that there was no surrender of lands in the sense indicated in the Act, involving lands taken without consent. In answer to a question of an observer, he advised that lands within the railway belt were subject to expropriation, but were not covered by the agreement relating to the reclaiming of 5% of the lands of Indian Reserves.

Mr. Fairholm noted that the lands in the Railway Belt and in the Peace River Block were excluded from the agreement when the land was transferred back to the Province in 1930.

Mr. Adam Eneas MOVED "that the Act be amended so that the governor-in-council may not consent to the exercise of expropriation of Indian lands unless and until the Band or the individual, where an individual is concerned, has indicated that it is satisfied to accept the compensation offered for the lands to be taken."

Mr. Forrest Walkem thought that by including the individual, you may be including a stumbling block, as the individual could hold up development of the reserve by holding up the expropriation for compensation.

Mr. James Stalkia seconded the motion.

Mr. R. Derrikson, an observer, believed that perhaps the motion should also include reference to returning to the reserve, any expropriated lands when they are no longer required for public purpose. He added that in his reserve there was a ferry slip which was now rented to a yacht club.

Mr. Poupore in answer to a question of Mr. Clarence Jules, advised that such a right was not automatic and must be included in the agreement. He thought that perhaps it could be made law that when the public purpose has been fulfilled that the lands revert to the reserve. As the law stands today, he noted that this was by agreement, rather than by operation of law. He added that whether this could be put into the law, would have to be checked with the legal officers of the Department.

Mr. Forrest Walkem suggested that it also be included that the bands should receive both a fair market value plus acre for acre of land that was expropriated so that the reserves do not diminish in size.

Mrs. Louise Gabrielle suggested that there should also be a limit put on the amount that may be expropriated. She added that in her reserve, expropriation had been made by the railway, airport, V.L.A. and the river channel, and the Department of Highways now wanted to put a by-pass through the middle of the reserve.

Mr. Poupore enquired as to what type of limit could be placed on expropriation, or how would it be limited. He noted, for instance, in the power development, that a certain number of acres of land would be provided; but, if in fact there had been a limit to the land that could be expropriated, the band would receive compensation only for the land actually expropriated and then forced to make such use as they could of the balance of the land which would be covered by water.

An observer believed that it should be up to each band council to say what the limit should be, otherwise the council had little effect.

Co-Chairman Boys in answer to a comment of Mrs. Gabrielle noted that the provincial government had made an application for a highway by-pass through the reserve but could not reach a settlement with the Band. They then explored the possibility of expropriating the right-of-way, but were told to negotiate with the council. He added that to the best of his knowledge, they have not yet reached agreement so that no submission to the governor-in-council had been made.

Mrs. Gabrielle advised that there had been two meetings and the Department of Highways was told that an agreement could be reached if they went where the Band wanted them to locate, but they have said this would cost too much and they still want to go through the village.

Co-Chairman Boys said they had been consistently told that they could only go through the reserve with the permission of the Penticton Band.

Mr. James Stalkia in answer to Mr. Poupore's question on the limit, suggested it should be limited to nothing, since the province has already taken all their land. He believed negotiation should be in effect and expropriation should not be effective on reserve.

Mr. Chretien said, "You can appreciate the nice little job I have to face all of these problems."

An observer enquired whether Mr. Walkem's proposal to replace every acre expropriated was feasible.

Co-Chairman Gus Gottfriedson advised that it may be, but the motion made no mention of this.

Mr. Adam Eneas added to his motion the phrase "when public need expires, expropriated land shall revert to the party concerned."

Mr. Forrest Walkem moved as an amendment to the motion the following, "that any lands taken through expropriation be returned when no longer used for the purpose for which they were expropriated, and further, that all lands expropriated shall be compensated for at a fair market value plus an acre of land for every acre expropriated."

Mr. Bert Seymour seconded the amendment.

Mr. Adam Eneas believed there was some contradiction. He enquired as to what happens with the land that was received under the acre condition when the expropriated land was returned.

Mr. Walkem said expropriation was the forcible taking of land. He suggested that replacing it with other lands would only be of additional assistance so that if it went through his town he could have land on which to reconstruct, plus money to move the buildings.

Mr. Noll Derrikson believed that they were trying to have cake and eat it too. He noted that in one case where such an agreement was made, the extra land was vacant town land and therefore did not cost the government money. He did not believe these circumstances would always exist and might not be feasible.

Mr. James Stalkia agreed with Mr. Walkem. He thought perhaps such conditions may discourage expropriation.

Mr. Herb Manuel noted that such an exchange could result in replacing 10 acres of lakeshore land with 10 acres of rocks.

Mr. Noll Derrikson noted that if the conditions were made too tough the Indians, in some cases, might suffer, since it may eliminate the flexibility of negotiations for benefits other than money.

Mr. James Stalkia noted that the meeting was only considering expropriated lands; not those done on negotiated terms.

An observer asked if an individual's land was involved in the expropriation and he received land to replace it, would he still retain his rights to the original land, if it was returned, as well as to the new land.

Mr. Donald Moses enquired as to what would happen to the acres received by the individual in compensation.

Co-Chairman Gus Gottfriedson believed that the acres received in compensation would belong to the individual, but the expropriated land that was returned after its usefulness was over, would revert to the control of the Band and not to the individual.

Co-Chairman Gus Gottfriedson called for a vote on the amendment and declared it carried (18 for, 2 abstentions). He then called for a vote on the motion declaring it carried unanimously.

Discussion started with the suggestion that the word "surrender" be replaced by "instructions to lease".

It was moved by Chief Noll Derrikson and seconded by Mr. Dan Logan that Sections 37 - 41 on surrender be deleted from the Act.

The motion carried 17 - 0, with 2 abstentions.

The meeting turned to Question 25 on leasing.

Messrs. James Stalkia and Co-Chairman Gus Gottfriedson stated that their Bands wanted all Band members on or off Reserve to vote on land leases.

Mr. Noll Derrikson wanted members on the reserve or working for the Reserve to vote but not those who had been away from the reserve for years.

Mr. Forrest Walkem disagreed stating that all band members should have the right to vote on land leasing. He cited the case of L. Marchand, M.P. who is called to Ottawa on duty. He should have the right to vote.

Mr. Derrikson stated that he lived in town, but wanted to vote on band matters.

Mr. Noll Derrikson agreed with him, but said he referred only to members who had lived away a long time and had no interest in the reserve or were not familiar with band business.

Mr. James Stalkia felt that every member should vote. Many must work away from the reserve but might want to come back some day. If they were not interested, then they won't exercise their vote.

An observer commented that some Bands in the U.S.A. maintain correspondence with their off-reserve members. He suggested that bands send such correspondence.

Mr. Noll Derrikson said that his Council had Band members who never attend a meeting. They would be willing to send minutes to those interested.

Co-Chairman, Mr. Gus Gottfriedson gave the floor to the Minister for a few parting comments.

Honourable Jean Chrétien: Thank you Mr. Chairman: One can realize that in the job I have there is no problem to find problems. One only has to spend a few hours here to realize that it is a very challenging job that I have. I welcome the challenge, because I know that I am working on behalf of a minority group in Canada who have some rights but who now are emerging and they want to show the public of Canada that they are confident about their own future, and they are taking the necessary steps in order to achieve the goals which they have in mind. Today, and the last few days the way you have discussed seriously the problems show how sincere you are and how willing you are to try to find the right solutions

for your problems. I am very much impressed too, by the audience that is here, who are not officially participants but who listen so well and ask questions at the meeting. I do think that it is a very good process. It is the first time, as I said this morning, that you have as a group come together to express yourselves on the problems that you face on a day to day basis. We have the responsibility in the government to help you and to try to find ways and means that will permit you as a group to go in the way that you choose.

It is very significant that sometimes we find ourselves in the difficult positions where you express some views on one side and the other side you express the contrary or almost the contrary of them. But, what I impressed most of is that you seem to be well prepared and you discussed these matters very seriously.

I was telling someone this afternoon that you could not have a better discussion with 25 males of many localities across the country. I do think that most of the time you kept to the point and you made recommendations. Unfortunately, I will probably not be in a position to agree with you on every aspect of the recommendations, but, you can be sure that we will study very seriously your presentation and we will probably be in a position to really improve the Indian Act, and the new Indian Act will express much more the views of the Indian people of Canada. When I came this morning, you asked me a few questions. The questions are a problem. It is even more of a problem to find the answers, but I enjoyed the questions. I was very much impressed by the quality of the discussion. I know that you will keep on for a few hours, today and, I understand that you will be around tomorrow too. When we come back next fall, probably with the next round of consultation where you will have in front of you, the proposal. You will be, I am sure even better prepared then and you will again express your views.

I want to be able to present to you and to recommend to you what is reasonable and proper to make in the changes to the Indian Act. I hope that it will be possible to make an Indian Act that will permit the Indian people of Canada to take their own future in their hands and to make their decisions. It means the right to make the good and the bad decision. It is part of the freedom, and that is what I hope and I am very confident about. Not all the Indian people everywhere will be able to make their own decisions because there are many different Indian problems in Canada, but by the quality of the discussion that I heard today, I think that your group seems to be ready to take most of their decisions in their own hands, and I will just make sure that it is possible. I do not make any direct promises, but I just want to tell you a bit of my thinking. I know that in the months ahead, I will learn more and more and I do hope that when I come back with the new Indian Act, you will realize that we will have made a far reaching step in the right direction. To do that step properly I need your help, I need your co-operation, and I am very glad that you can hold this kind of meeting. It is the first time that we have had meetings like this where you can really express yourself. It is a new experience, and I am really impressed. I do hope we will be in a position to establish a kind of permanent machinery that will permit you people to continue to consult with us. Thank you very much. Ladies and Gentlemen..

... Minister was thanked by the Co-Chairman, Mr. Gus Gottfriedson, and there was a hearty round of applause.

The meeting then proceeded with the discussion of voting rights of band members. It was moved by Mr. James Stalkia and seconded by Mr. Clarence Jules that any Band member should have the right to vote on band affairs no matter whether they live on or off the Reserve.

Mr. Noll Derrikson wanted it left up to each Band Council to decide who should vote.

The question was put and carried by a vote of 15 - 4, with no abstentions.

The local M.P., Mr. Bruce Howard, was asked to speak.

Mr. Bruce Howard, M.P.: Thank you very much, Mr. Chairman. I didn't come prepared to make a speech to you. I am very proud of the calibre of work that has been done. I've learned a great deal here today, and I have been very impressed by the quality of the representations that have been made; by the amount of homework that has been done by the delegates here; and I think that the Indian people of British Columbia have been extremely well represented by the people at the table today. I want to tell you this, that I have learned since I have been in Ottawa, that there is a very great concern over the type of problems that we are discussing here today. That there is a great deal going on among the Members of Parliament and among the government, and within the Indian Affairs Branch itself to grapple with the problems that face the Indian people and all Canadians in this regard; because there is a feeling in the whole of Canada, that we have fallen very far short of justice for the people of the Indian race in Canada, and just a few days ago the Liberal Members of British Columbia had a meeting at which they discussed this problem, and it has been decided that they would set up a special committee to handle the discussions to work on the problems that concern our constituents in British Columbia in this regard.

I want to assure you that this isn't just another performance. I have a feeling that it is all of Canada who are concerned over the problems that confront the Indian people. There is a very genuine feeling that we have to solve the problems and solve them as quickly as we can. I get a great deal of mail from my constituents on this subject and every time there is a story or a program on conditions of the Indian people - the recent one for example on the health of the Indians - I didn't see the program but I certainly heard about it - but I received a lot of mail from my constituents who were concerned about the problems that were raised on the Television program. I think it is important that the people know of the concern that their fellow Canadians have or the kind of problems that they face.

I also want to tell you I am very pleased with the co-operation and knowledge that the people of the Indian Affairs Department in Ottawa have for the problems that you people have. I was talking to one of the people here today that I found on picking up the telephone and talking to officials of the Indian Affairs Branch in Ottawa on the specific problems

and the variety of the problems as they affect individuals, that I was amazed to say that I would like to discuss a case involving Mr. so and so and without examining a file or looking up anything this man said oh yes I know about that case involving this and this and this and proceeded to rattle off all of the facts telling me the background on it and told me what the Department was doing on it and gave me a complete story on it. So we have so-called problems - I don't think you are going to solve them all here today - it's going to take time. I know you have been told this before but it's going to take patience - I guess you were told that 100 years ago but I have a feeling the patience you have shown in the past is going to bear fruit. I think we are making real sincere progress this time and I look forward to better days ahead.

Co-Chairman Gottfriedson read the question on leasing again.

Mr. F.G. Antoine said that the Band Council should not have the authority to lease land without consulting the people who own the land and live there.

Mr. James Stalkia said that the Band as a whole should have the authority on leasing.

Mr. Noll Derrikson said his Band felt that leasing could be speeded up considerably if the Council had the authority to lease up to 5 years.

Mr. Clarence Jules said: The Kamloops Band recommended that they be given authority for leasing up to 50 years without reference to the Department.

Mr. Noll Derrikson: "We would not want this except for leases up to 5 years. A longer lease requires careful consideration and we would not feel capable of taking such responsibility."

Mr. Clarence Manuel said they could not think of their own Band alone, but all Bands. Would the next Council have the right to change the lease?

Mr. Isaac Basil of the Lower Kootenay Band said he did not believe in a long term lease because it should take into account the rising living standards.

Mr. Forrest Walkem: Would you give the Band power to expropriate for leasing.

Mr. Fairholm noted that the band council now had that power under Section 18 against individual members.

Mr. Dan Logan believed the band council should have the right to set the time.

Chief Clarence Manuel asked the difference between long and short term leases.

Mr. Poupore said: 21 years and under are short term. Over, are long term. However, 21 years is a long term for grazing while forty years would be considered a short term for building a factory.

Mr. Donald Moses suggested that the Band Council with the consent of the voting members should have the authority to enter into leases for whatever purposes.

Mr. Clarence Jules moved that the Band Council be given authority to lease. Seconded by Mr. Bert Seymour.

Mr. Forrest Walkem asked "Would there be any chance of a new Council throwing out the lease?"

Mr. Poupore said the lease grants the lessee rights for a definite period of time. He pointed out that the only ways in which the lease could be broken were:

1. Default by lessee.
2. Buy out his leasehold.
3. Negotiate out of the lease.
4. Expropriation.

Mr. Herb Manuel said: "Why not give the Council the power as they are elected.

An observer commented that people fear long term leases in case eventually the land was cut off. They want a guarantee that the land leased is returned to the Indians on the expiry of the lease.

Mr. Poupore: The lessee has security of tenure for the term of the lease. If during the lease, the land is expropriated, both the tenant and the owner must be compensated.

If Half of Penticton was Indian land, then it was either expropriated or bought.

An observer noted that the money paid the Indians did not compare with the price of the land.

Mr. Poupore asked if it was fair market value at that time and quoted examples.

Mr. Donald Moses moved an amendment that Band Councils should be permitted to enter into leases up to 5 years. Anything longer must be presented to the Band by referendum. There was no seconder.

Considerable discussion followed on the length of term a Band Council should be able to grant in leases. It was pointed out that where sub-divisions were being developed longer term leases than 21 years should be required.

Mr. Clarence Jules then changed his motion and moved: That Band Council be given the authority to lease land once the Band membership has given consent. It was seconded by Mr. Bert Seymour.

Mr. Noll Derrikson insisted that time limits be set.

Mr. Fairholm attempted to clarify the question under discussion. For how long should a Band Council be able to lease on its own authority without Band consent?

Co-Chairman Boys: A Band Council could enter into leases on such terms as a Band would direct.

Mr. Clarence Jules said he could not talk for any other Band, but they had an industrial sub-division, and would not go to the Band for every little lease.

Co-Chairman, Mr. Gus Gottfriedson: You would have to go to the Band every day.

Mr. Poupore: One Band I know of has 1200 leases to consider.

The debate on leasing continued and finally Mr. Clarence Jules withdrew his motion and replaced it with the following: That the Council of the Band be given authority to lease up to 21 years without the consent of the Band and for periods of 21 years or over with the consent of the members of the Band, once an area has been designated for leasing.

The motion was seconded by Mr. James Stalkia.

The question was carried 15 - 3 with 1 abstention.

Meeting adjourned.

Saturday, November 16, 1968.

Co-Chairman Gus Gottfriedson announced that discussion should cover the aspect of land management - Question 20 on Page 33 of the background notes.

Mr. Gordon Antoine thought that Mr. Jules made a statement that Band members should look after leasing.

Mr. Clarence Jules moved that the Band Council should have the authority to order surveys and sub-divisions.

Mr. Forrest Walkem seconded the motion.

Co-Chairman Gottfriedson called for a vote. The motion carried.

Mr. Clarence Jules moved that Section 34 of the Act be deleted.

Mr. Noll Derrikson seconded the motion.

Co-Chairman Gottfriedson called for a vote. The motion carried.

Mr. Poupore when asked by Co-Chairman Mr. Gottfriedson to explain the miscellaneous term on Page 34, said he could best explain it by giving examples. A Band would have to obtain approval from Ottawa, under the present Act, before they could sell gravel situated on a reserve. Blanket approvals were obtained in many cases but approval still must be obtained from a source outside of the Band.

Mr. Noll Derrikson moved that authority for disposal of reserve resources be given to Band Councils.

Mr. Clarence Jules seconded the motion.

Mr. Gordon Antoine asked whether the approval to remove gravel included the gravel under the surface.

Mr. Poupore replied that to get the gravel, one would have to remove the gravel from the top and the gravel underneath would, technically, be on the surface.

Co-Chairman Gottfriedson asked for a vote. It carried, Mr. Gottfriedson moved discussion on to the next subject - Leasing of individually held lands, page 35 of the notes.

Mr. Clarence Jules believed that an individual's right should not be bothered by anyone - neither the Council nor the Superintendent.

Mr. Fairholm said he thought the real question was whether the individual should have the right to lease in his own name. Should he be able to enter into a contract by himself without reference to the Minister, he asked.

Mr. Clarence Jules felt that he should be able to providing there is a by-law set by the Band and the individual meets the terms of the by-law, particularly at receiving a rental which is based on appraised value.

Mr. Noll Derrikson related that his Band Council reviews all individual leases before they are submitted for approval, for purposes of control. His Band felt that a lease could be entered into by an individual but that it should have the approval of the Band Council.

Mr. Dan Logan agreed with the views expressed by Mr. Clarence Jules, except that the setting of payments on the basis of appraised value might interfere with a leasing arrangement at times. After unimproved land has been improved, he said, then maybe the rental could be based on the appraised value.

Mr. Frank Whitehead said they have both Band and private leases, with the latter not having to be submitted to the Department if payments under the lease are less than \$100.

Mr. Forrest Walkem related how his Council feels that an Indian on his reserve should have the first opportunity to lease land on the reserve, in preference to the land being leased by non-Indians. Some individuals, he said, feel that they should be free to lease their lands to people of their choosing.

Mr. Murray Alexis, an observer, felt that an individual should be allowed to lease his property, regardless of whether the lessee is a non-Indian or not, without too many strings attached. He felt that this would be a way for the individuals to learn how to take care of their own business.

Mr. Noll Derrikson said if a Band did not provide proper zoning to protect itself, and individual leasing was loosely handled, leasing could conceivably result in the setting up of a wrecking yard which would reduce the value of surrounding property. It was, he said, the concern of his Band to see that leasing did not adversely effect the value of reserve land.

Mr. Dan Logan suggested that Band Councils might not be competent to put out by-laws to curb the possible situations cited by Mr. Derrikson.

Mr. Poupore asked Mr. Derrikson if he felt that by-laws would have limited use.

Mr. Noll Derrikson replied no. He explained that they could not always cover unforeseen instances and that there could be existing business which are undesirable but useful.

Mr. Forrest Walkem asked what the feeling of the delegates was to his comment that a fellow Indian should have the first opportunity to lease Indian property.

Mr. Clarence Jules thought that it was the right of the individual to lease his land to a person of his choice.

Mr. Forrest Walkem felt that there is some jealousy where an Indian has developed a business as some fellow Indians insist upon leasing to non-Indians at a lesser rental rather than see a fellow Indian receive the advantages of non-taxable lands.

Mr. Noll Derrikson felt that an individual should be able to lease to the person of his choice. He did not think it would be right if someone told him to whom he had to lease his property. He said there should be no restrictions in leasing which might force individuals to lease their property to a certain party.

Mr. Gordon Antoine asked if the Band could not lease the land from the individual at the same price in order to control the threat to the possible decrease in property value.

Mr. Noll Derrikson thought that zoning could fail to provide protection in some instances. It was not always the case, he said, where people can offer more money to prevent something from happening. He thought it was too much to expect from anyone to have to spend money just to protect the value of their property. This, he said, should be taken care of at a Band or Council level.

Mr. Gordon Antoine said that everyone was materialistic and a person, with a choice, would always take the highest bid.

Mr. Noll Derrikson said the Indian people want more rights, and that was why, they were at the meeting. He thought a person should not have to be obligated to deal with a certain individual if he did not want to.

Mr. Murray Alexis was concerned about flexibility in the matter. He mentioned that, at the present time, he has to obtain the approval of the Minister to lease his own property to a non-Indian. Instead, he said, he would like to have individual freedom rather than have someone else negotiate for him. He wanted to be able to run his own business.

Mr. Clarence Jules moved that individual Indians be allowed to lease their own property without reference to Band Councils, Agency Superintendents or the Minister - only that they meet by-laws set by the Band, and that they meet certain prices set by the Band.

Mr. James Stalkis seconded the motion.

Co-Chairman Gottfriedson called for a vote.

Mr. Forrest Walkem said he still could not see why the delegates were afraid to give the first option to an Indian's fellow man.

Mr. Noll Derrikson could not see where anyone would follow the direction that he must first give his fellow Indian an opportunity to lease, if such a procedure was put into effect. If they did, he said they would have no individual rights.

Co-Chairman Gottfriedson pointed out that the motion did not say an Indian could not lease to another Indian.

Mr. Forrest Walkem gave a hypothetical example of a case to point out why an Indian should have an opportunity to lease his fellow Indian's property instead of it being leased to a non-Indian.

Mr. Murry Alexis said that they have lake shore property on his reserve and that they do not discriminate against Indians or non-Indians. He said if an Indian lives up to the contract, price, etc., the property would be leased to him. He said he was mostly interested in the individual having the right to negotiate leases for himself.

Mr. Clarence Jules thought that it should be up to the Indian lessee to negotiate properly if he wants to have land from his fellow member.

Mr. Dan Logan thought that an individual Band member should have the right to lease his property up to a period of 21 years. For a longer period, he said the individual would have to comply with Band Council resolutions which would consider Band member applications first.

Mr. Forrest Walkem cited a case on a reserve where an Indian on a nearby reserve was quite successful, and due to jealousy, with fellow Indians had let their land lie idle rather than lease it to the successful rancher. He still maintained that Indians should have the first option to lease land from their fellow members.

Mr. Noll Derrikson thought that if that Indian had the first option, he would lease all the land and the other Indian would be more jealous than they were now.

Mr. Walkem said it would be a way to make use of reservation land.

Mr. Clarence Jules thought it was up to the Indian lessee to approach the Indian who has the property.

Mr. Noll Derrikson asked, with regard to Mr. Jules' motion, if he intended that the Band Council would set the price for leases.

Mr. Clarence Jules replied yes.

Mr. Noll Derrikson then said he felt that this would infringe upon the individual's right to negotiate for the best price he could get.

Mr. Clarence Jules agreed to delete the last part of his motion where it referred to the individual having to meet the price set by the Band.

Mr. H. Manuel asked Mr. Jules if he would amend his motion to provide for a percentage of revenue from all individual leases be turned over to the Band.

Mr. Clarence Jules would not agree.

Co-Chairman Gottfriedson called for a vote on the motion put forward by Mr. Clarence Jules (Kamloops). The motion carried. (For 8 against 3)

(Break)

Mr. Frank Whitehead moved, at the opening of the second part of the morning session that the delegates choose their delegate to the Ottawa conference to be held early next year.

Mr. Clarence Jules seconded the motion.

The question being called, the delegates voted unanimously in favour of the motion. Motion carried.

Mr. Dan Logan moved that the Co-Chairman Gus Gottfriedson be the delegate to the Ottawa conference.

Mr. Clarence Jules seconded the motion.

Mr. Donald Moses moved that Mr. Adam Eneas be the delegate to the Ottawa conference.

Mr. Herb Manuel seconded the motion.

Mr. Donald Moses moved, seconded by Mr. Clarence Jules that nominations close.

In a secret written vote held thereafter, Mr. Gus Gottfriedson was officially elected the delegate.

Mr. Dan Logan moved, seconded by Mr. Herb Manuel that Mr. Adam Eneas be the alternate delegate.

The question being called, all the delegates unanimously voted in favour of the motion. Motion carried.

Mr. Clarence Jules moved, seconded by Logan that the ballots be now destroyed.

The question being called, all the delegates voted unanimously in favour of the motion. Motion carried.

Mr. Gottfriedson thanked the delegates for the confidence placed in him.

Co-Chairman Gottfriedson moved on by reading Question No. 21.

Mr. Clarence Jules moved that Section 70 remain as it is with the proviso 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.

Mr. Noll Derriksan seconded the motion.

The question being called, 12 delegates voted in favour of the Motion, 1 voted against it. Motion carried.

Co-Chairman Gottfriedson read Question No. 22.

Mr. Clarence Jules moved that this Section of the Act or any similar discriminatory Section of the Act should be repealed for any Indians to whom it applies.

Mr. Adam Eneas seconded the motion.

The question being called, all the delegates voted unanimously in favour of the motion. Motion carried.

Co-Chairman Gottfriedson read Question No. 23.

Mr. Clarence Jules moved that Sections 105 and 106 be deleted.

Mr. Noll Derriksan seconded the motion.

The question being called, 12 delegates voted in favour of the Motion, 1 voted against it. Motion carried.

Co-Chairman Gottfriedson read Question No. 24.

Mr. Noll Derriksan moved that the Sections on liquor should be repealed.

Mr. Clarence Jules seconded the motion.

The question being called, all the delegates voted unanimously in favour of the motion. Motion carried.

Co-Chairman Gottfriedson read Question No. 27.

Mr. Clarence Jules moved that Band capital funds should not be used to make grants, loans or for the purpose of guaranteeing loans to individuals except with a vote of the Band at a general Band meeting with a simple majority, and that revenue funds can be used for such purposes and the Band Council's powers should be restricted to those funds.

Mr. Noll Derriksan seconded the motion.

The question being called, 10 delegates voted in favour of the Motion, 1 voted against it and 1 abstained. Motion carried.

Co-Chairman Gottfriedson read Question No. 28.

Mr. Donald Moses said that this matter should be left to Band Councils for their decision.

Mr. Clarence Jules agreed with Mr. Donald Moses and said that Questions 28, 29, 30, 31, 32 and 33 should all be left to Band Councils for their decision.

Mr. Dan Logan said that he agreed with Mr. Clarence Jules and asked him to make a motion to this effect.

Mr. Clarence Jules moved that individual bands should be able to

select the kind of local government which suits best that particular community.

Mr. James Stalkia seconded the motion.

The question being called, all the delegates voted unanimously in favour of the motion. Motion carried.

Co-Chairman Gottfriedson read Question No. 17.

Mr. James Stalkia asked for an explanation of this Question.

Mr. Fairholm referred the delegates to the Booklet on the Canada Pension Plan which they had in their working kits. On Page 6 of that booklet the seven benefits of the plan were listed and he read them. He said that all persons that were employed and earned over \$600.00 a year had to contribute to the plan. Because of the way that the Canada Pension Plan was drawn up, because of the Indian Act and because of the Income Tax Act, an Indian person earning income on a reserve was not entitled at present to come into the plan. The income earned on a reserve was tax-exempt and all tax-exempt income could not be used for calculating the Canada Pension Plan contributions. The only exception to this is an Indian who was working on a reserve and who was employed by the Federal Government because there was a special provision put in in regard to those who make contributions under the Superannuation Act.

Mr. Dan Logan wanted to know if there was any other way for an Indian to be able to come into the plan. What should he do if he wanted to participate?

Mr. Fairholm said this was not possible under the law at the present time. He said that there was a small factory on a reserve in Ontario which employed 17 Indians; they all sent their money to the Department of National Revenue for their contribution to the plan, and it was all sent back to them because it could not be accepted. He said that on Page 16 of the notes there were listed two ways of bringing the benefits of the Canada Pension Plan to Indians who earned their living on reserves.

Mr. Noll Derriksan said that even the second way did not make much sense because there were many people on reserves who did not earn any specific income.

Mr. F.G. Antoine felt that if the second proposed way were followed it would result in a form of taxation.

Mr. Ron Derriksan thought that this subject should be left to the Councils for their decision.

Mr. Donald Moses moved a motion that the Canada Pension Plan should be deleted from the discussions at the meeting.

Mr. Noll Derriksan seconded the motion.

Mr. Ron Derriksen felt that this subject could possibly be left to each individual to decide whether or not to join the plan.

Mr. Dan Logan felt that each Indian should have the right to choose whether he wanted to participate; the Canada Pension Plan was like any other form of insurance policy.

Mr. Forrest Walkem said that Indians should be exempted from this Plan. If they wanted to be insured, they could buy insurance from an insurance company.

Mr. Poupore said that the reason for this question was the demand which came from those from the Indian community who want to get into the Canada Pension Plan but were unable to do so because all their income was earned on the reserve and was tax-exempt. This question did not intend to force anyone to join the Plan against his wish; it intended to make this possible for those who wanted to do so but were unable under the present law.

Mr. Fairholm said some of these people were Band Managers who had no pension plan of any kind.

Mr. Donald Moses moved a motion that the Canada Pension Plan be not compulsory for the Indian people and if it is a wish of an individual Indian to adopt this plan he should be allowed to do so.

Mr. Noll Derriksen seconded the motion.

The question being called, all the delegates voted unanimously in favour of the motion. Motion carried.

Mr. Donald Moses moved a motion that Indian lands and income earned by Indians on reserves be tax-free for ever.

Mr. Noll Derriksen seconded the motion.

The question being called, all the delegates voted unanimously in favour of the motion. Motion carried.

Co-Chairman Gottfriedson read Question No. 34.

Mr. Noll Derriksen wanted to know if a band formed a business corporation in a reserve community, did it come under the provisions of the Company Incorporation Act.

Mr. Poupore said that under the present law it did come under this Act. A corporation is not an Indian.

Mr. James Stalkia said that this was a contradictory statement to what the Indians were told earlier in connection with income earned on reserves. He felt that if a Band wished to form a corporation, such a corporation should be tax-free.

Mr. Noll Derriksen said that he studied this question very carefully and went into it at some length, and he found out that there was no way that one could set up a corporation on Indian land, even if all the members and shareholders were Indians, which would be tax-exempt.

Mr. Forrest Walkem said that all taxes on the reserves should be taken away from the Federal and Provincial Governments; the Band Councils should be the only body which could levy taxes on the reserves.

Mr. Alexis suggested that pressure should be put on the Provincial Government to amend their laws so that the Indians would not be subjected to any form of taxation.

Mr. Clarence Jules moved that if band business corporations were exempt from tax bands might wish to form them.

Mr. Noll Derriksen seconded the motion.

Mr. Donald Moses moved an amendment to Mr. Clarence Jules' motion by adding thereto the words "and that Federal and Provincial Governments include in their Companies Acts that when Indians form a company, all income and property owned by Indians in this Company should be tax-free forever including taxation from all levels of Government."

Mr. James Stalkia seconded the amendment to the motion.

After the original mover, Mr. Clarence Jules and the seconder Mr. Noll Derriksen agreed to the amendment to the motion, it was agreed to have the amendment incorporated in the motion.

The question being called all the delegates voted unanimously in favour of the motion. Motion carried.

Mr. Donald Moses moved that the federal and provincial governments take all the necessary action to restore all ownership of all metallic, non-metallic and mineral resources underlying Indian reserves to the Indian people.

Mr. Noll Derriksen seconded the motion.

The question being called, all the delegates voted unanimously in favour of the motion. Motion carried.

Mr. Noll Derriksen moved a motion that all mineral, foreshore and water rights on reserves belong to those reserves where they may occur.

Mr. James Stalkia seconded the motion.

The question being called, all the delegates voted unanimously in favour of the motion. Motion carried.

Mr. Donald Moses moved a motion that when policy is being drafted by the Indian Affairs Branch, the Indian people should be consulted to its entirety; that Indians be employed by the Branch as consultants and that they be in constant contact with the Indian people before any policy or law is

made; and that the Indian Affairs Department look into this immediately and that some action in this regard be taken as soon as possible.

Mr. James Stalkia seconded the motion.

The question being called, all the delegates voted unanimously in favour of the motion. Motion carried.

Mr. Noll Derrikson moved that Crown royalties on timber reserves be removed.

Mr. Boys said that there was no royalty normally paid on Indian timber, all went to Band funds. All of the price that the Indians get, if they advertise their timber, goes into the band funds, and not a single dollar goes to the Provincial Government. He said that he could not think of any case where there was any royalty paid to the Crown on any Indian timber. There could have been some exceptional case.

Mr. Noll Derrikson - "You just went on record saying that there was not...."

Mr. Boys - "No, but I know of no case".

Mr. Noll Derrikson then withdrew his motion.

Mr. Clarence Jules moved a motion that this delegation requests that the Federal Government return to the Indians of British Columbia, all their hunting, fishing and trapping rights.

Mr. Noll Derrikson seconded the motion.

The question being called, all the delegates voted unanimously in favour of the motion. Motion carried.

Mr. James Stalkia said that he felt that there should be a separate Act for the Indians of British Columbia.

Mr. Donald Moses agreed with Mr. Stalkia's idea, but he also suggested that there should be a separate Act for Indians in every province. He asked Mr. Stalkia to present his idea in the form of a Motion and he would second it.

Mr. James Stalkia moved a motion that there should be a separate Act for the Indians of British Columbia.

Mr. Donald Moses seconded the motion.

The question being called, all the delegates voted in favour of the motion. Motion carried.

Mr. Adam Eneas moved a motion that a provision be made in the Indian Act that it would be revised during a period not exceeding 10 years.

Mr. Noll Derrikson seconded the motion.

The question being called, all the delegates voted unanimously in favour of the motion. Motion carried.

Mr. Donald Moses moved a motion that the role of the personnel of Indian Affairs be specifically spelled out in its entirety in the new Indian Act.

Having been informed that this subject had already been covered, Mr. Donald Moses withdrew his motion.

Mr. Donald Moses moved a motion that wherever possible, Indians be employed by Indian Affairs.

Having been informed that this subject had already been covered, Mr. Donald Moses withdrew his motion.

Mr. Donald Moses moved a motion that whenever there is a need for more land by an Indian reserve, land should be made available to this specific Indian reserve and that the responsibility for this be placed upon the Federal Government.

Mr. James Stalkia seconded the motion.

The question being called, all the delegates voted in favour of the motion. Motion carried.

Mr. Noll Derrikson seconded by Mr. James Stalkia moved a motion that the delegates ask Mr. Bill Fox of Ottawa to convey their thanks to the Vancouver Province and to the Vancouver Sun who were the only two Canadian newspapers who sent reporters on trips to cover the consultation meetings because of their genuine desire to help the people.

The question being called, all the delegates voted unanimously in favour of the motion. Motion carried.

Co-Chairman Gottfriedson said that one of the most important things in the life of a man was his health. He asked the delegates if they would be agreeable to having Dr. Graham, of the Indian Health Services, address the Meeting. The delegates unanimously agreed to the Co-Chairman's suggestion.

Dr. Graham - Indian Health Services gave the delegates a brief history of the British Columbia Medical Plan and explained its operation.

In the debate which followed, the delegates asked Dr. Graham a number of questions in regard to the detailed arrangements and provisions of the B.C. Medical Plan. It was generally agreed, as explained by Mr. James Stalkia that the B.C. Medical Plan was pretty well understood and that a number of Indian people adopted the Plan. There were cases of misunderstanding of this Plan, which caused suspicion and apprehension among some Indians; Mr. Donald Moses suggested that meetings be held between officials of the Indian Health Services and the Indian people. This would help to eliminate such misunderstanding. Dr. Graham said that such meetings have already been taking place,

and that he himself held such meetings on various reserves during the past three years, and that he always tried to answer all the questions asked by the Indian people.

Co-Chairman Gottfriedson thanked Dr. Graham for his presentation.

Before the conclusion of the Consultation Meetings held at Kelowna between November 12th and 16th, 1968, both the spokesmen for the Indian delegates and for the Indian Affairs officials expressed their thanks to the participants and satisfaction with the results which were achieved.

Chief Brewer, an observer, thanked all the Indian Affairs officials and the Indian delegates who took part in the Consultation Meetings and expressed his hope that everybody was happy with its accomplishments.

Co-Chairman Gottfriedson thanked, on behalf of all delegates, the staff of Indian Affairs for all the work that they had done in connection with these meetings. He also thanked the delegates for their homework which enabled them to achieve at the meetings those things that they wanted to do. He felt that these meetings represented a very good step in the right direction.

Mr. Boys said that he would like to endorse all that the Co-Chairman Mr. Gottfriedson had said about the very high level of discussions held at these meetings. He also wanted to pay tribute to the audience which he felt was the biggest audience at the consultation meetings held so far in British Columbia. He said that he thought that it was a most successful meeting and he proposed a vote of thanks to the Co-Chairman Gus Gottfriedson.

Mr. Donald Moses said he would also like to thank both the Indian Affairs staff and the Indian delegates for their work during the Meetings. He said that for the first time in his life he was beginning to gain confidence in Indian Affairs. There still were many issues and problems that had to be straightened out, but it was the future which was important, not the past. He expressed his faith that the future of the Indian people would become one of the greatest that Canada has ever seen.

After great applause from all those present at the Meeting, Co-Chairman Gus Gottfriedson closed the meeting.

Presentation of the Cooks Ferry Indian Band, Spences Bridge and District

We, the members of the Cooks Ferry Band are somewhat confused as to why we were invited here. Our first impression was that your government had finally decided that we have become knowledgeable enough to decide how our lives and affairs might be run. A review of the facts, however, tell us that there is no indication that the inequities imposed by you upon us in the past will change.

It is the opinion of our band that no Indian Act, no matter how comprehensive, has ever in the past, nor ever will in the future, give us rights to freedom and responsibility equal to those enjoyed by the non-natives presently occupying our land.

The basic concept of we native people having to refer to your laws, prepared solely by you, in order to find out whether we are in fact natives or not natives is entirely unacceptable. Equally unacceptable is the fact that you propose to continue to impose your unnegotiated laws upon us.

It will do us little good to give you our opinions to the questionnaire submitted by you since you will not and cannot commit your government to act upon our opinions or requests or on our criticism of the present Indian Act. Your method of collecting opinions from the different unrelated countries of Native people across the land can only result in a jumbled, ineffective, meaningless, array of opinions which will be called an Indian Act. The native people of this country have varied needs, varied opinions, and varied degrees of conformity to your so-called "civilized" way of life. Your attempt to create a new all-encompassing act is a waste of your money but is proof in itself that you are not yet prepared to "face the music" by sitting down with the different bands and negotiating settlements.

Our land claims are equally as important to us as our aboriginal rights are as native people and these claims cannot be dealt with separately. Your requirements that all natives of British Columbia must negotiate as a unit is a pitfall placed by you in the pathway of each individual band, since you know that unity amongst unrelated people is near impossible. World affairs, and even Canadian affairs, have proven this point.

The present Prime Minister, in suggesting that we might resort to riots, is also well aware of this point. He need only to look at his own people in his own back yard.

We, the "Cooks Ferry Band", have never had in the past, nor do we have now, the right to influence, to negotiate for, or to speak on behalf of any other band of native people. By the same token, we do not want any other band to influence, to negotiate, or to speak on our behalf.

Your inability in the past to assist us or show us to keep up with your white counterparts is both proof and reason that your control over us must stop as quickly as possible. The true success of our band and some of our band members has arisen only because of help given us by other than the Department of Indian Affairs. We have found the Indian Act to be only a stumbling block before us in carrying out our ventures into the business world.

We no longer accept your statement that you are "trying to work yourselves out of a job." You have never given us the ground rules whereby your jobs are eliminated. We know not what standards we must meet before we can have our independence. We suspect that you don't know these standards either.

We of the Cooks Ferry Band invite the Prime Minister and Minister of Indian Affairs to meet with our band at Spences Bridge at anytime during the month of February, 1969, and to negotiate a final settlement with our band. We wish one settlement that will resolve both our land claims and our claims to our aboriginal rights and a settlement that will enable we native people to stand equal beside all Canadians. You do not understand that we of the Cooks Ferry Band are proud of our land and want very much to be proud of the Country called "Canada". This can be done if we can be recognized as an intelligent and important part of the country, rather than savages requiring taming and paternalism. You do not understand that any continued control by you over our everyday lives wrests away our right to responsibility and that "Responsibility" is our key to "Freedom". But we must, like young adults have freedom to be able to show our responsibility.

Submission

On behalf of the Kamloops Indian Band at Kelowna November 12-16, 1968.

MEMORANDUM for guidance of the representative or representatives of the KAMLOOPS INDIAN BAND who will attend at the regional meetings to be conducted by the Department of Indian Affairs with respect to the proposed changes to the Indian Act.

Question 1

Should the name of the new Act be "The Indian Act" or would another name be better?

Answer

The view of the Kamloops Indian Band is that the name of the Act ought to stay as it is, it having been in use for so many years that despite any unpleasant connotations to the word these have been outlived.

Question 2

Should the Act permit delegation of authority so that Band Councils and field staff can make more decisions?

Answer

Yes, particularly in the field of leasing and the Kamloops Indian Band feels that the Band Council should have authority to conclude leases without reference to either the Indian Superintendent or the Minister in Ottawa. In addition, many other matters of a routine administrative nature should be within the complete authority of the Band Council.

Question 3

At present, persons or Bands can be excluded from the provisions of the Act without their consent. Should their consent be required?

Answer

The recommendation of Band Council is that consent be required.

Question 4

Should the children of unmarried Indian mothers take their mother's status regardless of who the father might be?

Answer

The Kamloops Indian Band feel that the decision should be left up to the individual Bands to decide what to do about the problem of children born to Indian woman with non-Indian fathers.

Question 4 (a)

Should the child of an unwed Indian woman be required to give up Indian status if its Indian mother and non-Indian father subsequently marry?

Answer

The child should have until the age of twenty-one to decide whether he or she wishes to remain a member of the Band.

Question 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?

Answer

An Indian woman marrying a non-Indian should have five years, which would be a trial period, and if the marriage was still in existence at the end of five years then she would lose the right to Indian status but if the marriage should break down before the end of five years then she could return.

A non-Indian woman who marries an Indian should gain Indian status as before.

The Band Council recommend that the five year period should apply not only to the case of non-Indian men who marry Indian woman but also to non-Indian woman who marry Indian men.

Question 6

Should non-Indian children adopted by Indian families have Indian status?

Answer

The adopted children should be free to choose when they become twenty-one but in the case of Indian children adopted by non-Indian parents there should be no change.

The Act should be changed to provide that non-Indian children adopted by Indian parents should have the same rights as Indian children.

Question 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?

Answer

Use term "withdrawal from Band Membership". Should be able to decide for himself.

Question 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?

Answer

Recommend that couples under twenty-one should first apply to Band Council.

Question 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?

Answer

- (a) No. Children should be allowed to choose when they become twenty-one.
- (b) Twenty-one.
- (c) Yes. Until twenty-one when they decide themselves.

Question 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?

Answer

Two-thirds majority of all registered Band members after publication in a local paper and posting in the Indian Reserve Hall of notice of the meeting and its purpose. Ninety days notice to be given. Minority has to go along.

Question 11

Page 14 gives a list of suggested changes in property ownership regulations for reserve property. Are they suitable suggestions for your Band?

Answer

Recommendations of Band Council:

1. Council recommends that instead of a certificate of possession that Band members who have the right to possession of Band land should have a certificate of title which spells out what their rights are and that it would be advisable to have a register of those certificates of ownership probably in the closest Land Registry Office if that can be arranged.
2. The Band Council recommend that individual Indians should be allowed to acquire specific rights to property within the Reserve and that Band Council set conditions when the land is first allotted. This recommendation does not apply to cases where Indians buy land.
3. The Band Council recommends that no Band land be sold to persons who are not members of the Band.
4. Band Council recommend that the Band by a majority vote would have the right to take land for schools, roads, land development and other community uses upon payment of proper compensation to the Band member affected. The Kamloops Indian Band recognizes ownership of lands occupied by members under certificates of possession.
5. Band Council recommends that members of the Band should have the right to go to Court either against another member of the Band or the Band Council if he is not being treated fairly over property.

Question 12

Should the present rules about selling reserve land be kept, or changed?

Answer

The present rules about selling Reserve land and sales of Reserve lands should be restricted to transactions between members of the Band.

Question 13

Should Indians have the right and responsibility for dealing with their estates under provincial law?

Answer

The Band Council recommends that there be no change with respect to the rights and responsibilities of dealing with their own estates. The Band Council feels that the lengthy delays which have happened in a number of Indian estates should not continue and that estates should be dealt with quickly.

Question 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?

Answer

The Band Council recommend that either of two courses be followed:

- (a) The individual Indian can elect once and for all to give up the protection afforded by Section 88 (1) and from then on he can deal with his personal property the same as a non-Indian, or
- (b) That the Indian may go to the Band Council, pledge his goods and his land with Band Council and the Band Council would then assist him to obtain a loan co-signing if necessary and if the member failed to pay then the Band Council would pay and take the security which the member had pledged on behalf of the Band.

Question 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?

Answer

Band Council recommends that the right of Indians to be able to pledge their right of possession be restricted to Band Council only.

Question 16

Should Indians be able to borrow from any source using their income from leased out property as security for the loan?

Answer

Band Council recommends that Indians be able to borrow money on the security of income from leased out property.

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?

Answer

Band Indians should not have to contribute to the Canada Pension Plan.

Question 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?

Answer

Band Council feel that there should be no separate schools for either Indians or non-Indians and that all schools in Canada should be open to Indians and non-Indians alike without separation or segregation and that the policy of the Federal Government in paying to the respective Provincial Governments a per capita grant for the Indian children attending the ordinary Provincial schools should be continued.

Question 19

Should all adult members of a Band whether or not they live on a Reserve be allowed to vote on surrender proposals?

Answer

Band Council recommends that all adult members of the Band whether or not they live on the reserve should be allowed to vote on surrender proposals.

Question 20

Do you agree that the Band Council, rather than the Minister should have the authority to order surveys and subdivisions undertaken?

Answer

Band Council should have the authority to order surveys and subdivisions.

Question 21

Do you agree that the provisions giving the Minister authority to operate farms on reserve land should be repealed?

Answer

Band Council recommend that Section 70 remain as it is with the proviso 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.

Question 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?

Answer

Band Council feel that this section of the Act or any similar discriminatory section should be repealed for any Indians to which it applies.

Question 23

Do you agree that the section giving authority to appoint the Agency Superintendent as Justice of the Peace should be repealed?

Answer

The section giving authority to appoint the Agency Superintendent as Justice of the Peace should be repealed.

Question 24

Do you agree that the sections on liquor should be repealed?

Answer

The sections on liquor should be repealed.

Question 25

Should Band Councils be able to enter into short term leases on their own authority? How long a term?

Answer

Band Council recommend that they be given the authority to enter into leases of fifty years and under on their own authority and without reference to the Indian Superintendent or any other officials of the Department.

Question 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?

Answer

Band Council feel that the authority to enter into leases up to fifty years should be entrusted solely to Band Council.

Question 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?

Answer

Band capital funds should not be used to make grants, loans or for the purpose of guaranteeing loans to individuals except with a vote of the Band at a general Band meeting with a simple majority. Revenue funds can be used for such purposes and the Band Council's powers over those funds should be restricted to over those funds.

Question 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?

Answer

The Band Council make no recommendation on question 28.

Question 29

Should the voting age be that for provincial elections?

Answer

Question 30

Should candidates for Band Council have to meet the age requirements of provincial laws for municipal office?

Answer

Candidates for Band Council should be over twenty-one years of age.

Question 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?

Answer

Band Council recommend that there be no change from the present system of election.

Question 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?

Answer

Band Council recommend that the length of councillors' terms be four years and that at elections only a portion of Band Council be elected so that there is an overlap and there is continuity in Band Councils.

Question 33

Should individual Band be able to select the kind of local government which suite it so that each community can manage its own affairs to the degree that each Band wishes?

Answer

Individual Bands should be able to select the kind of local government which suits that particular community.

Question 34

Should Bands who wish to do so be allowed to form Band business coporations to administer the business affairs of the reserve community?

Answer

If Band business corporations were exempt from tax Bands might wish to form them.

CONSIDERED AND ADOPTED by the Kamloops Indian Band at a meeting of the Band held at the Paul Creek Community Hall on Sunday, the 3rd day of November, 1968.

"Clarence Jules"

Clarence Jules, Chief

Submission

By the Kamloops Indian Band Council respecting proposed changes to the Indian Act by the Government of Canada submitted at Kelowna November 12-16, 1968.

The pamphlet called "Choose a Path" prepared by the Department does not specifically invite comment about some of the sections of the Act which are of concern to us and this supplementary submission is therefore directed specifically to those sections.

1. Section 3, Sub-section 2.

Why are Indian Band Councils excluded from the authorization granted to the Minister to delegate duties, powers and functions?

We feel that we are in a better position to judge the needs of our people than officials of the Department located in Ottawa. We point out that much of the dissatisfaction with the present Act arises from the lack of power and authority to Band Councils. To give just one illustration: We operate an Industrial Subdivision on part of our reserve and lease lots in the Sub-division to various individuals and companies. Before a lease can be granted not only must the Band Council pass its resolution but the lease is then routed through the Kamloops Indian Agency, then to the Vancouver office and finally to Ottawa. The same process is followed on the return trip. We can document instances where months have gone by before a lease is finally issued. In many cases by the time the lease has been returned the lessee has gone elsewhere because people today require almost immediate decisions. These delays cost us money and we don't like it. There must be a change to grant more power and authority to Indian Band Councils. After all, our Indian people elect us to represent them; they do not elect officials of the Indian Department.

Section 18.

Why doesn't section 18 state clearly that all reserve land is held by the Minister "in trust"? Our lawyer tells us that the phrase "for the use and benefit of the respective bands" implies a trust but we would like to be sure about this. If the reserve land is held in trust the terms of the trust should be spelled out so that we can know and understand them.

Non Indians would never accept such vague terms as are now contained in the Act so why should we. We think that the Act must be changed to say that the Minister holds the reserve land in trust for the members of the band and further that the terms of the trust must be clearly stated.

We know that Trust Companies, lawyers and many individuals in the non-Indian community hold property in trust for others. In such cases there are declarations of trust executed which contain the terms upon which such property is held in trust. We believe an essential term of the Act should be that the land is owned by the band but held in trust for the band by the Minister and that he will follow the lawful instructions of the band with respect to its disposition except for leases which must be left to band council to grant without reference to the Minister.

Lastly we would like to know what happens if the Government decides to abolish Indian Reserves. Who will own the land then? The land belongs to the members of the band and any doubt about this should be resolved now.

If Indian Reserves are abolished two things must happen with respect to Indian land:

- (a) those assets of the Band that are capable of division should be divided between the members of the Band. Assets not capable of equitable division should be disposed of by three (3) Indian trustees who are elected by majority vote of the Band and the proceeds of such disposition be divided between the members of the Band;
- (b) land held by Indians under Certificates of Possession should be conveyed to them and their title registered in the same way as the titles of non-Indians.

3. Sections 37-41 Surrender.

We do not like the term "surrender". For us it calls up unhappy remembrances of the past when the Indian peoples were overrun by the white man and we had to surrender all of our traditional tribal lands.

We do not think that this term "surrender" is at all appropriate and that what should be substituted is a word or words which will convey the meaning that the Minister on our instructions is dealing with interests in land which he holds in trust for us.

4. Sections 20-29 Certificates of Possession.

What rights does an Indian on the Reserve have over land which he holds under a Certificate of Possession? Is his right confined to a possession of land for the time being or for so long as he shall actually be in possession of it? If this is the case does he lose his right if he is not in actual possession of the land at all times? We believe that the rights of an Indian in possession of Reserve land under a Certificate of Possession is far more than just the right to occupy for only so long as he himself is actually in possession because his right to will property over which he has a Certificate of Possession is well recognized. In addition, our Kamloops Indian Band and many other Bands in the Province of British Columbia have recognized the principle of ownership and with the consent of the Department the Government of the Province of British Columbia has negotiated directly with members of the Band whose land was taken under expropriation and compensation for such taking was paid directly to those members of the Band who held land under Certificate of Possession.

We believe that the rights of a member of the Band holding land under Certificate of Possession should be more clearly defined. In fact we believe that he should have a Certificate of Title with a restriction that he may not dispose of such land to anyone not a member of the Band. He must be allowed to lease his own land and such right to lease should include the power to borrow money on the security of rent to be received under a lease of his land. We do not want the land owned by members of the Reserve to be alienated to persons not members of the Band and so of necessity the right to mortgage would have to be restrictive and would be considered a disposition of land unless the person holding the mortgage were a member of the Band or was the Band Council itself.

In the event that an Indian who owns land on the Reserve dies without leaving heirs his land must revert to the Band.

5. Sections 5-17 Band Membership.

It is our view that the granting of Band membership to Indians from another Band should only be granted upon a majority vote of all the Band members after due notice of the meeting and the purpose for which it has been called has been circulated to members of the Band. Conditions of membership should be established by the Band itself.

6. Band Funds.

The spending of the capital funds of Bands should be at the direction of the Band Council with the consent of the Band and further such funds should be deposited in local bank accounts.